

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Robaina offered the following:

2  
3 **Amendment (with title amendment)**

4 Between lines 278 and 279, insert:

5 Section 2. Subsections (11) and (26) of section 719.103,  
6 Florida Statutes, are amended to read:

7 719.103 Definitions.--As used in this chapter:

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

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16 (26) "Unit owner," ~~or~~ "owner of a unit," or "shareholder"  
17 means the person holding a share in the cooperative association  
18 and a lease or other muniment of title or possession of a unit  
19 that is granted by the association as the owner of the  
20 cooperative property.

21 Section 3. Section 719.104, Florida Statutes, is amended  
22 to read:

23 719.104 The association ~~Cooperatives; access to units;~~  
24 ~~records; financial reports; assessments; purchase of leases.--~~

25 (1) RIGHT OF ACCESS TO UNITS.--The association has the  
26 irrevocable right of access to each unit from time to time  
27 during reasonable hours when necessary for the maintenance,  
28 repair, or replacement of any structural components of the  
29 building or of any mechanical, electrical, or plumbing elements  
30 necessary to prevent damage to the building or to another unit.  
31 Except in cases of emergency, the association must give the  
32 shareholder advance written notice of not less than 24 hours of  
33 its intent to access the unit and such access must be by two  
34 persons, one of whom must be a member of the board of  
35 administration or a manager or employee of the association and  
36 one of whom must be an authorized representative of the  
37 association. The identity of the authorized representative  
38 seeking access to the unit shall be provided to the unit owner  
39 prior to entering the unit.

40 (2) OFFICIAL RECORDS.--

41 (a) From the inception of the association, the association  
42 shall maintain a copy of each of the following, where

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43 applicable, which shall constitute the official records of the  
44 association:

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

47 2. A photocopy of the cooperative documents.

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

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

53 5. A current roster of all shareholders ~~unit owners~~ and  
54 their mailing addresses, unit identifications, voting  
55 certifications, and, if known, telephone numbers. The  
56 association shall also maintain the electronic mailing addresses  
57 and the numbers designated by shareholders ~~unit owners~~ for  
58 receiving notice sent by electronic transmission of those  
59 shareholders ~~unit owners~~ consenting to receive notice by  
60 electronic transmission. The electronic mailing addresses and  
61 numbers provided by shareholders ~~unit owners~~ to receive notice  
62 by electronic transmission shall be removed from association  
63 records when consent to receive notice by electronic  
64 transmission is revoked. However, the association is not liable  
65 for an erroneous disclosure of the electronic mail address or  
66 the number for receiving electronic transmission of notices.

67 6. All current insurance policies of the association.

68 7. A current copy of any management agreement, lease, or  
69 other contract to which the association is a party or under

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70 which the association or the shareholders ~~unit owners~~ have an  
71 obligation or responsibility.

72 8. Bills of sale or transfer for all property owned by the  
73 association.

74 9. Accounting records for the association and separate  
75 accounting records for each unit it operates, according to good  
76 accounting practices. Any person who knowingly or intentionally  
77 defaces or destroys accounting records required to be maintained  
78 by this chapter, or who knowingly or intentionally fails to  
79 create or maintain accounting records required to be maintained  
80 by this chapter, is personally subject to a civil penalty  
81 pursuant to s. 719.501(1)(d). All accounting records shall be  
82 maintained for a period of not less than 7 years. The accounting  
83 records shall include, but not be limited to:

84 a. Accurate, itemized, and detailed records of all  
85 receipts and expenditures.

86 b. A current account and a monthly, bimonthly, or  
87 quarterly statement of the account for each unit designating the  
88 name of the shareholder ~~unit owner~~, the due date and amount of  
89 each assessment, the amount paid upon the account, and the  
90 balance due.

91 c. All audits, reviews, accounting statements, and  
92 financial reports of the association.

93 d. All contracts for work to be performed. Bids for work  
94 to be performed shall also be considered official records and  
95 shall be maintained ~~for a period of 1 year.~~

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

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

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

104 13. All other records of the association not specifically  
105 included in the foregoing which are related to the operation of  
106 the association.

107 (b) The official records of the association shall be  
108 maintained within the state for at least 7 years. The records of  
109 the association shall be made available to a shareholder ~~unit~~  
110 ~~owner~~ within 5 working days after receipt of written request by  
111 the board or its designee. This paragraph may be complied with  
112 by having a copy of the official records available for  
113 inspection or copying on the cooperative property.

114 (c) The official records of the association shall be open  
115 to inspection by any association member or the authorized  
116 representative of such member at all reasonable times. Failure  
117 to permit inspection of the association records as provided  
118 herein entitles any person prevailing in an enforcement action  
119 to recover reasonable attorney's fees from the person in control  
120 of the records who, directly or indirectly, knowingly denies  
121 access to the records for inspection. The right to inspect the  
122 records includes the right to make or obtain copies, at the  
123 reasonable expense, if any, of the association member. The  
124 association may adopt reasonable rules regarding the frequency,  
125 time, location, notice, and manner of record inspections and

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126 copying. The failure of an association to provide the records  
127 within 10 working days after receipt of a written request  
128 creates a rebuttable presumption that the association willfully  
129 failed to comply with this paragraph. A shareholder ~~unit owner~~  
130 who is denied access to official records is entitled to the  
131 actual damages or minimum damages for the association's willful  
132 failure to comply with this paragraph. The minimum damages shall  
133 be \$50 per calendar day up to 10 days, the calculation to begin  
134 on the 11th day after receipt of the written request. Any person  
135 who knowingly or intentionally defaces or destroys records that  
136 are required by this chapter, or knowingly or intentionally  
137 fails to create or maintain records that are required by this  
138 chapter, is personally subject to a civil penalty pursuant to s.  
139 719.501(1) (d). The association shall maintain an adequate number  
140 of copies of the declaration, articles of incorporation, bylaws,  
141 and rules, and all amendments to each of the foregoing, as well  
142 as the question and answer sheet provided for in s. 719.504, on  
143 the cooperative property to ensure their availability to  
144 shareholders ~~unit owners~~ and prospective purchasers, and may  
145 charge its actual costs for preparing and furnishing these  
146 documents to those requesting the same. Notwithstanding the  
147 provisions of this paragraph, the following records shall not be  
148 accessible to shareholders ~~unit owners~~:

149 1. A record that was prepared by an association attorney  
150 or prepared at the attorney's express direction; that reflects a  
151 mental impression, conclusion, litigation strategy, or legal  
152 theory of the attorney or the association; or that was prepared  
153 exclusively for civil or criminal litigation or for adversarial

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154 administrative proceedings or in anticipation of imminent civil  
155 or criminal litigation or imminent adversarial administrative  
156 proceedings, until the conclusion of the litigation or  
157 adversarial administrative proceedings.

158 2. Information obtained by an association in connection  
159 with the approval of the lease, sale, or other transfer of a  
160 unit.

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

162 4. Social security numbers, driver's license numbers,  
163 credit card numbers, and other personal identifying information  
164 of any person.

165 (d) The association or its authorized agent shall not be  
166 required to provide a prospective purchaser or lienholder with  
167 information about the cooperative or association other than the  
168 information or documents required by this chapter to be made  
169 available or disclosed. The association or its authorized agent  
170 shall be entitled to charge a reasonable fee to the prospective  
171 purchaser, lienholder, or the current shareholder ~~unit owner~~ for  
172 its time in providing good faith responses to requests for  
173 information by or on behalf of a prospective purchaser or  
174 lienholder, other than that required by law, provided that such  
175 fee shall not exceed \$150 plus the reasonable cost of  
176 photocopying and any attorney's fees incurred by the association  
177 in connection with the association's response. An association  
178 and its authorized agent are not liable for providing such  
179 information in good faith pursuant to a written request if the  
180 person providing the information includes a written statement in  
181 substantially the following form: "The responses herein are made

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182 in good faith and to the best of my ability as to their  
183 accuracy."

184 (3) INSURANCE.--The association shall use its best efforts  
185 to obtain and maintain adequate insurance to protect the  
186 association property. The association may also obtain and  
187 maintain liability insurance for directors and officers,  
188 insurance for the benefit of association employees, and flood  
189 insurance. A copy of each policy of insurance in effect shall be  
190 made available for inspection by unit owners at reasonable  
191 times.

192 (a) Windstorm insurance coverage for a group of no fewer  
193 than three communities created and operating under chapter 718,  
194 this chapter, chapter 720, or chapter 721 may be obtained and  
195 maintained for the communities if the insurance coverage is  
196 sufficient to cover an amount equal to the probable maximum loss  
197 for the communities for a 250-year windstorm event. Such  
198 probable maximum loss must be determined through the use of a  
199 competent model that has been accepted by the Florida Commission  
200 on Hurricane Loss Projection Methodology. Such insurance  
201 coverage is deemed adequate windstorm insurance for the purposes  
202 of this section.

203 (b) An association or group of associations may self-  
204 insure against claims against the association, the association  
205 property, and the cooperative property required to be insured by  
206 an association, upon compliance with the applicable provisions  
207 of ss. 624.460-624.488, which shall be considered adequate  
208 insurance for purposes of this section.

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209           (4) FINANCIAL REPORTING REPORT.--Within 90 days after the  
210 end of the fiscal year, or annually on a date provided in the  
211 bylaws, the association shall prepare and complete, or contract  
212 for the preparation and completion of, a financial report for  
213 the preceding fiscal year. Within 21 days after the final  
214 financial report is completed by the association or received  
215 from the third party, but not later than 120 days after the end  
216 of the fiscal year or other date as provided in the bylaws, the  
217 association shall mail to each shareholder at the address last  
218 furnished to the association by the shareholder, or hand deliver  
219 to each shareholder, a copy of the financial report or a notice  
220 that a copy of the financial report will be mailed or hand  
221 delivered to the shareholder, without charge, upon receipt of a  
222 written request from the shareholder. The division shall adopt  
223 rules setting forth uniform accounting principles and standards  
224 to be used by all associations. The rules shall include, but not  
225 be limited to, uniform accounting principles and standards for  
226 stating the disclosure of at least a summary of the reserves,  
227 including information as to whether such reserves are being  
228 funded at a level sufficient to prevent the need for a special  
229 assessment and, if not, the amount of assessments necessary to  
230 bring the reserves up to the level necessary to avoid a special  
231 assessment. The person preparing the financial reports shall be  
232 entitled to rely on an inspection report prepared for or  
233 provided to the association to meet the fiscal and fiduciary  
234 standards of this chapter. In adopting such rules, the division  
235 shall consider the number of members and annual revenues of an  
236 association. Financial reports shall be prepared as follows:

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237 (a) An association that meets the criteria of this  
238 paragraph shall prepare or cause to be prepared a complete set  
239 of financial statements in accordance with generally accepted  
240 accounting principles. The financial statements shall be based  
241 upon the association's total annual revenues, as follows:

242 1. An association with total annual revenues of \$100,000  
243 or more, but less than \$200,000, shall prepare compiled  
244 financial statements.

245 2. An association with total annual revenues of at least  
246 \$200,000, but less than \$400,000, shall prepare reviewed  
247 financial statements.

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

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

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

257 3. A report of cash receipts and disbursements must  
258 disclose the amount of receipts by accounts and receipt  
259 classifications and the amount of expenses by accounts and  
260 expense classifications, including, but not limited to, the  
261 following, as applicable: costs for security, professional and  
262 management fees and expenses, taxes, costs for recreation  
263 facilities, expenses for refuse collection and utility services,  
264 expenses for lawn care, costs for building maintenance and

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265 repair, insurance costs, administration and salary expenses, and  
266 reserves accumulated and expended for capital expenditures,  
267 deferred maintenance, and any other category for which the  
268 association maintains reserves.

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

271 1. Compiled, reviewed, or audited financial statements, if  
272 the association is required to prepare a report of cash receipts  
273 and expenditures;

274 2. Reviewed or audited financial statements, if the  
275 association is required to prepare compiled financial  
276 statements; or

277 3. Audited financial statements, if the association is  
278 required to prepare reviewed financial statements.

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

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

284 2. A report of cash receipts and expenditures or a  
285 compiled financial statement in lieu of a reviewed or audited  
286 financial statement; or

287 3. A report of cash receipts and expenditures, a compiled  
288 financial statement, or a reviewed financial statement in lieu  
289 of an audited financial statement.

290  
291 Such meeting and approval must occur prior to the end of the  
292 fiscal year and is effective only for the fiscal year in which  
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293 the vote is taken, except that the approval also may be  
294 effective for the following fiscal year. With respect to an  
295 association to which the developer has not turned over control  
296 of the association, all shareholders, including the developer,  
297 may vote on issues related to the preparation of financial  
298 reports for the first 2 fiscal years of the association's  
299 operation, beginning with the fiscal year in which the  
300 declaration is recorded. Thereafter, all shareholders except the  
301 developer may vote on such issues until control is turned over  
302 to the association by the developer. Any audit or review  
303 prepared under this section shall be paid for by the developer  
304 if done prior to turnover of control of the association. An  
305 association may not waive the financial reporting requirements  
306 of this subsection for more than 3 consecutive years.

307 ~~(a) Within 60 days following the end of the fiscal or~~  
308 ~~calendar year or annually on such date as is otherwise provided~~  
309 ~~in the bylaws of the association, the board of administration of~~  
310 ~~the association shall mail or furnish by personal delivery to~~  
311 ~~each unit owner a complete financial report of actual receipts~~  
312 ~~and expenditures for the previous 12 months, or a complete set~~  
313 ~~of financial statements for the preceding fiscal year prepared~~  
314 ~~in accordance with generally accepted accounting procedures. The~~  
315 ~~report shall show the amounts of receipts by accounts and~~  
316 ~~receipt classifications and shall show the amounts of expenses~~  
317 ~~by accounts and expense classifications including, if~~  
318 ~~applicable, but not limited to, the following:~~

- 319 ~~1. Costs for security;~~  
320 ~~2. Professional and management fees and expenses;~~

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- 321       ~~3. Taxes;~~  
322       ~~4. Costs for recreation facilities;~~  
323       ~~5. Expenses for refuse collection and utility services;~~  
324       ~~6. Expenses for lawn care;~~  
325       ~~7. Costs for building maintenance and repair;~~  
326       ~~8. Insurance costs;~~  
327       ~~9. Administrative and salary expenses; and~~  
328       ~~10. Reserves for capital expenditures, deferred~~  
329 ~~maintenance, and any other category for which the association~~  
330 ~~maintains a reserve account or accounts.~~

331       ~~(b) The division shall adopt rules that may require that~~  
332 ~~the association deliver to the unit owners, in lieu of the~~  
333 ~~financial report required by this section, a complete set of~~  
334 ~~financial statements for the preceding fiscal year. The~~  
335 ~~financial statements shall be delivered within 90 days following~~  
336 ~~the end of the previous fiscal year or annually on such other~~  
337 ~~date as provided in the bylaws. The rules of the division may~~  
338 ~~require that the financial statements be compiled, reviewed, or~~  
339 ~~audited, and the rules shall take into consideration the~~  
340 ~~criteria set forth in s. 719.501(1)(j). The requirement to have~~  
341 ~~the financial statements compiled, reviewed, or audited does not~~  
342 ~~apply to associations if a majority of the voting interests of~~  
343 ~~the association present at a duly called meeting of the~~  
344 ~~association have determined for a fiscal year to waive this~~  
345 ~~requirement. In an association in which turnover of control by~~  
346 ~~the developer has not occurred, the developer may vote to waive~~  
347 ~~the audit requirement for the first 2 years of the operation of~~  
348 ~~the association, after which time waiver of an applicable audit~~

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349 ~~requirement shall be by a majority of voting interests other~~  
350 ~~than the developer. The meeting shall be held prior to the end~~  
351 ~~of the fiscal year, and the waiver shall be effective for only~~  
352 ~~one fiscal year. This subsection does not apply to a cooperative~~  
353 ~~that consists of 50 or fewer units.~~

354 (5) ASSESSMENTS.--The association has the power to make  
355 and collect assessments and to lease, maintain, repair, and  
356 replace the common areas. However, the association may not  
357 charge a use fee against a shareholder ~~the unit owner~~ for the  
358 use of common areas unless otherwise provided for in the  
359 cooperative documents or by a majority vote of the association  
360 or unless the charges relate to expenses incurred by a  
361 shareholder ~~an owner~~ having exclusive use of common areas.

362 (6) PURCHASE OF LEASES.--The association has the power to  
363 purchase any land or recreation lease upon the approval of such  
364 voting interest as is required by the cooperative documents. If  
365 the cooperative documents make no provision for acquisition of  
366 the land or recreational lease, the vote required is that  
367 required to amend the cooperative documents to permit the  
368 acquisition.

369 (7) COMMINGLING.--All funds shall be maintained separately  
370 in the association's name. Reserve and operating funds of the  
371 association shall not be commingled unless combined for  
372 investment purposes. This subsection is not meant to prohibit  
373 prudent investment of association funds even if combined with  
374 operating or other reserve funds of the same association, but  
375 such funds must be accounted for separately, and the combined  
376 account balance may not, at any time, be less than the amount  
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377 identified as reserve funds in the combined account. No manager  
378 or business entity required to be licensed or registered under  
379 s. 468.432, or an agent, employee, officer, or director of a  
380 cooperative association may commingle any association funds with  
381 his or her own funds or with the funds of any other cooperative  
382 association or community association as defined in s. 468.431.

383 (8) CORPORATE ENTITY.--

384 (a) The operation of the cooperative shall be by the  
385 association, which must be a Florida corporation not for profit.  
386 The shareholders shall be members of the association. The  
387 officers and directors of the association have a fiduciary  
388 relationship to the shareholders ~~unit-owners~~. It is the intent  
389 of the Legislature that nothing in this paragraph shall be  
390 construed as providing for or removing a requirement of a  
391 fiduciary relationship between any manager employed by the  
392 association and the shareholders. An officer, director, or  
393 manager may not solicit, offer to accept, or accept any thing or  
394 service of value for which consideration has not been provided  
395 for his or her own benefit or that of his or her immediate  
396 family, from any person providing or proposing to provide goods  
397 or services to the association. Any such officer, director, or  
398 manager who knowingly solicits, offers to accept, or accepts any  
399 thing or service of value is subject to a civil penalty pursuant  
400 to s. 719.501(1)(d). However, this paragraph does not prohibit  
401 an officer, director, or manager from accepting services or  
402 items received in connection with trade fairs or education  
403 programs.

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404 (b) A director of the association who is present at a  
405 meeting of its board at which action on any corporate matter is  
406 taken is presumed to have assented to the action taken unless  
407 the director votes against such action or abstains from voting  
408 ~~in respect thereto because of an asserted conflict of interest.~~  
409 A director of the association who abstains from voting on any  
410 action taken on any corporate matter shall be presumed to have  
411 taken no position with regard to the action. Directors may not  
412 vote by proxy or by secret ballot at board meetings, except that  
413 officers may be elected by secret ballot. A vote or abstention  
414 for each member present shall be recorded in the minutes.

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

418 (d) As required by s. 617.0830, an officer, director, or  
419 agent shall discharge his or her duties in good faith, with the  
420 care an ordinarily prudent person in a like position would  
421 exercise under similar circumstances, and in a manner he or she  
422 reasonably believes to be in the interests of the association.  
423 An officer, director, or agent shall be liable for monetary  
424 damages as provided in s. 617.0834 if such officer, director, or  
425 agent breached or failed to perform his or her duties and the  
426 breach of, or failure to perform, his or her duties constitutes  
427 a violation of criminal law as provided in s. 617.0834;  
428 constitutes a transaction from which the officer or director  
429 derived an improper personal benefit, either directly or  
430 indirectly; or constitutes recklessness or an act or omission  
431 that was in bad faith, with malicious purpose, or in a manner

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432 exhibiting wanton and willful disregard of human rights, safety,  
433 or property.

434 (9) EASEMENTS.--Unless prohibited by the cooperative  
435 documents, the board of administration has the authority,  
436 without the joinder of any shareholder ~~unit-owner~~, to grant,  
437 modify, or move any easement, if the easement constitutes part  
438 of or crosses the common areas or association property. This  
439 subsection does not authorize the board of administration to  
440 modify, move, or vacate any easement created in whole or in part  
441 for the use or benefit of anyone other than the shareholders  
442 ~~unit-owners~~, or crossing the property of anyone other than the  
443 shareholders ~~unit-owners~~, without the consent or approval of  
444 those other persons having the use or benefit of the easement,  
445 as required by law or by the instrument creating the easement.

446 (10) POWERS AND DUTIES.--The powers and duties of the  
447 association include those set forth in this section and, except  
448 as expressly limited or restricted in this chapter, those set  
449 forth in the articles of incorporation and bylaws and chapters  
450 607 and 617, as applicable.

451 (11) NOTIFICATION OF DIVISION.--When the board of  
452 directors intends to dissolve or merge the cooperative  
453 association, the board shall so notify the division before  
454 taking any action to dissolve or merge the cooperative  
455 association.

456 (12) POWER TO MANAGE COOPERATIVE PROPERTY AND TO CONTRACT,  
457 SUE, BE SUED, AND BORROW MONEY.--

458 (a) The association may contract, sue, or be sued with  
459 respect to the exercise or nonexercise of its powers. For these

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460 purposes, the powers of the association include, but are not  
461 limited to, the maintenance, management, and operation of the  
462 cooperative property.

463 (b) After control of the association is obtained by  
464 shareholders other than the developer, the association may  
465 institute, maintain, settle, or appeal actions or hearings in  
466 its name on behalf of all shareholders concerning matters of  
467 common interest to most or all shareholders, including, but not  
468 limited to, the common areas; the roof and structural components  
469 of a building or other improvements; mechanical, electrical, and  
470 plumbing elements serving an improvement or a building;  
471 representations of the developer pertaining to any existing or  
472 proposed commonly used facilities; and protesting ad valorem  
473 taxes on commonly used facilities and units; and the association  
474 may defend actions in eminent domain or bring inverse  
475 condemnation actions.

476 (c) If the association has the authority to maintain a  
477 class action, the association may be joined in an action as  
478 representative of that class with reference to litigation and  
479 disputes involving the matters for which the association could  
480 bring a class action. Nothing herein limits any statutory or  
481 common-law right of any individual shareholder or class of  
482 shareholders to bring any action without participation by the  
483 association which may otherwise be available.

484 (d) The borrowing of funds or committing to a line of  
485 credit by the board of administration shall be considered a  
486 special assessment, and any meeting of the board of  
487 administration to discuss such matters shall be noticed in the

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488 same manner as provided in s. 719.106(1)(c). The board shall not  
489 have the authority to enter in a line of credit or borrow funds  
490 for any purpose unless the specific use of the funds from the  
491 line of credit or loan is set forth in the notice of meeting  
492 with the same specificity as required for a special assessment  
493 or unless the borrowing or line of credit has received the prior  
494 approval of not less than two-thirds of the voting interests of  
495 the association.

496 (13) TITLE TO PROPERTY.--

497 (a) The association has the power to acquire title to  
498 property or otherwise hold, convey, lease, and mortgage  
499 association property for the use and benefit of its  
500 shareholders. The power to acquire personal property shall be  
501 exercised by the board of directors. Except as otherwise  
502 provided in subsections (6) and (14), no association may  
503 acquire, convey, lease, or mortgage association real property  
504 except in the manner provided in the cooperative documents, and  
505 if the cooperative documents do not specify the procedure, then  
506 approval of 75 percent of the total voting interests shall be  
507 required.

508 (b) Subject to the provisions of s. 719.106(1)(m), the  
509 association, through its board, has the limited power to convey  
510 a portion of the common areas to a condemning authority for the  
511 purposes of providing utility easements, right-of-way expansion,  
512 or other public purposes, whether negotiated or as a result of  
513 eminent domain proceedings.

514 (14) PURCHASE OF UNITS.--The association has the power,  
515 unless prohibited by the cooperative documents, to purchase

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516 units in the cooperative and to acquire and hold, lease,  
517 mortgage, and convey the units. There shall be no limitation on  
518 the association's right to purchase a unit at a foreclosure sale  
519 resulting from the association's foreclosure of its lien for  
520 unpaid assessments, or to take title by deed in lieu of  
521 foreclosure.

522 (15) MEETINGS.--Regular meetings of the board of directors  
523 shall be held at such time and place as provided in the bylaws  
524 until the first regular meeting of the board held on or after  
525 October 1, 2009. Thereafter, the location and time for regular  
526 meetings of the board shall be determined by a majority vote of  
527 the shareholders at the next regular meeting held on or after  
528 October 1, 2009. Once the time and place for regular meetings of  
529 the board have been selected, neither may be changed unless  
530 approved by a majority vote of the shareholders. Regular  
531 meetings of the board of directors held on weekdays shall be  
532 held no earlier than 6 p.m. local time.

533 (16) LIMIT ON EXPENDITURES.--It shall be unlawful for an  
534 association to make any expenditure of association funds or to  
535 make any in-kind contribution of association assets that does  
536 not relate to the purposes for which the association is  
537 organized.

538 (a) The association shall not make any contribution to a  
539 campaign or committee of continuous existence governed by  
540 chapter 105 or chapter 106.

541 (b) The association shall not make any contribution to a  
542 charitable organization if the association does not receive a  
543 direct benefit from the organization.

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544 (c) The association shall not make any expenditure in  
545 order to retain a person or firm for the purposes of lobbying.

546 (d) Members of the board shall be jointly and severally  
547 liable to reimburse the association for any contribution,  
548 expenditure, or in-kind contribution made in violation of this  
549 subsection.

550 Section 4. Section 719.106, Florida Statutes, is amended  
551 to read:

552 719.106 Bylaws; cooperative ownership.--

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

556 (a) Administration.--

557 1. The form of administration of the association shall be  
558 described, indicating the titles of the officers and board of  
559 administration and specifying the powers, duties, manner of  
560 selection and removal, and compensation, if any, of officers and  
561 board members. In the absence of such a provision, the board of  
562 administration shall be composed of five members, except in the  
563 case of cooperatives having five or fewer units, in which case  
564 in not-for-profit corporations, the board shall consist of not  
565 fewer than three members. In the absence of provisions to the  
566 contrary, the board of administration shall have a president, a  
567 secretary, and a treasurer, who shall perform the duties of  
568 those offices customarily performed by officers of corporations.  
569 Unless prohibited in the bylaws, the board of administration may  
570 appoint other officers and grant them those duties it deems  
571 appropriate. Unless otherwise provided in the bylaws, the

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572 officers shall serve without compensation and at the pleasure of  
573 the board. Unless otherwise provided in the bylaws, the members  
574 of the board shall serve without compensation.

575       2. When a shareholder ~~unit-owner~~ files a written inquiry  
576 by certified mail with the board of administration, the board  
577 shall respond in writing to the shareholder ~~unit-owner~~ within 30  
578 days of receipt of the inquiry. The board's response shall  
579 either give a substantive response to the inquirer, notify the  
580 inquirer that a legal opinion has been requested, or notify the  
581 inquirer that advice has been requested from the division. If  
582 the board requests advice from the division, the board shall,  
583 within 10 days of its receipt of the advice, provide in writing  
584 a substantive response to the inquirer. If a legal opinion is  
585 requested, the board shall, within 60 days after the receipt of  
586 the inquiry, provide in writing a substantive response to the  
587 inquirer. The failure to provide a substantive response to the  
588 inquirer as provided herein precludes the board from recovering  
589 attorney's fees and costs in any subsequent litigation,  
590 administrative proceeding, or arbitration arising out of the  
591 inquiry. The association may, through its board of  
592 administration, adopt reasonable rules and regulations regarding  
593 the frequency and manner of responding to the shareholders' ~~unit~~  
594 ~~owners'~~ inquiries, one of which may be that the association is  
595 obligated to respond to only one written inquiry per unit in any  
596 given 30-day period. In such case, any additional inquiry or  
597 inquiries must be responded to in the subsequent 30-day period,  
598 or periods, as applicable.

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

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600 1. Unless otherwise provided in the bylaws, the percentage  
601 of voting interests required to constitute a quorum at a meeting  
602 of the members shall be a majority of voting interests, and  
603 decisions shall be made by owners of a majority of the voting  
604 interests. Unless otherwise provided in this chapter, or in the  
605 articles of incorporation, bylaws, or other cooperative  
606 documents, and except as provided in subparagraph (d)1.,  
607 decisions shall be made by owners of a majority of the voting  
608 interests represented at a meeting at which a quorum is present.

609 2. Except as specifically otherwise provided herein, after  
610 January 1, 1992, shareholders ~~unit owners~~ may not vote by  
611 general proxy, but may vote by limited proxies substantially  
612 conforming to a limited proxy form adopted by the division.  
613 Limited proxies and general proxies may be used to establish a  
614 quorum. Limited proxies shall be used for votes taken to waive  
615 or reduce reserves in accordance with subparagraph (j)2., for  
616 votes taken to waive the financial reporting requirements of s.  
617 719.104(4) ~~(b)~~, for votes taken to amend the articles of  
618 incorporation or bylaws pursuant to this section, and for any  
619 other matter for which this chapter requires or permits a vote  
620 of the shareholders ~~unit owners~~. Except as provided in paragraph  
621 (d), after January 1, 1992, no proxy, limited or general, shall  
622 be used in the election of board members. General proxies may be  
623 used for other matters for which limited proxies are not  
624 required, and may also be used in voting for nonsubstantive  
625 changes to items for which a limited proxy is required and  
626 given. Notwithstanding the provisions of this section,  
627 shareholders ~~unit owners~~ may vote in person at shareholder ~~unit~~

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628 ~~owner~~ meetings. Nothing contained herein shall limit the use of  
629 general proxies or require the use of limited proxies or require  
630 the use of limited proxies for any agenda item or election at  
631 any meeting of a timeshare cooperative.

632 3. Any proxy given shall be effective only for the  
633 specific meeting for which originally given and any lawfully  
634 adjourned meetings thereof. In no event shall any proxy be valid  
635 for a period longer than 90 days after the date of the first  
636 meeting for which it was given. Every proxy shall be revocable  
637 at any time at the pleasure of the shareholder ~~unit-owner~~  
638 executing it.

639 4. A member of the board of administration or a committee  
640 may submit in writing his or her agreement or disagreement with  
641 any action taken at a meeting that the member did not attend.  
642 This agreement or disagreement may not be used as a vote for or  
643 against the action taken and may not be used for the purposes of  
644 creating a quorum.

645 5. When some or all of the board or committee members meet  
646 by telephone conference, those board or committee members  
647 attending by telephone conference may be counted toward  
648 obtaining a quorum and may vote by telephone. A telephone  
649 speaker shall be utilized so that the conversation of those  
650 board or committee members attending by telephone may be heard  
651 by the board or committee members attending in person, as well  
652 as by shareholders ~~unit-owners~~ present at a meeting.

653 (c) Board of administration meetings.--Meetings of the  
654 board of administration at which a quorum of the members is  
655 present shall be open to all shareholders ~~unit-owners~~. Any

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656 shareholder ~~unit-owner~~ may tape record or videotape meetings of  
657 the board of administration. The right to attend such meetings  
658 includes the right to speak at such meetings with reference to  
659 all designated agenda items. The division shall adopt reasonable  
660 rules governing the tape recording and videotaping of the  
661 meeting. The association may adopt reasonable written rules  
662 governing the frequency, duration, and manner of shareholder  
663 ~~unit-owner~~ statements. Adequate notice of all meetings shall be  
664 posted in a conspicuous place upon the cooperative property at  
665 least 48 continuous hours preceding the meeting, except in an  
666 emergency. If 20 percent of the voting interests petition the  
667 board to address an item of business, the board shall at its  
668 next regular board meeting or at a special meeting of the board,  
669 but not later than 60 days after the receipt of the petition,  
670 place the item on the agenda. Any item not included on the  
671 notice may be taken up on an emergency basis by at least a  
672 majority plus one of the members of the board. Such emergency  
673 action shall be noticed and ratified at the next regular meeting  
674 of the board. However, written notice of any meeting at which  
675 nonemergency special assessments, or at which amendment to rules  
676 regarding unit use, will be considered shall be mailed,  
677 delivered, or electronically transmitted to the shareholders  
678 ~~unit-owners~~ and posted conspicuously on the cooperative property  
679 not less than 14 days prior to the meeting. Evidence of  
680 compliance with this 14-day notice shall be made by an affidavit  
681 executed by the person providing the notice and filed among the  
682 official records of the association. Upon notice to the  
683 shareholders ~~unit-owners~~, the board shall by duly adopted rule

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684 designate a specific location on the cooperative property upon  
685 which all notices of board meetings shall be posted. In lieu of  
686 or in addition to the physical posting of notice of any meeting  
687 of the board of administration on the cooperative property, the  
688 association may, by reasonable rule, adopt a procedure for  
689 conspicuously posting and repeatedly broadcasting the notice and  
690 the agenda on a closed-circuit cable television system serving  
691 the cooperative association. However, if broadcast notice is  
692 used in lieu of a notice posted physically on the cooperative  
693 property, the notice and agenda must be broadcast at least four  
694 times every broadcast hour of each day that a posted notice is  
695 otherwise required under this section. When broadcast notice is  
696 provided, the notice and agenda must be broadcast in a manner  
697 and for a sufficient continuous length of time so as to allow an  
698 average reader to observe the notice and read and comprehend the  
699 entire content of the notice and the agenda. Notice of any  
700 meeting in which regular or special assessments against  
701 shareholders ~~unit owners~~ are to be considered for any reason  
702 shall specifically state ~~contain a statement~~ that assessments  
703 will be considered and the nature of, actual amount of any bids  
704 or proposals for estimated cost, and description of the purposes  
705 for any such assessment ~~assessments~~. Meetings of a committee to  
706 take final action on behalf of the board or to make  
707 recommendations to the board regarding the association budget  
708 are subject to the provisions of this paragraph. Meetings of a  
709 committee that does not take final action on behalf of the board  
710 or make recommendations to the board regarding the association  
711 budget are subject to the provisions of this section, unless

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712 those meetings are exempted from this section by the bylaws of  
713 the association. Notwithstanding any other law to the contrary,  
714 the requirement that board meetings and committee meetings be  
715 open to the shareholders ~~unit owners~~ is inapplicable to meetings  
716 between the board or a committee and the association's attorney,  
717 with respect to proposed or pending litigation, when the meeting  
718 is held for the purpose of seeking or rendering legal advice.

719 (d) Shareholder meetings.--There shall be an annual  
720 meeting of the shareholders held at the location provided in the  
721 association bylaws and, if the bylaws are silent as to the  
722 location, the meeting shall be held within 45 miles of the  
723 cooperative property. However, such distance requirement does  
724 not apply to an association governing a timeshare cooperative.  
725 All members of the board of administration shall be elected at  
726 the first annual meeting after July 1, 2009, and annually  
727 thereafter, except that if ~~unless~~ the bylaws provide for  
728 staggered election terms of no more than 2 years, the  
729 association board members may serve 2-year staggered terms. If  
730 no person is interested in or demonstrates an intention to run  
731 for the position of a board member whose term has expired, such  
732 board member whose term has expired shall be automatically  
733 reappointed to the board of administration and need not stand  
734 for reelection ~~or for their election at another meeting.~~ Any  
735 shareholder ~~unit owner~~ desiring to be a candidate for board  
736 membership shall comply with subparagraph 1. The bylaws shall  
737 provide the method for calling meetings, including annual  
738 meetings. Written notice, which notice shall incorporate an  
739 identification of agenda items, shall be given to each

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740 shareholder ~~unit-owner~~ at least 14 days prior to the annual  
741 meeting and shall be posted in a conspicuous place on the  
742 cooperative property at least 14 continuous days preceding the  
743 annual meeting. Upon notice to the shareholders ~~unit-owners~~, the  
744 board shall by duly adopted rule designate a specific location  
745 on the cooperative property upon which all notice of shareholder  
746 ~~unit-owner~~ meetings shall be posted. In lieu of or in addition  
747 to the physical posting of notice of any meeting of the  
748 shareholders on the cooperative property, the association may,  
749 by reasonable rule, adopt a procedure for conspicuously posting  
750 and repeatedly broadcasting the notice and the agenda on a  
751 closed-circuit cable television system serving the cooperative  
752 association. However, if broadcast notice is used in lieu of a  
753 notice posted physically on the cooperative property, the notice  
754 and agenda must be broadcast at least four times every broadcast  
755 hour of each day that a posted notice is otherwise required  
756 under this section. When broadcast notice is provided, the  
757 notice and agenda must be broadcast in a manner and for a  
758 sufficient continuous length of time so as to allow an average  
759 reader to observe the notice and read and comprehend the entire  
760 content of the notice and the agenda. Unless a shareholder ~~unit~~  
761 ~~owner~~ waives in writing the right to receive notice of the  
762 annual meeting, the notice of the annual meeting shall be sent  
763 by mail, hand delivered, or electronically transmitted to each  
764 shareholder ~~unit-owner~~. An officer of the association shall  
765 provide an affidavit or United States Postal Service certificate  
766 of mailing, to be included in the official records of the  
767 association, affirming that notices of the association meeting

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768 were mailed, hand delivered, or electronically transmitted, in  
769 accordance with this provision, to each shareholder ~~unit-owner~~  
770 at the address last furnished to the association.

771 1. After January 1, 1992, the board of administration  
772 shall be elected by written ballot or voting machine. Proxies  
773 shall in no event be used in electing the board of  
774 administration, either in general elections or elections to fill  
775 vacancies caused by recall, resignation, or otherwise unless  
776 otherwise provided in this chapter. Not less than 60 days before  
777 a scheduled election, the association shall mail, deliver, or  
778 transmit, whether by separate association mailing, delivery, or  
779 electronic transmission or included in another association  
780 mailing, delivery, or electronic transmission, including  
781 regularly published newsletters, to each shareholder ~~unit-owner~~  
782 entitled to vote, a first notice of the date of the election.  
783 Any shareholder ~~unit-owner~~ or other eligible person desiring to  
784 be a candidate for the board of administration shall give  
785 written notice to the association not less than 40 days before a  
786 scheduled election. Together with the written notice and agenda  
787 as set forth in this section, the association shall mail,  
788 deliver, or electronically transmit a second notice of election  
789 to all shareholders ~~unit-owners~~ entitled to vote therein,  
790 together with a ballot which shall list all candidates. Upon  
791 request of a candidate, the association shall include an  
792 information sheet, no larger than 8 1/2 inches by 11 inches,  
793 which must be furnished by the candidate not less than 35 days  
794 prior to the election, to be included with the mailing,  
795 delivery, or electronic transmission of the ballot, with the  
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796 costs of mailing, delivery, or transmission and copying to be  
797 borne by the association. The association has no liability for  
798 the contents of the information sheets provided by the  
799 candidates. In order to reduce costs, the association may print  
800 or duplicate the information sheets on both sides of the paper.  
801 The division shall by rule establish voting procedures  
802 consistent with the provisions contained herein, including rules  
803 establishing procedures for giving notice by electronic  
804 transmission and rules providing for the secrecy of ballots.  
805 Elections shall be decided by a plurality of those ballots cast.  
806 There shall be no quorum requirement. However, at least 20  
807 percent of the eligible voters must cast a ballot in order to  
808 have a valid election of members of the board of administration.  
809 No shareholder ~~unit owner~~ shall permit any other person to vote  
810 his or her ballot, and any such ballots improperly cast shall be  
811 deemed invalid. A shareholder ~~unit owner~~ who needs assistance in  
812 casting the ballot for the reasons stated in s. 101.051 may  
813 obtain assistance in casting the ballot. Any shareholder ~~unit~~  
814 ~~owner~~ violating this provision may be fined by the association  
815 in accordance with s. 719.303. The regular election shall occur  
816 on the date of the annual meeting. The provisions of this  
817 subparagraph shall not apply to timeshare cooperatives.  
818 Notwithstanding the provisions of this subparagraph, an election  
819 and balloting are not required unless more candidates file a  
820 notice of intent to run or are nominated than vacancies exist on  
821 the board.

822       2. Any approval by shareholders ~~unit owners~~ called for by  
823 this chapter, or the applicable cooperative documents, shall be  
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824 made at a duly noticed meeting of shareholders ~~unit owners~~ and  
825 shall be subject to all requirements of this chapter or the  
826 applicable cooperative documents relating to shareholder ~~unit~~  
827 ~~owner~~ decisionmaking, except that shareholders ~~unit owners~~ may  
828 take action by written agreement, without meetings, on matters  
829 for which action by written agreement without meetings is  
830 expressly allowed by the applicable cooperative documents or any  
831 Florida statute which provides for the shareholder ~~unit owner~~  
832 action.

833 3. Shareholders ~~Unit owners~~ may waive notice of specific  
834 meetings if allowed by the applicable cooperative documents or  
835 any Florida statute. If authorized by the bylaws, notice of  
836 meetings of the board of administration, shareholder meetings,  
837 except shareholder meetings called to recall board members under  
838 paragraph (f), and committee meetings may be given by electronic  
839 transmission to shareholders ~~unit owners~~ who consent to receive  
840 notice by electronic transmission.

841 4. Shareholders ~~Unit owners~~ shall have the right to  
842 participate in meetings of shareholders ~~unit owners~~ with  
843 reference to all designated agenda items. However, the  
844 association may adopt reasonable rules governing the frequency,  
845 duration, and manner of shareholder ~~unit owner~~ participation.

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

849  
850 Notwithstanding subparagraphs (b)2. and (d)1., an association of  
851 10 units or less may, by the affirmative vote of a majority of  
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852 the total voting interests, provide for a different voting and  
853 election procedure in its bylaws, which vote may be by a proxy  
854 specifically delineating the different voting and election  
855 procedures. The different voting and election procedures may  
856 provide for elections to be conducted by limited or general  
857 proxy.

858 (e) Budget procedures.--

859 1. The board of administration shall mail, hand deliver,  
860 or electronically transmit to each shareholder ~~unit owner~~ at the  
861 address last furnished to the association, a meeting notice and  
862 copies of the proposed annual budget of common expenses to the  
863 shareholders ~~unit owners~~ not less than 14 days prior to the  
864 meeting at which the budget will be considered. Evidence of  
865 compliance with this 14-day notice must be made by an affidavit  
866 executed by an officer of the association or the manager or  
867 other person providing notice of the meeting and filed among the  
868 official records of the association. The meeting must be open to  
869 the shareholders ~~unit owners~~.

870 2. If an adopted budget requires assessment against the  
871 shareholders ~~unit owners~~ in any fiscal or calendar year which  
872 exceeds 115 percent of the assessments for the preceding year,  
873 the board upon written application of 10 percent of the voting  
874 interests to the board, shall call a special meeting of the  
875 shareholders ~~unit owners~~ within 30 days, upon not less than 10  
876 days' written notice to each shareholder ~~unit owner~~. At the  
877 special meeting, shareholders ~~unit owners~~ shall consider and  
878 enact a budget. Unless the bylaws require a larger vote, the

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879 adoption of the budget requires a vote of not less than a  
880 majority of all the voting interests.

881 3. The board of administration may, in any event, propose  
882 a budget to the shareholders ~~unit-owners~~ at a meeting of members  
883 or by writing, and if the budget or proposed budget is approved  
884 by the shareholders ~~unit-owners~~ at the meeting or by a majority  
885 of all voting interests in writing, the budget is adopted. If a  
886 meeting of the shareholders ~~unit-owners~~ has been called and a  
887 quorum is not attained or a substitute budget is not adopted by  
888 the shareholders ~~unit-owners~~, the budget adopted by the board of  
889 directors goes into effect as scheduled.

890 4. In determining whether assessments exceed 115 percent  
891 of similar assessments for prior years, any authorized  
892 provisions for reasonable reserves for repair or replacement of  
893 cooperative property, anticipated expenses by the association  
894 which are not anticipated to be incurred on a regular or annual  
895 basis, or assessments for betterments to the cooperative  
896 property must be excluded from computation. However, as long as  
897 the developer is in control of the board of administration, the  
898 board may not impose an assessment for any year greater than 115  
899 percent of the prior fiscal or calendar year's assessment  
900 without approval of a majority of all voting interests.

901 (f) Recall of board members.--Subject to the provisions of  
902 s. 719.301, any member of the board of administration may be  
903 recalled and removed from office with or without cause by the  
904 vote or agreement in writing by a majority of all the voting  
905 interests. A special meeting of the voting interests to recall  
906 any member of the board of administration may be called by 10

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907 percent of the shareholders ~~unit owners~~ giving notice of the  
908 meeting as required for a meeting of shareholders ~~unit owners~~,  
909 and the notice shall state the purpose of the meeting.

910 Electronic transmission may not be used as a method of giving  
911 notice of a meeting called in whole or in part for this purpose.

912 1. If the recall is approved by a majority of all voting  
913 interests by a vote at a meeting, the recall shall be effective  
914 as provided herein. The board shall duly notice and hold a board  
915 meeting within 5 full business days of the adjournment of the  
916 shareholder ~~unit owner~~ meeting to recall one or more board  
917 members. At the meeting, the board shall either certify the  
918 recall, in which case such member or members shall be recalled  
919 effective immediately and shall turn over to the board within 5  
920 full business days any and all records and property of the  
921 association in their possession, or shall proceed as set forth  
922 in subparagraph 3.

923 2. If the proposed recall is by an agreement in writing by  
924 a majority of all voting interests, the agreement in writing or  
925 a copy thereof shall be served on the association by certified  
926 mail or by personal service in the manner authorized by chapter  
927 48 and the Florida Rules of Civil Procedure. The board of  
928 administration shall duly notice and hold a meeting of the board  
929 within 5 full business days after receipt of the agreement in  
930 writing. At the meeting, the board shall either certify the  
931 written agreement to recall members of the board, in which case  
932 such members shall be recalled effective immediately and shall  
933 turn over to the board, within 5 full business days, any and all

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934 records and property of the association in their possession, or  
935 proceed as described in subparagraph 3.

936 3. If the board determines not to certify the written  
937 agreement to recall members of the board, or does not certify  
938 the recall by a vote at a meeting, the board shall, within 5  
939 full business days after the board meeting, file with the  
940 division a petition for binding arbitration pursuant to the  
941 procedures of s. 719.1255. For purposes of this paragraph, the  
942 shareholders ~~unit-owners~~ who voted at the meeting or who  
943 executed the agreement in writing shall constitute one party  
944 under the petition for arbitration. If the arbitrator certifies  
945 the recall as to any member of the board, the recall shall be  
946 effective upon mailing of the final order of arbitration to the  
947 association. If the association fails to comply with the order  
948 of the arbitrator, the division may take action pursuant to s.  
949 719.501. Any member so recalled shall deliver to the board any  
950 and all records and property of the association in the member's  
951 possession within 5 full business days of the effective date of  
952 the recall.

953 4. If the board fails to duly notice and hold a board  
954 meeting within 5 full business days of service of an agreement  
955 in writing or within 5 full business days of the adjournment of  
956 the shareholder ~~unit-owner~~ recall meeting, the recall shall be  
957 deemed effective and the board members so recalled shall  
958 immediately turn over to the board any and all records and  
959 property of the association.

960 5. If a vacancy occurs on the board as a result of a  
961 recall or removal and less than a majority of the board members  
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962 are removed, the vacancy may be filled by the affirmative vote  
963 of a majority of the remaining directors, notwithstanding any  
964 provision to the contrary contained in this chapter. If  
965 vacancies occur on the board as a result of a recall and a  
966 majority or more of the board members are removed, the vacancies  
967 shall be filled in accordance with procedural rules to be  
968 adopted by the division, which rules need not be consistent with  
969 this chapter. The rules must provide procedures governing the  
970 conduct of the recall election as well as the operation of the  
971 association during the period after a recall but prior to the  
972 recall election.

973 (g) Common expenses.--The manner of collecting from the  
974 shareholders ~~unit owners~~ their shares of the common expenses  
975 shall be stated. Assessments shall be made against shareholders  
976 ~~unit owners~~ not less frequently than quarterly, in an amount no  
977 less than is required to provide funds in advance for payment of  
978 all of the anticipated current operating expense and for all of  
979 the unpaid operating expense previously incurred. Nothing in  
980 this paragraph shall preclude the right of an association to  
981 accelerate assessments of a shareholder ~~an owner~~ delinquent in  
982 payment of common expenses in actions taken pursuant to s.  
983 719.104 (5) ~~(4)~~.

984 (h) Amendment of bylaws.--

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

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990        2. No bylaw shall be revised or amended by reference to  
991 its title or number only. Proposals to amend existing bylaws  
992 shall contain the full text of the bylaws to be amended; new  
993 words shall be inserted in the text underlined, and words to be  
994 deleted shall be lined through with hyphens. However, if the  
995 proposed change is so extensive that this procedure would  
996 hinder, rather than assist, the understanding of the proposed  
997 amendment, it is not necessary to use underlining and hyphens as  
998 indicators of words added or deleted, but, instead, a notation  
999 must be inserted immediately preceding the proposed amendment in  
1000 substantially the following language: "Substantial rewording of  
1001 bylaw. See bylaw \_\_\_\_\_ for present text."

1002        3. Nonmaterial errors or omissions in the bylaw process  
1003 shall not invalidate an otherwise properly promulgated  
1004 amendment.

1005        4. If the bylaws provide for amendment by the board of  
1006 directors, no bylaw may be amended unless it is heard and  
1007 noticed at two consecutive meetings of the board of directors  
1008 that are at least 1 week apart.

1009        (i) Transfer fees.--No charge may be made by the  
1010 association or any body thereof in connection with the sale,  
1011 mortgage, lease, sublease, or other transfer of a unit unless  
1012 the association is required to approve such transfer and a fee  
1013 for such approval is provided for in the cooperative documents.  
1014 Any such fee may be preset, but in no event shall it exceed \$100  
1015 per applicant other than husband/wife or parent/dependent child,  
1016 which are considered one applicant. However, if the lease or  
1017 sublease is a renewal of a lease or sublease with the same

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1018 lessee or sublessee, no charge shall be made. Nothing in this  
1019 paragraph shall be construed to prohibit an association from  
1020 requiring as a condition to permitting the letting or renting of  
1021 a unit, when the association has such authority in the  
1022 documents, the depositing into an escrow account maintained by  
1023 the association a security deposit in an amount not to exceed  
1024 the equivalent of 1 month's rent. The security deposit shall  
1025 protect against damages to the common areas or cooperative  
1026 property. Within 15 days after a tenant vacates the premises,  
1027 the association shall refund the full security deposit or give  
1028 written notice to the tenant of any claim made against the  
1029 security. Disputes under this paragraph shall be handled in the  
1030 same fashion as disputes concerning security deposits under s.  
1031 83.49.

1032 (j) Annual budget.--

1033 1. The proposed annual budget of estimated revenues and  
1034 ~~common~~ expenses shall be detailed and shall show the amounts  
1035 budgeted by accounts and expense classifications, including, if  
1036 applicable, but not limited to, those expenses listed in s.  
1037 719.504(20).

1038 2. In addition to annual operating expenses, the budget  
1039 shall include reserve accounts for capital expenditures and  
1040 deferred maintenance. These accounts shall include, but not be  
1041 limited to, roof replacement, building painting, and pavement  
1042 resurfacing, regardless of the amount of deferred maintenance  
1043 expense or replacement cost, and for any other items for which  
1044 the deferred maintenance expense or replacement cost exceeds  
1045 \$10,000. The amount to be reserved shall be computed by means of  
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1046 a formula which is based upon estimated remaining useful life  
1047 and estimated replacement cost or deferred maintenance expense  
1048 of each reserve item. The association may adjust replacement  
1049 reserve assessments annually to take into account any changes in  
1050 estimates or extension of the useful life of a reserve item  
1051 caused by deferred maintenance. This paragraph shall not apply  
1052 to any budget in which the members of an association have, at a  
1053 duly called meeting of the association, determined for a fiscal  
1054 year to provide no reserves or reserves less adequate than  
1055 required by this subsection. However, prior to turnover of  
1056 control of an association by a developer to shareholders ~~unit~~  
1057 ~~owners~~ other than a developer pursuant to s. 719.301, the  
1058 developer may vote to waive the reserves or reduce the funding  
1059 of reserves for the first 2 years of the operation of the  
1060 association after which time reserves may only be waived or  
1061 reduced upon the vote of a majority of all nondeveloper voting  
1062 interests voting in person or by limited proxy at a duly called  
1063 meeting of the association. If a meeting of the shareholders  
1064 ~~unit owners~~ has been called to determine to provide no reserves,  
1065 or reserves less adequate than required, and such result is not  
1066 attained or a quorum is not attained, the reserves as included  
1067 in the budget shall go into effect.

1068 3. Reserve funds and any interest accruing thereon shall  
1069 remain in the reserve account or accounts, and shall be used  
1070 only for authorized reserve expenditures unless their use for  
1071 other purposes is approved in advance by a vote of the majority  
1072 of the voting interests, voting in person or by limited proxy at  
1073 a duly called meeting of the association. Prior to turnover of  
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1074 control of an association by a developer to shareholders ~~unit~~  
1075 ~~owners~~ other than the developer under s. 719.301, the developer  
1076 may not vote to use reserves for purposes other than that for  
1077 which they were intended without the approval of a majority of  
1078 all nondeveloper voting interests, voting in person or by  
1079 limited proxy at a duly called meeting of the association.

1080 4. The only voting interests which are eligible to vote on  
1081 questions that involve waiving or reducing the funding of  
1082 reserves, or using existing reserve funds for purposes other  
1083 than purposes for which the reserves were intended, are the  
1084 voting interests of the units subject to assessment to fund the  
1085 reserves in question. Proxy questions relating to waiving or  
1086 reducing the funding of reserves or using existing reserve funds  
1087 for purposes other than purposes for which the reserves were  
1088 intended shall contain the following statement in capitalized,  
1089 bold letters in a font size larger than any other used on the  
1090 face of the proxy ballot: WAIVING OF RESERVES, IN WHOLE OR IN  
1091 PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY  
1092 RESULT IN SHAREHOLDER LIABILITY FOR PAYMENT OF UNANTICIPATED  
1093 SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

1094 (k) Insurance or fidelity bonds.--The association shall  
1095 obtain and maintain adequate insurance or fidelity bonding of  
1096 all persons who control or disburse funds of the association.  
1097 The insurance policy or fidelity bond must cover the maximum  
1098 funds that will be in the custody of the association or its  
1099 management agent at any one time. As used in this paragraph, the  
1100 term "persons who control or disburse funds of the association"  
1101 includes, but is not limited to, those individuals authorized to  
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1102 sign checks, and the president, secretary, and treasurer of the  
1103 association. The association shall bear the cost of bonding and  
1104 insurance.

1105 (l) Arbitration.--There shall be a provision for mandatory  
1106 nonbinding arbitration of internal disputes arising from the  
1107 operation of the cooperative in accordance with s. 719.1255.

1108 (m) Common areas; limited power to convey.--

1109 1. The bylaws shall include a provision granting the  
1110 association a limited power to convey a portion of the common  
1111 areas to a condemning authority for the purpose of providing  
1112 utility easements, right-of-way expansion, or other public  
1113 purposes, whether negotiated or as a result of eminent domain  
1114 proceedings.

1115 2. In any case in which the bylaws are silent as to the  
1116 association's power to convey common areas as described in  
1117 subparagraph 1., the bylaws shall be deemed to include the  
1118 provision described in subparagraph 1.

1119 (n) Director or officer delinquencies.--A director or  
1120 officer more than 90 days delinquent in the payment of regular  
1121 assessments shall be deemed to have abandoned his or her office,  
1122 creating a vacancy in the office to be filled according to law.

1123 (o) Director or officer offenses.--A director or officer  
1124 charged by information or indictment with a felony theft or  
1125 embezzlement offense involving the association's funds or  
1126 property shall be removed from office, creating a vacancy in the  
1127 office to be filled according to law. While such director or  
1128 officer has such criminal charge pending in the state or federal  
1129 court system, he or she may not be appointed or elected to a

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1130 position as a director or officer. However, should the charges  
1131 be resolved without a finding of guilt, the director or officer  
1132 shall be reinstated for the remainder of his or her term of  
1133 office, if any.

1134 (p) Qualifications of directors.--In addition to any other  
1135 requirement for office in statute, a person running for or  
1136 seeking appointment to the board must meet the following  
1137 qualifications:

1138 1. In a cooperative association of 10 or more units, only  
1139 one individual coowner of a unit may serve on the board of  
1140 administration.

1141 2. No person may serve as a director of any cooperative  
1142 association in the state if restricted from serving by action of  
1143 the division pursuant to s. 719.501.

1144 3. A person who has been convicted of any felony in this  
1145 state or in a United States District or Territorial Court, or  
1146 who has been convicted of any offense in another jurisdiction  
1147 that would be considered a felony if committed in this state, is  
1148 not eligible for board membership unless such felon's civil  
1149 rights have been restored for a period of no less than 5 years  
1150 as of the date on which such person seeks election to the board.

1151 4. A director more than 90 days delinquent in the payment  
1152 of regular assessments shall be deemed to have abandoned his or  
1153 her office.

1154 5. Within 30 days after being elected or appointed to the  
1155 board of directors, a director shall certify in writing to the  
1156 secretary of the association that he or she has read parts I and  
1157 III of chapter 719 and the association's cooperative documents,

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1158 bylaws, and current written policies. The director shall further  
1159 certify that he or she will work to uphold such documents and  
1160 policies to the best of his or her ability, and that he or she  
1161 will faithfully discharge his or her fiduciary responsibility to  
1162 the association's members. If the division finds that a director  
1163 has falsely certified that he or she has read the required  
1164 statutes and documents, the division shall order the director  
1165 removed the board and shall order the director to reimburse the  
1166 division for the cost of prosecution and hearing.

1167 6. After turnover of the association pursuant to s.  
1168 719.301(4), a director must:

1169 a. If the unit is owned by an individual or individuals,  
1170 be one of those individuals.

1171 b. If the unit is owned by a trust, be an individual  
1172 qualified pursuant to s. 617.0802.

1173  
1174 These qualifications shall operate on a continuing basis, and  
1175 upon the failure of a director at any time to meet a  
1176 qualification, the director shall be removed from office and  
1177 that office shall be deemed vacant.

1178 (q) Borrowing.--The borrowing of funds or committing to a  
1179 line of credit by the board of administration shall be  
1180 considered a special assessment, and any meeting of the board of  
1181 administration to discuss such matters shall be noticed as  
1182 provided in paragraph (c). The board shall not have the  
1183 authority to enter into a line of credit or borrow funds for any  
1184 purpose unless the specific use of the funds from the line of  
1185 credit or loan is set forth in the notice of meeting with the

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1186 same specificity as required for a special assessment or unless  
1187 the borrowing or line of credit has received the prior approval  
1188 of not less than two-thirds of the voting interests of the  
1189 association.

1190 (2) OPTIONAL PROVISIONS.--The bylaws may provide for the  
1191 following:

1192 (a) Administrative rules.--A method of adopting and of  
1193 amending administrative rules and regulations governing the  
1194 details of the operation and use of the common areas.

1195 (b) Use and maintenance restrictions.--Restrictions on,  
1196 and requirements for, the use, maintenance, and appearance of  
1197 the units and the use of the common areas, not inconsistent with  
1198 the cooperative documents, designed to prevent unreasonable  
1199 interference with the use of the units and common areas.

1200 (c) Notice of meetings.--Provisions for giving notice by  
1201 electronic transmissions in a manner authorized by law of  
1202 meetings of the board of directors and committees and of annual  
1203 and special meetings of the members.

1204 (d) Other matters.--Other provisions not inconsistent with  
1205 this chapter or with the cooperative documents as may be  
1206 desired.

1207 Section 5. Section 719.1064, Florida Statutes, is  
1208 repealed.

1209 Section 6. Paragraphs (b) and (c) of subsection (1) and  
1210 subsection (2) of section 719.107, Florida Statutes, are  
1211 amended, and subsection (3) is added to that section, to read:

1212 719.107 Common expenses; assessment.--

1213 (1)

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1214 (b) If so provided in the bylaws, the cost of a master  
1215 antenna television system or duly franchised cable television  
1216 service obtained pursuant to a bulk contract shall be deemed a  
1217 common expense, and if not obtained pursuant to a bulk contract,  
1218 such cost shall be considered common expense if it is designated  
1219 as such in a written contract between the board of  
1220 administration and the company providing the master television  
1221 antenna system or the cable television service. The contract  
1222 shall be for a term of not less than 2 years.

1223 1. Any contract made by the board after April 2, 1992, for  
1224 a community antenna system or duly franchised cable television  
1225 service may be canceled by a majority of the voting interests  
1226 present at the next regular or special meeting of the  
1227 association. Any member may make a motion to cancel the  
1228 contract, but if no motion is made or if such motion fails to  
1229 obtain the required majority at the next regular or special  
1230 meeting, whichever is sooner, following the making of the  
1231 contract, then such contract shall be deemed ratified for the  
1232 term therein expressed.

1233 2. Any such contract shall provide, and shall be deemed to  
1234 provide if not expressly set forth, that any hearing impaired or  
1235 legally blind shareholder ~~unit-owner~~ who does not occupy the  
1236 unit with a nonhearing impaired or sighted person may  
1237 discontinue the service without incurring disconnect fees,  
1238 penalties, or subsequent service charges, and as to such units,  
1239 the shareholders ~~owners~~ shall not be required to pay any common  
1240 expenses charge related to such service. If less than all  
1241 members of an association share the expenses of cable

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1242 television, the expense shall be shared equally by all  
1243 participating shareholders ~~unit owners~~. The association may use  
1244 the provisions of s. 719.108 to enforce payment of the shares of  
1245 such costs by the shareholders ~~unit owners~~ receiving cable  
1246 television.

1247 (c) If any unpaid share of common expenses or assessments  
1248 is extinguished by foreclosure of a superior lien or by a deed  
1249 in lieu of foreclosure thereof, the unpaid share of common  
1250 expenses or assessments are common expenses collectible from all  
1251 the shareholders ~~unit owners~~ in the cooperative in which the  
1252 unit is located.

1253 (2) Funds for the payment of common expenses shall be  
1254 collected by assessments against shareholders ~~unit owners~~ in the  
1255 proportions or percentages of sharing common expenses provided  
1256 in the cooperative documents.

1257 (3) The expense of installation, replacement, operation,  
1258 repair, and maintenance of hurricane shutters or other hurricane  
1259 protection by the board pursuant to s. 719.113(5) shall  
1260 constitute a common expense as defined in this section and shall  
1261 be collected as provided in this section if the association is  
1262 responsible for the maintenance, repair, and replacement of the  
1263 hurricane shutters or other hurricane protection pursuant to the  
1264 cooperative documents. However, if the maintenance, repair, and  
1265 replacement of the hurricane shutters or other hurricane  
1266 protection is the responsibility of the shareholders pursuant to  
1267 the cooperative documents, the cost of the installation of the  
1268 hurricane shutters or other hurricane protection shall not be a  
1269 common expense, but shall be charged individually to the

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1270 shareholders based on the cost of installation of the hurricane  
1271 shutters or other hurricane protection appurtenant to the unit.  
1272 Notwithstanding the provisions of s. 719.108(8), and regardless  
1273 of whether or not the cooperative documents requires the  
1274 association or shareholders maintain, repair, or replace  
1275 hurricane shutters or other hurricane protection, a shareholder  
1276 who has previously installed hurricane shutters in accordance  
1277 with s. 719.113(5), other hurricane protection, or laminated  
1278 glass architecturally designed to function as hurricane  
1279 protection, which hurricane shutters or other hurricane  
1280 protection or laminated glass comply with the current applicable  
1281 building code, shall receive a credit equal to the pro rata  
1282 portion of the assessed installation cost assigned to each unit.  
1283 However, such shareholder shall remain responsible for the pro  
1284 rata share of expenses for hurricane shutters or other hurricane  
1285 protection installed on common areas by the board pursuant to s.  
1286 719.113(5), and shall remain responsible for a pro rata share of  
1287 the expense of the replacement, operation, repair, and  
1288 maintenance of such shutters or other hurricane protection.

1289 Section 7. Section 719.108, Florida Statutes, is amended  
1290 to read:

1291 719.108 Rents and assessments; liability; lien and  
1292 priority; interest; collection; cooperative ownership.--

1293 (1) (a) A shareholder ~~unit owner~~, regardless of how title  
1294 is acquired, including, without limitation, a purchaser at a  
1295 judicial sale or by deed in lieu of foreclosure, shall be liable  
1296 for all rents and assessments coming due while the shareholder  
1297 ~~unit owner~~ is in exclusive possession of a unit. ~~In a voluntary~~

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1298 ~~transfer,~~ The shareholder unit owner in exclusive possession  
1299 shall be jointly and severally liable with the previous  
1300 shareholder unit owner for all unpaid rents and assessments  
1301 against the previous shareholder unit owner for his or her share  
1302 of the common expenses up to the time of the transfer, without  
1303 prejudice to the rights of the shareholder unit owner in  
1304 exclusive possession to recover from a the previous shareholder  
1305 unit owner the amounts paid by the shareholder unit owner in  
1306 exclusive possession therefor.

1307 (b) The liability of a first mortgagee or its successor or  
1308 assignees who acquire title to a unit by foreclosure or by deed  
1309 in lieu of foreclosure for the unpaid assessments that became  
1310 due prior to the mortgagee's acquisition of title is limited to  
1311 the lesser of:

1312 1. The unit's unpaid common expenses and regular periodic  
1313 assessments which accrued or came due during the 6 months  
1314 immediately preceding the acquisition of title and for which  
1315 payment in full has not been received by the association; or

1316 2. One percent of the original mortgage debt. The  
1317 provisions of this paragraph apply only if the first mortgagee  
1318 joined the association as a defendant in the foreclosure action.  
1319 Joinder of the association is not required if, on the date the  
1320 complaint is filed, the association was dissolved or did not  
1321 maintain an office or agent for service of process at a location  
1322 which was known to or reasonably discoverable by the mortgagee.

1323  
1324 (c) The person acquiring title shall pay the amount owed  
1325 to the association within 30 days after transfer of title.

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1326 Failure to pay the full amount when due shall entitle the  
1327 association to record a claim of lien against the parcel and  
1328 proceed in the same manner as provided in this section for the  
1329 collection of unpaid assessments.

1330 (d) The provisions of this subsection are intended to  
1331 clarify existing law and shall not be available in any case  
1332 where the unpaid assessments sought to be recovered by the  
1333 association are secured by a lien recorded prior to the  
1334 recording of the mortgage. Notwithstanding the provisions of  
1335 chapter 48, the association shall be a proper party to intervene  
1336 in any foreclosure proceeding to seek equitable relief. For  
1337 purposes of this subsection, the term "successor or assignee" as  
1338 used with respect to a first mortgagee includes only a  
1339 subsequent holder of the first mortgage.

1340 (2) The liability for rents and assessments may not be  
1341 avoided by waiver of the use or enjoyment of any common areas or  
1342 by abandonment of the unit for which the rents and assessments  
1343 are made.

1344 (3) Rents and assessments, and installments on them, not  
1345 paid when due bear interest at the rate provided in the  
1346 cooperative documents from the date due until paid. This rate  
1347 may not exceed the rate allowed by law, and, if no rate is  
1348 provided in the cooperative documents, then interest shall  
1349 accrue at 18 percent per annum. Also, if the cooperative  
1350 documents or bylaws so provide, the association may charge an  
1351 administrative late fee in addition to such interest, in an  
1352 amount not to exceed the greater of \$25 or 5 percent of each  
1353 installment of the assessment for each delinquent installment

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1354 that the payment is late. Any payment received by an association  
1355 shall be applied first to any interest accrued by the  
1356 association, then to any administrative late fee, then to any  
1357 costs and reasonable attorney's fees incurred in collection, and  
1358 then to the delinquent assessment. The foregoing shall be  
1359 applicable notwithstanding any restrictive endorsement,  
1360 designation, or instruction placed on or accompanying a payment.  
1361 A late fee is not subject to chapter 687 or s. 719.303(3).

1362 (4) If the association is authorized by the cooperative  
1363 documents or bylaws to approve or disapprove a proposed lease of  
1364 a unit, the grounds for disapproval may include, but are not  
1365 limited to, a shareholder being delinquent in the payment of an  
1366 assessment at the time approval is sought.

1367 (5) (a) ~~(4)~~ The association ~~has~~ shall have a lien on each  
1368 cooperative parcel to secure the payment of ~~for~~ any unpaid rents  
1369 and assessments, plus interest, against the shareholder who owns  
1370 ~~unit owner of the cooperative parcel. If authorized by the~~  
1371 cooperative documents, said lien shall also secure reasonable  
1372 attorney's fees incurred by the association incident to the  
1373 collection of the rents and assessments or enforcement of such  
1374 lien. The lien is effective from and shall relate back to and  
1375 ~~after the recording of the cooperative documents a claim of lien~~  
1376 ~~in the public records in the county in which the cooperative~~  
1377 ~~parcel is located which states the description of the~~  
1378 ~~cooperative parcel, the name of the unit owner, the amount due,~~  
1379 ~~and the due dates.~~

1380 (b) To be valid, a claim of lien must state the  
1381 description of the cooperative parcel, the name of the record

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1382 owner, the name and address of the association, the amount due,  
1383 and the due dates. The claim of lien must be executed and  
1384 acknowledged by an officer or authorized agent of the  
1385 association. The lien shall expire if a claim of lien is not  
1386 filed within 1 year after the date the assessment was due, and  
1387 no such lien shall continue for a longer period than 1 year  
1388 after the claim of lien has been recorded unless, within that  
1389 time, an action to enforce the lien is commenced in a court of  
1390 competent jurisdiction. The 1-year period shall automatically be  
1391 extended for any length of time during which the association is  
1392 prevented from filing a foreclosure action by an automatic stay  
1393 resulting from a bankruptcy petition filed by the shareholder or  
1394 any other person claiming an interest in the parcel. The claim  
1395 of lien shall secure all unpaid assessments which are due and  
1396 which may accrue subsequent to the recording of the claim of  
1397 lien and prior to the entry of a certificate of title, as well  
1398 as interest and all reasonable costs and attorney's fees  
1399 incurred by the association incident to the collection process.  
1400 A notice of delinquency sent to a shareholder shall provide an  
1401 overall total of assessments claimed by the association, and  
1402 shall specify for each assessment or charge the date of the  
1403 assessment or charge, the principal balance owed for the  
1404 assessment or charge, and affiliated late fees or collection  
1405 charges. Costs to a shareholder secured by the association's  
1406 claim of lien with regard to collection letters or other  
1407 collection efforts by management companies or licensed managers  
1408 as to any delinquent installment of an assessment may not exceed  
1409 \$50, provided, however, that there shall be no charge for the

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1410 first notice of a delinquency to the shareholder. Upon payment  
1411 in full, the person making the payment is entitled to a  
1412 satisfaction of the lien. ~~No lien may be filed by the~~  
1413 ~~association against a cooperative parcel until 30 days after the~~  
1414 ~~date on which a notice of intent to file a lien has been served~~  
1415 ~~on the unit owner of the cooperative parcel by certified mail or~~  
1416 ~~by personal service in the manner authorized by chapter 48 and~~  
1417 ~~the Florida Rules of Civil Procedure.~~

1418 (c) By recording a notice in substantially the following  
1419 form, a shareholder or the shareholder's agent or attorney may  
1420 require the association to enforce a recorded claim of lien  
1421 against his or her cooperative parcel:

1422  
1423 NOTICE OF CONTEST OF LIEN

1424  
1425 TO: (Name and address of association) You are notified  
1426 that the undersigned contests the claim of lien filed by you on  
1427 , (year) , and recorded in Official Records Book  
1428 at Page , of the public records of County, Florida,  
1429 and that the time within which you may file suit to enforce your  
1430 lien is limited to 90 days after the date of service of this  
1431 notice. Executed this day of , (year) .

1432  
1433 Signed: (Shareholder or Attorney)

1434  
1435 After notice of contest of lien has been recorded, the clerk of  
1436 the circuit court shall mail a copy of the recorded notice to  
1437 the association by certified mail, return receipt requested, at  
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1438 the address shown in the claim of lien or most recent amendment  
1439 to the claim of lien and shall certify to the service on the  
1440 face of the notice. Service is complete upon mailing. After  
1441 service, the association has 90 days in which to file an action  
1442 to enforce the lien; and, if the action is not filed within the  
1443 90-day period, the lien is void. However, the 90-day period  
1444 shall be extended for any length of time that the association is  
1445 prevented from filing its action because of an automatic stay  
1446 resulting from the filing of a bankruptcy petition by the  
1447 shareholder or by any other person claiming an interest in the  
1448 parcel.

1449 (6) (a) ~~(5)~~ Liens for rents and assessments may be  
1450 foreclosed by suit brought in the name of the association, in  
1451 like manner as a foreclosure of a mortgage on real property. In  
1452 any foreclosure, the shareholder ~~unit owner~~ shall pay a  
1453 reasonable rental for the cooperative parcel, if so provided in  
1454 the cooperative documents, and the plaintiff in the foreclosure  
1455 is entitled to the appointment of a receiver to collect the  
1456 rent. The association has the power, unless prohibited by the  
1457 cooperative documents, to bid on the cooperative parcel at the  
1458 foreclosure sale and to acquire and hold, lease, mortgage, or  
1459 convey it. Suit to recover a money judgment for unpaid rents and  
1460 assessments may be maintained without waiving the lien securing  
1461 them.

1462 (b) No foreclosure judgment may be entered until at least  
1463 30 days after the association gives written notice to the  
1464 shareholder of its intention to foreclose its lien to collect  
1465 the unpaid rents and assessments. If this notice is not given at

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1466 least 30 days before the foreclosure action is filed, and if the  
1467 unpaid rents and assessments, including those coming due after  
1468 the claim of lien is recorded, are paid before the entry of a  
1469 final judgment of foreclosure, the association shall not recover  
1470 attorney's fees or costs. The notice must be given by delivery  
1471 of a copy of it to the shareholder or by certified or registered  
1472 mail, return receipt requested, addressed to the shareholder at  
1473 his or her last known address; and, upon such mailing, the  
1474 notice shall be deemed to have been given, and the court shall  
1475 proceed with the foreclosure action and may award attorney's  
1476 fees and costs as permitted by law. The notice requirements of  
1477 this paragraph are satisfied if the shareholder records a notice  
1478 of contest of lien as provided in subsection (5). The notice  
1479 requirements of this paragraph do not apply if an action to  
1480 foreclose a mortgage on the cooperative unit is pending before  
1481 any court; if the rights of the association would be affected by  
1482 such foreclosure; and if actual, constructive, or substitute  
1483 service of process has been made on the shareholder.

1484 (c) If the shareholder remains in possession of the unit  
1485 after a foreclosure judgment has been entered, the court, in its  
1486 discretion, may require the shareholder to pay a reasonable  
1487 rental for the unit. If the unit is rented or leased during the  
1488 pendency of the foreclosure action, the association is entitled  
1489 to the appointment of a receiver to collect the rent. The  
1490 expenses of the receiver shall be paid by the party which does  
1491 not prevail in the foreclosure action.

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1492 (d) The association has the power to purchase the  
1493 cooperative unit at the foreclosure sale and to hold, lease,  
1494 mortgage, or convey it.

1495 (7) Within 15 days after receiving a written request  
1496 therefor from a shareholder or his or her designee, or a unit  
1497 mortgagee or his or her designee, the association shall provide  
1498 a certificate signed by an officer or agent of the association  
1499 stating all assessments and other moneys owed to the association  
1500 by the shareholder with respect to the cooperative parcel.

1501 (a) Any person other than the shareholder who relies upon  
1502 such certificate shall be protected thereby.

1503 (b) A summary proceeding pursuant to s. 51.011 may be  
1504 brought to compel compliance with this subsection, and in any  
1505 such action the prevailing party is entitled to recover  
1506 reasonable attorney's fees.

1507 (c) Notwithstanding any limitation on transfer fees  
1508 contained in s. 719.106(1)(i), the association or its authorized  
1509 agent may charge a reasonable fee for the preparation of the  
1510 certificate. The amount of the fee must be included on the  
1511 certificate.

1512 (d) The authority to charge a fee for the certificate  
1513 shall be established by a written resolution adopted by the  
1514 board or provided by a written management, bookkeeping, or  
1515 maintenance contract and is payable upon the preparation of the  
1516 certificate. If the certificate is requested in conjunction with  
1517 the sale or mortgage of a unit but the closing does not occur  
1518 and no later than 30 days after the closing date for which the  
1519 certificate was sought the preparer receives a written request,

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1520 accompanied by reasonable documentation, that the sale did not  
1521 occur from a payor that is not the shareholder, the fee shall be  
1522 refunded to that payor within 30 days after receipt of the  
1523 request. The refund is the obligation of the shareholder, and  
1524 the association may collect the refund from that shareholder in  
1525 the same manner as an assessment as provided in this section.

1526 ~~(6) Within 15 days after request by a unit owner or~~  
1527 ~~mortgagee, the association shall provide a certificate stating~~  
1528 ~~all assessments and other moneys owed to the association by the~~  
1529 ~~unit owner with respect to the cooperative parcel. Any person~~  
1530 ~~other than the unit owner who relies upon such certificate shall~~  
1531 ~~be protected thereby. Notwithstanding any limitation on transfer~~  
1532 ~~fees contained in s. 719.106(1)(i), the association or its~~  
1533 ~~authorized agent may charge a reasonable fee for the preparation~~  
1534 ~~of the certificate.~~

1535 ~~(7) The remedies provided in this section do not exclude~~  
1536 ~~other remedies provided by the cooperative documents and~~  
1537 ~~permitted by law.~~

1538 (8) (a) No shareholder ~~unit owner~~ may be excused from the  
1539 payment of his or her share of the rents or assessments of a  
1540 cooperative unless all shareholders ~~unit owners~~ are likewise  
1541 proportionately excused from payment, except ~~as provided in~~  
1542 ~~subsection (6) and in the following cases:~~

1543 1. If the cooperative documents so provide, a developer or  
1544 other person owning cooperative units offered for sale may be  
1545 excused from the payment of the share of the common expenses,  
1546 assessments, and rents related to those units for a stated  
1547 period of time. The period must terminate no later than the  
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1548 first day of the fourth calendar month following the month in  
1549 which the right of exclusive possession is first granted to a  
1550 shareholder ~~unit owner~~. However, the developer must pay the  
1551 portion of common expenses incurred during that period which  
1552 exceed the amount assessed against other shareholders ~~unit~~  
1553 ~~owners~~.

1554 2. A developer, or other person with an ownership interest  
1555 in cooperative units or having an obligation to pay common  
1556 expenses, may be excused from the payment of his or her share of  
1557 the common expenses which would have been assessed against those  
1558 units during the period of time that he or she shall have  
1559 guaranteed to each purchaser in the purchase contract or in the  
1560 cooperative documents, or by agreement between the developer and  
1561 a majority of the shareholders ~~unit owners~~ other than the  
1562 developer, that the assessment for common expenses of the  
1563 cooperative imposed upon the shareholders ~~unit owners~~ would not  
1564 increase over a stated dollar amount and shall have obligated  
1565 himself or herself to pay any amount of common expenses incurred  
1566 during that period and not produced by the assessments at the  
1567 guaranteed level receivable from other shareholders ~~unit owners~~.

1568 (b) If the purchase contract, cooperative documents, or  
1569 agreement between the developer and a majority of shareholders  
1570 ~~unit owners~~ other than the developer provides for the developer  
1571 or another person to be excused from the payment of assessments  
1572 pursuant to paragraph (a), no funds receivable from shareholders  
1573 ~~unit owners~~ payable to the association or collected by the  
1574 developer on behalf of the association, other than regular  
1575 periodic assessments for common expenses as provided in the

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1576 cooperative documents and disclosed in the estimated operating  
1577 budget pursuant to s. 719.503(1)(b)6. or s. 719.504(20)(b), may  
1578 be used for payment of common expenses prior to the expiration  
1579 of the period during which the developer or other person is so  
1580 excused. This restriction applies to funds including, but not  
1581 limited to, capital contributions or startup funds collected  
1582 from shareholders ~~unit-purchasers~~ at closing.

1583 (9) The specific purposes of any special assessment,  
1584 including any contingent special assessment levied in  
1585 conjunction with the purchase of an insurance policy authorized  
1586 by s. 719.104(3), approved in accordance with the cooperative  
1587 documents shall be set forth in a written notice of such  
1588 assessment sent or delivered to each shareholder ~~unit-owner~~. The  
1589 funds collected pursuant to a special assessment shall be used  
1590 only for the specific purpose or purposes set forth in such  
1591 notice or returned to the shareholders ~~unit-owners~~. However,  
1592 upon completion of such specific purposes, any excess funds  
1593 shall be considered common surplus and may, at the discretion of  
1594 the board, either be returned to the shareholders ~~unit-owners~~ or  
1595 applied as a credit toward future assessments.

1596 (10) During the pendency of any foreclosure action of a  
1597 cooperative unit, if the unit is occupied by a tenant and the  
1598 shareholder is delinquent in the payment of regular assessments,  
1599 the association may demand that the tenant pay to the  
1600 association the future regular assessments related to the  
1601 cooperative unit. The demand shall be continuing in nature, and  
1602 upon demand the tenant shall continue to pay the regular  
1603 assessments to the association until the association releases

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1604 the tenant or the tenant discontinues tenancy in the unit. The  
1605 association shall mail written notice to the shareholder of the  
1606 association's demand that the tenant pay regular assessments to  
1607 the association. The tenant shall not be liable for increases in  
1608 the amount of the regular assessment due unless the tenant was  
1609 reasonably notified of the increase prior to the day that the  
1610 rent is due. The tenant shall be given a credit against rents  
1611 due to the shareholder in the amount of assessments paid to the  
1612 association. The association shall, upon request, provide the  
1613 tenant with written receipts for payments made. The association  
1614 may issue notices under s. 83.56 and may sue for eviction under  
1615 ss. 83.59-83.625 as if the association were a landlord under  
1616 part II of chapter 83 should the tenant fail to pay an  
1617 assessment. However, the association shall not otherwise be  
1618 considered a landlord under chapter 83 and shall specifically  
1619 not have any duty under s. 83.51. The tenant shall not, by  
1620 virtue of payment of assessments, have any of the rights of a  
1621 shareholder to vote in any election or to examine the books and  
1622 records of the association. A court may supersede the effect of  
1623 this subsection by appointing a receiver.

1624 Section 8. Section 719.113, Florida Statutes, is created  
1625 to read:

1626 719.113 Maintenance; limitation upon improvement; display  
1627 of flag; hurricane shutters; display of religious decorations.--

1628 (1) Maintenance of the common areas is the responsibility  
1629 of the association. The cooperative documents may provide that  
1630 certain limited common areas shall be maintained by those  
1631 entitled to use the limited common areas or that the association

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1632 shall provide the maintenance, either as a common expense or  
1633 with the cost shared only by those entitled to use the limited  
1634 common areas. If the maintenance is to be provided by the  
1635 association at the expense of only those entitled to use the  
1636 limited common areas, the cooperative documents shall describe  
1637 in detail the method of apportioning such costs among those  
1638 entitled to use the limited common areas. The association may  
1639 use the provisions of s. 719.108 to enforce payment of the  
1640 shares of such costs by the shareholders entitled to use the  
1641 limited common areas.

1642 (2) Except as otherwise provided in this section, there  
1643 shall be no material alteration or substantial additions to the  
1644 common areas, except in a manner provided in the cooperative  
1645 documents as originally recorded or as amended under the  
1646 procedures provided therein. If the cooperative documents as  
1647 originally recorded or as amended under the procedures provided  
1648 therein do not specify the procedure for approval of material  
1649 alterations or substantial additions, 75 percent of the total  
1650 voting interests of the association must approve the alterations  
1651 or additions. This subsection is intended to clarify existing  
1652 law and applies to associations existing on July 1, 2009.

1653 (3) A shareholder shall not do anything within his or her  
1654 unit or on the common areas which would adversely affect the  
1655 safety or soundness of the common areas or any portion of the  
1656 association property or cooperative property which is to be  
1657 maintained by the association.

1658 (4) Any shareholder may display within the boundaries of  
1659 the shareholder's unit one portable, removable United States

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1660 flag in a respectful way and, on Armed Forces Day, Memorial Day,  
1661 Flag Day, Independence Day, and Veterans' Day, may display in a  
1662 respectful way portable, removable official flags, not larger  
1663 than 4 1/2 feet by 6 feet, that represent the United States  
1664 Army, Navy, Air Force, Marine Corps, or Coast Guard, regardless  
1665 of any declaration rules or requirements dealing with flags or  
1666 decorations.

1667 (5) Each board of directors shall adopt hurricane shutter  
1668 specifications for each building within each cooperative which  
1669 shall include color, style, and other factors deemed relevant by  
1670 the board. All specifications adopted by the board shall comply  
1671 with the applicable building code.

1672 (a) The board may, subject to the provisions of s.  
1673 719.3026 and the approval of a majority of voting interests of  
1674 the condominium, install hurricane shutters or hurricane  
1675 protection that complies with or exceeds the applicable building  
1676 code, or both, except that a vote of the shareholders is not  
1677 required if the maintenance, repair, and replacement of  
1678 hurricane shutters or other forms of hurricane protection are  
1679 the responsibility of the association pursuant to the  
1680 declaration of condominium. However, when hurricane protection  
1681 or laminated glass or window film architecturally designed to  
1682 function as hurricane protection which complies with or exceeds  
1683 the current applicable building code has been previously  
1684 installed, the board may not install hurricane shutters or other  
1685 hurricane protection. Code-compliant impact glass may be  
1686 installed by the association as hurricane protection if the area  
1687 in which the glass is to be installed is an area that is the

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1688 responsibility of the association. Notwithstanding s.  
1689 719.107(3), if a shareholder installed code-compliant impact  
1690 glass prior to the association voting to install such glass, and  
1691 such glass and the frame thereof complies with the current  
1692 applicable building codes and is otherwise in good repair, the  
1693 shareholder shall not be required to pay the shareholders' pro  
1694 rata share of the cost of installing code-compliant impact glass  
1695 in the cooperative association.

1696 (b) The association shall be responsible for the  
1697 maintenance, repair, and replacement of the hurricane shutters  
1698 or other hurricane protection authorized by this subsection if  
1699 such hurricane shutters or other hurricane protection is the  
1700 responsibility of the association pursuant to the declaration of  
1701 condominium. If the hurricane shutters or other hurricane  
1702 protection authorized by this subsection are the responsibility  
1703 of the shareholders pursuant to the cooperative documents, the  
1704 responsibility for the maintenance, repair, and replacement of  
1705 such items shall be the responsibility of the shareholder.

1706 (c) The board may operate hurricane shutters installed  
1707 pursuant to this subsection without permission of the  
1708 shareholders only when such operation is necessary to preserve  
1709 and protect the cooperative property and association property.  
1710 The installation, replacement, operation, repair, and  
1711 maintenance of such shutters in accordance with the procedures  
1712 set forth herein shall not be deemed a material alteration to  
1713 the common elements or association property within the meaning  
1714 of this section.

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1715 (d) Notwithstanding any provision to the contrary in the  
1716 cooperative documents, if approval is required by the documents,  
1717 a board shall not refuse to approve the installation or  
1718 replacement of hurricane shutters by a shareholder conforming to  
1719 the specifications adopted by the board.

1720 (6) As to any cooperative building greater than three  
1721 stories in height, at least every 5 years, and within 5 years if  
1722 not available for inspection on July 1, 2009, the board shall  
1723 have the cooperative building inspected to provide a report  
1724 under seal of an architect or engineer authorized to practice in  
1725 this state attesting to required maintenance, useful life, and  
1726 replacement costs of the common areas. However, if approved by a  
1727 majority of the voting interests present at a properly called  
1728 meeting of the association, an association may waive this  
1729 requirement. Such meeting and approval must occur prior to the  
1730 end of the 5-year period and is effective only for that 5-year  
1731 period.

1732 (7) An association may not refuse the request of a  
1733 shareholder for a reasonable accommodation for the attachment on  
1734 the mantel or frame of the door of the shareholder of a  
1735 religious object not to exceed 3 inches wide, 6 inches high, and  
1736 1.5 inches deep.

1737 (8) Notwithstanding the provisions of this section or the  
1738 governing documents of a cooperative association, the board of  
1739 directors may, without any requirement for approval of the  
1740 shareholders, install upon or within the common areas or  
1741 association property solar collectors, clotheslines, or other

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1742 energy-efficient devices based on renewable resources for the  
1743 benefit of the shareholders.

1744 Section 9. Section 719.117, Florida Statutes, is created  
1745 to read:

1746 719.117 Termination of cooperative.--

1747 (1) LEGISLATIVE FINDINGS.--The Legislature finds that  
1748 cooperatives are created as authorized by statute. In  
1749 circumstances that may create economic waste, areas of  
1750 disrepair, or obsolescence of a cooperative property for its  
1751 intended use and thereby lower property tax values, the  
1752 Legislature further finds that it is the public policy of this  
1753 state to provide by statute a method to preserve the value of  
1754 the property interests and the rights of alienation thereof that  
1755 shareholders have in the cooperative property before and after  
1756 termination. The Legislature further finds that it is contrary  
1757 to the public policy of this state to require the continued  
1758 operation of a cooperative when to do so constitutes economic  
1759 waste or when the ability to do so is made impossible by law or  
1760 regulation. This section applies to all cooperatives in this  
1761 state in existence on or after July 1, 2009.

1762 (2) TERMINATION BECAUSE OF ECONOMIC WASTE OR  
1763 IMPOSSIBILITY.--

1764 (a) Notwithstanding any provision to the contrary in the  
1765 cooperative documents, the cooperative form of ownership of a  
1766 property may be terminated by a plan of termination approved by  
1767 the lesser of the lowest percentage of voting interests  
1768 necessary to amend the articles of incorporation when:

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1769 1. The total estimated cost of repairs necessary to  
1770 restore the improvements to their former condition or bring them  
1771 into compliance with applicable laws or regulations exceeds the  
1772 combined fair market value of all units in the cooperative after  
1773 completion of the repairs; or

1774 2. It becomes impossible to operate or reconstruct a  
1775 cooperative in its prior physical configuration because of land  
1776 use laws or regulations.

1777 (b) Notwithstanding paragraph (a), a cooperative in which  
1778 75 percent or more of the units are timeshare units may be  
1779 terminated only pursuant to a plan of termination approved by 80  
1780 percent of the total voting interests of the association and the  
1781 holders of 80 percent of the original principal amount of  
1782 outstanding recorded mortgage liens of timeshare estates in the  
1783 cooperative, unless the declaration provides for a lower voting  
1784 percentage.

1785 (3) OPTIONAL TERMINATION.--Except as provided in  
1786 subsection (2) or unless the declaration provides for a lower  
1787 percentage, the cooperative form of ownership of the property  
1788 may be terminated pursuant to a plan of termination approved by  
1789 at least 80 percent of the total voting interests of the  
1790 cooperative if not more than 10 percent of the total voting  
1791 interests of the cooperative have rejected the plan of  
1792 termination by negative vote or by providing written objections  
1793 thereto. This subsection does not apply to cooperatives in which  
1794 75 percent or more of the units are timeshare units.

1795 (4) EXEMPTION.--A plan of termination is not an amendment  
1796 subject to s. 719.1055(1).

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1797 (5) MORTGAGE LIENHOLDERS.--Notwithstanding any provision  
1798 to the contrary in the declaration or this chapter, approval of  
1799 a plan of termination by the holder of a recorded mortgage lien  
1800 affecting a cooperative parcel in which fewer than 75 percent of  
1801 the units are timeshare units is not required unless the plan of  
1802 termination will result in less than the full satisfaction of  
1803 the mortgage lien affecting the cooperative parcel. If such  
1804 approval is required and not given, a holder of a recorded  
1805 mortgage lien who objects to the plan of termination may contest  
1806 the plan as provided in subsection (16). At the time of sale,  
1807 the lien shall be transferred to the proportionate share of the  
1808 proceeds assigned to the cooperative parcel in the plan of  
1809 termination or as subsequently modified by the court.

1810 (6) POWERS IN CONNECTION WITH TERMINATION.--The approval  
1811 of the plan of termination does not terminate the association.  
1812 The association shall continue in existence following approval  
1813 of the plan of termination with all powers and duties it had  
1814 before approval of the plan. Notwithstanding any provision to  
1815 the contrary in the declaration or bylaws, after approval of the  
1816 plan the board shall:

1817 (a) Employ directors, agents, attorneys, and other  
1818 professionals to liquidate or conclude its affairs.

1819 (b) Conduct the affairs of the association as necessary  
1820 for the liquidation or termination.

1821 (c) Carry out contracts and collect, pay, and settle debts  
1822 and claims for and against the association.

1823 (d) Defend suits brought against the association.

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1824 (e) Sue in the name of the association for all sums due or  
1825 owed to the association or to recover any of its property.

1826 (f) Perform any act necessary to maintain, repair, or  
1827 demolish unsafe or uninhabitable improvements or other  
1828 cooperative property in compliance with applicable codes.

1829 (g) Sell at public or private sale or exchange, convey, or  
1830 otherwise dispose of assets of the association for an amount  
1831 deemed to be in the best interests of the association, and  
1832 execute bills of sale and deeds of conveyance in the name of the  
1833 association.

1834 (h) Collect and receive rents, profits, accounts  
1835 receivable, income, maintenance fees, special assessments, or  
1836 insurance proceeds for the association.

1837 (i) Contract and do anything in the name of the  
1838 association which is proper or convenient to terminate the  
1839 affairs of the association.

1840 (7) NATURAL DISASTERS.--

1841 (a) If, after a natural disaster, the identity of the  
1842 directors or their right to hold office is in doubt, if they are  
1843 deceased or unable to act, if they fail or refuse to act, or if  
1844 they cannot be located, any interested person may petition the  
1845 circuit court to determine the identity of the directors or, if  
1846 found to be in the best interests of the shareholders, to  
1847 appoint a receiver to conclude the affairs of the association  
1848 after a hearing following notice to such persons as the court  
1849 directs. Lienholders shall be given notice of the petition and  
1850 have the right to propose persons for the consideration by the  
1851 court as receiver. If a receiver is appointed, the court shall

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1852 direct the receiver to provide to all shareholders written  
1853 notice of his or her appointment as receiver. Such notice shall  
1854 be mailed or delivered within 10 days after the appointment.  
1855 Notice by mail to a shareholder shall be sent to the address  
1856 used by the county property appraiser for notice to the  
1857 shareholder.

1858 (b) The receiver shall have all powers given to the board  
1859 pursuant to the declaration, bylaws, and subsection (6), and any  
1860 other powers that are necessary to conclude the affairs of the  
1861 association and are set forth in the order of appointment. The  
1862 appointment of the receiver is subject to the bonding  
1863 requirements of such order. The order shall also provide for the  
1864 payment of a reasonable fee to the receiver from the sources  
1865 identified in the order, which may include rents, profits,  
1866 incomes, maintenance fees, or special assessments collected from  
1867 the cooperative property.

1868 (8) REPORTS AND REPLACEMENT OF RECEIVER.--

1869 (a) The association, receiver, or termination trustee  
1870 shall prepare reports each quarter following the approval of the  
1871 plan of termination setting forth the status and progress of the  
1872 termination, the costs and fees incurred, the date the  
1873 termination is expected to be completed, and the current  
1874 financial condition of the association, receivership, or  
1875 trusteeship and provide copies of the report by regular mail to  
1876 the shareholders and lienors at the mailing address provided to  
1877 the association by the shareholders and the lienors.

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1878 (b) The shareholders of an association in termination may  
1879 recall or remove members of the board of administration with or  
1880 without cause at any time as provided in s. 719.106(1)(f).

1881 (c) The lienors of an association in termination  
1882 representing at least 50 percent of the outstanding amount of  
1883 liens may petition the court for the appointment of a  
1884 termination trustee, which shall be granted upon good cause  
1885 shown.

1886 (9) PLAN OF TERMINATION.--The plan of termination must be  
1887 a written document executed in the same manner as a deed by  
1888 shareholders having the requisite percentage of voting interests  
1889 to approve the plan and by the termination trustee. A copy of  
1890 the proposed plan of termination shall be given to all  
1891 shareholders, in the same manner as provided for notice of an  
1892 annual meeting, at least 14 days prior to the meeting at which  
1893 the plan of termination is to be voted upon or prior to or  
1894 simultaneously with the distribution of the solicitation seeking  
1895 execution of the plan of termination or written consent to or  
1896 joinder in the plan. A shareholder may document assent to the  
1897 plan by executing the plan or by consent to or joinder in the  
1898 plan in the manner of a deed. A plan of termination and the  
1899 consents or joinders of shareholders and, if required, consents  
1900 or joinders of mortgagees must be recorded in the public records  
1901 of each county in which any portion of the cooperative is  
1902 located. The plan is effective only upon recordation or at a  
1903 later date specified in the plan.

1904 (10) PLAN OF TERMINATION; REQUIRED PROVISIONS.--The plan  
1905 of termination must specify:

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1906 (a) The name, address, and powers of the termination  
1907 trustee.

1908 (b) A date after which the plan of termination is void if  
1909 it has not been recorded.

1910 (c) The interests of the respective shareholders in the  
1911 association property, common surplus, and other assets of the  
1912 association, which shall be the same as the respective interests  
1913 of the shareholders in the common areas immediately before the  
1914 termination, unless otherwise provided in the declaration.

1915 (d) The interests of the respective shareholders in any  
1916 proceeds from the sale of the cooperative property. The plan of  
1917 termination may apportion those proceeds pursuant to any method  
1918 prescribed in subsection (12). If, pursuant to the plan of  
1919 termination, cooperative property or real property owned by the  
1920 association is to be sold following termination, the plan must  
1921 provide for the sale and may establish any minimum sale terms.

1922 (e) Any interests of the respective shareholders in  
1923 insurance proceeds or condemnation proceeds that are not used  
1924 for repair or reconstruction at the time of termination. Unless  
1925 the declaration expressly addresses the distribution of  
1926 insurance proceeds or condemnation proceeds, the plan of  
1927 termination may apportion those proceeds pursuant to any method  
1928 prescribed in subsection (12).

1929 (11) PLAN OF TERMINATION; OPTIONAL PROVISIONS; CONDITIONAL  
1930 TERMINATION.--

1931 (a) The plan of termination may provide that each  
1932 shareholder retains the exclusive right of possession to the  
1933 portion of the real estate that formerly constituted the unit,  
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1934 in which case the plan must specify the conditions of  
1935 possession.

1936 (b) In a conditional termination, the plan must specify  
1937 the conditions for termination. A conditional plan does not vest  
1938 title in the termination trustee until the plan and a  
1939 certificate executed by the association with the formalities of  
1940 a deed, confirming that the conditions in the conditional plan  
1941 have been satisfied or waived by the requisite percentage of the  
1942 voting interests, have been recorded.

1943 (12) ALLOCATION OF PROCEEDS OF SALE OF COOPERATIVE  
1944 PROPERTY.--

1945 (a) Unless the declaration expressly provides for the  
1946 allocation of the proceeds of sale of cooperative property, the  
1947 plan of termination must first apportion the proceeds between  
1948 the aggregate value of all units and the value of the common  
1949 areas, based on their respective fair market values immediately  
1950 before the termination, as determined by one or more independent  
1951 appraisers selected by the association or termination trustee.

1952 (b) The portion of proceeds allocated to the units shall  
1953 be further apportioned among the individual units. The  
1954 apportionment is deemed fair and reasonable if it is so  
1955 determined by the shareholders, who may approve the plan of  
1956 termination by any of the following methods:

1957 1. The respective values of the units based on the fair  
1958 market values of the units immediately before the termination,  
1959 as determined by one or more independent appraisers selected by  
1960 the association or termination trustee;

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1961        2. The respective values of the units based on the most  
1962 recent market value of the units before the termination, as  
1963 provided in the county property appraiser's records; or

1964        3. The respective interests of the units in the common  
1965 elements specified in the cooperative documents immediately  
1966 before the termination.

1967        (c) The methods of apportionment in paragraph (b) do not  
1968 prohibit any other method of apportioning the proceeds of sale  
1969 allocated to the units agreed upon in the plan of termination.  
1970 The portion of the proceeds allocated to the common elements  
1971 shall be apportioned among the units based upon their respective  
1972 interests in the common areas as provided in the declaration.

1973        (d) Liens that encumber a unit shall be transferred to the  
1974 proceeds of sale of the cooperative property and the proceeds of  
1975 sale or other distribution of association property, common  
1976 surplus, or other association assets attributable to such unit  
1977 in their same priority. The proceeds of any sale of cooperative  
1978 property pursuant to a plan of termination may not be deemed to  
1979 be common surplus or association property.

1980        (13) TERMINATION TRUSTEE.--The association shall serve as  
1981 termination trustee unless another person is appointed in the  
1982 plan of termination. If the association is unable, unwilling, or  
1983 fails to act as trustee, any shareholder may petition the court  
1984 to appoint a trustee. Upon the date of the recording or at a  
1985 later date specified in the plan, title to the cooperative  
1986 property vests in the trustee. Unless prohibited by the plan,  
1987 the termination trustee shall be vested with the powers given to  
1988 the board pursuant to the cooperative documents, bylaws, and

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1989 subsection (6). If the association is not the termination  
1990 trustee, the trustee's powers shall be coextensive with those of  
1991 the association to the extent not prohibited in the plan of  
1992 termination or the order of appointment. If the association is  
1993 not the termination trustee, the association shall transfer any  
1994 association property to the trustee. If the association is  
1995 dissolved, the trustee shall also have such other powers  
1996 necessary to conclude the affairs of the association.

1997 (14) TITLE VESTED IN TERMINATION TRUSTEE.--If termination  
1998 is pursuant to a plan of termination under subsection (2) or  
1999 subsection (3), the shareholders' rights and title as tenants in  
2000 common in undivided interests in the cooperative property vest  
2001 in the termination trustee when the plan is recorded or at a  
2002 later date specified in the plan. The shareholders thereafter  
2003 become the beneficiaries of the proceeds realized from the plan  
2004 of termination. The termination trustee may deal with the  
2005 cooperative property or any interest therein if the plan confers  
2006 on the trustee the authority to protect, conserve, manage, sell,  
2007 or dispose of the cooperative property. The trustee, on behalf  
2008 of the shareholders, may contract for the sale of real property,  
2009 but the contract is not binding on the shareholders until the  
2010 plan is approved pursuant to subsection (2) or subsection (3).

2011 (15) NOTICE.--

2012 (a) Within 30 days after a plan of termination has been  
2013 recorded, the termination trustee shall deliver by certified  
2014 mail, return receipt requested, notice to all shareholders,  
2015 lienors of the cooperative property, and lienors of all units at  
2016 their last known addresses that a plan of termination has been

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2017 recorded. The notice must include the book and page number of  
2018 the public records in which the plan was recorded, notice that a  
2019 copy of the plan shall be furnished upon written request, and  
2020 notice that the shareholder or lienor has the right to contest  
2021 the fairness of the plan.

2022 (b) The trustee, within 90 days after the effective date  
2023 of the plan, shall provide to the division a certified copy of  
2024 the recorded plan, the date the plan was recorded, and the  
2025 county, book, and page number of the public records in which the  
2026 plan is recorded.

2027 (16) RIGHT TO CONTEST.--A shareholder or lienor may  
2028 contest a plan of termination by initiating a summary procedure  
2029 pursuant to s. 51.011 within 90 days after the date the plan is  
2030 recorded. A shareholder or lienor who does not contest the plan  
2031 within the 90-day period is barred from asserting or prosecuting  
2032 a claim against the association, the termination trustee, any  
2033 shareholder, or any successor in interest to the cooperative  
2034 property. In an action contesting a plan of termination, the  
2035 person contesting the plan has the burden of pleading and  
2036 proving that the apportionment of the proceeds from the sale  
2037 among the shareholders was not fair and reasonable. The  
2038 apportionment of sale proceeds is presumed fair and reasonable  
2039 if it was determined pursuant to the methods prescribed in  
2040 subsection (12). The court shall determine the rights and  
2041 interests of the parties and order the plan of termination to be  
2042 implemented if it is fair and reasonable. If the court  
2043 determines that the plan of termination is not fair and  
2044 reasonable, the court may void the plan or may modify the plan

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2045 to apportion the proceeds in a fair and reasonable manner  
2046 pursuant to this section based upon the proceedings and order  
2047 the modified plan of termination to be implemented. In such  
2048 action, the prevailing party shall recover reasonable attorney's  
2049 fees and costs.

2050 (17) DISTRIBUTION.--

2051 (a) Following termination of the cooperative, the  
2052 cooperative property, association property, common surplus, and  
2053 other assets of the association shall be held by the termination  
2054 trustee, as trustee for shareholders and holders of liens on the  
2055 units, in their order of priority.

2056 (b) Not less than 30 days before the first distribution,  
2057 the termination trustee shall deliver by certified mail, return  
2058 receipt requested, a notice of the estimated distribution to all  
2059 shareholders, lienors of the cooperative property, and lienors  
2060 of each unit at their last known addresses stating a good faith  
2061 estimate of the amount of the distributions to each class and  
2062 the procedures and deadline for notifying the termination  
2063 trustee of any objections to the amount. The deadline must be at  
2064 least 15 days after the date the notice was mailed. The notice  
2065 may be sent with or after the notice required by subsection  
2066 (15). If a shareholder or lienor files a timely objection with  
2067 the termination trustee, the trustee need not distribute the  
2068 funds and property allocated to the respective shareholder or  
2069 lienor until the trustee has had a reasonable time to determine  
2070 the validity of the adverse claim. In the alternative, the  
2071 trustee may interplead the shareholder, lienor, and any other  
2072 person claiming an interest in the unit and deposit the funds

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2073 allocated to the unit in the court registry, at which time the  
2074 cooperative property, association property, common surplus, and  
2075 other assets of the association are free of all claims and liens  
2076 of the parties to the suit. In an interpleader action, the  
2077 trustee and prevailing party may recover reasonable attorney's  
2078 fees and costs.

2079 (c) The proceeds from any sale of cooperative property or  
2080 association property and any remaining cooperative property or  
2081 association property, common surplus, and other assets shall be  
2082 distributed in the following priority:

2083 1. To pay the reasonable termination trustee's fees and  
2084 costs and accounting fees and costs.

2085 2. To lienholders of liens recorded prior to the recording  
2086 of the cooperative documents.

2087 3. To purchase-money lienholders on units to the extent  
2088 necessary to satisfy their liens; however, the distribution may  
2089 not exceed a shareholder's share of the proceeds.

2090 4. To creditors of the association, as their interests  
2091 appear.

2092 5. To shareholders, the proceeds of any sale of  
2093 cooperative property subject to satisfaction of liens on each  
2094 unit in their order of priority, in shares specified in the plan  
2095 of termination, unless objected to by a shareholder or lienor as  
2096 provided in paragraph (b).

2097 6. To shareholders, the remaining cooperative property,  
2098 subject to satisfaction of liens on each unit in their order of  
2099 priority, in shares specified in the plan of termination, unless

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2100 objected to by a shareholder or a lienor as provided in  
2101 paragraph (b).

2102 7. To shareholders, the proceeds of any sale of  
2103 association property, the remaining association property, common  
2104 surplus, and other assets of the association, subject to  
2105 satisfaction of liens on each unit in their order of priority,  
2106 in shares specified in the plan of termination, unless objected  
2107 to by a shareholder or a lienor as provided in paragraph (b).

2108 (d) After determining that all known debts and liabilities  
2109 of an association in the process of termination have been paid  
2110 or adequately provided for, the termination trustee shall  
2111 distribute the remaining assets pursuant to the plan of  
2112 termination. If the termination is by court proceeding or  
2113 subject to court supervision, the distribution may not be made  
2114 until any period for the presentation of claims ordered by the  
2115 court has elapsed.

2116 (e) Assets held by an association upon a valid condition  
2117 requiring return, transfer, or conveyance, which condition has  
2118 occurred or will occur, shall be returned, transferred, or  
2119 conveyed in accordance with the condition. The remaining  
2120 association assets shall be distributed pursuant to paragraph  
2121 (c).

2122 (f) Distribution may be made in money, property, or  
2123 securities and in installments or as a lump sum, if it can be  
2124 done fairly and ratably and in conformity with the plan of  
2125 termination. Distribution shall be made as soon as is reasonably  
2126 consistent with the beneficial liquidation of the assets.

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2127 (18) ASSOCIATION STATUS.--The termination of a cooperative  
2128 does not change the corporate status of the association that  
2129 operated the cooperative property. The association continues to  
2130 exist to conclude its affairs, prosecute and defend actions by  
2131 or against it, collect and discharge obligations, dispose of and  
2132 convey its property, and collect and divide its assets, but not  
2133 to act except as necessary to conclude its affairs.

2134 (19) CREATION OF ANOTHER COOPERATIVE.--The termination of  
2135 a cooperative does not bar the creation by the termination  
2136 trustee of another cooperative affecting any portion of the same  
2137 property.

2138 Section 10. Section 719.1224, Florida Statutes, is created  
2139 to read:

2140 719.1224 Prohibition against SLAPP suits.--

2141 (1) It is the intent of the Legislature to protect the  
2142 right of cooperative shareholders to exercise their rights to  
2143 instruct their representatives and petition for redress of  
2144 grievances before the various governmental entities of this  
2145 state as protected by the First Amendment to the United States  
2146 Constitution and s. 5, Art. I of the State Constitution. The  
2147 Legislature recognizes that strategic lawsuits against public  
2148 participation, or "SLAPP suits," as they are typically referred  
2149 to, have occurred when association members are sued by  
2150 individuals, business entities, or governmental entities arising  
2151 out of a cooperative shareholder's appearance and presentation  
2152 before a governmental entity on matters related to the  
2153 cooperative association. However, it is the public policy of  
2154 this state that governmental entities, business organizations,

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2155 and individuals not engage in SLAPP suits because such actions  
2156 are inconsistent with the right of cooperative shareholders to  
2157 participate in the state's institutions of government.  
2158 Therefore, the Legislature finds and declares that prohibiting  
2159 such lawsuits by governmental entities, business entities, and  
2160 individuals against cooperative shareholders who address matters  
2161 concerning their cooperative association will preserve this  
2162 fundamental state policy, preserve the constitutional rights of  
2163 cooperative shareholders, and ensure the continuation of  
2164 representative government in this state. It is the intent of the  
2165 Legislature that such lawsuits be expeditiously disposed of by  
2166 the courts. As used in this subsection, the term "governmental  
2167 entity" means the state, including the executive, legislative,  
2168 and judicial branches of government; the independent  
2169 establishments of the state, counties, municipalities,  
2170 districts, authorities, boards, or commissions; or any agencies  
2171 of these branches that are subject to chapter 286.

2172 (2) A governmental entity, business organization, or  
2173 individual in this state may not file or cause to be filed  
2174 through its employees or agents any lawsuit, cause of action,  
2175 claim, cross-claim, or counterclaim against a cooperative  
2176 shareholder without merit and solely because such cooperative  
2177 shareholder has exercised the right to instruct his or her  
2178 representatives or the right to petition for redress of  
2179 grievances before the various governmental entities of this  
2180 state, as protected by the First Amendment to the United States  
2181 Constitution and s. 5, Art. I of the State Constitution.

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2182       (3) A cooperative shareholder sued by a governmental  
2183 entity, business organization, or individual in violation of  
2184 this section has a right to an expeditious resolution of a claim  
2185 that the suit is in violation of this section. A cooperative  
2186 shareholder may petition the court for an order dismissing the  
2187 action or granting final judgment in favor of that cooperative  
2188 shareholder. The petitioner may file a motion for summary  
2189 judgment, together with supplemental affidavits, seeking a  
2190 determination that the governmental entity's, business  
2191 organization's, or individual's lawsuit has been brought in  
2192 violation of this section. The governmental entity, business  
2193 organization, or individual shall thereafter file its response  
2194 and any supplemental affidavits. As soon as practicable, the  
2195 court shall set a hearing on the petitioner's motion, which  
2196 shall be held at the earliest possible time after the filing of  
2197 the governmental entity's, business organization's, or  
2198 individual's response. The court may award the cooperative  
2199 shareholder sued by the governmental entity, business  
2200 organization, or individual actual damages arising from the  
2201 governmental entity's, individual's, or business organization's  
2202 violation of this section. A court may treble the damages  
2203 awarded to a prevailing cooperative shareholder and shall state  
2204 the basis for the treble damages award in its judgment. The  
2205 court shall award the prevailing party reasonable attorney's  
2206 fees and costs incurred in connection with a claim that an  
2207 action was filed in violation of this section.

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2208 (4) Cooperative associations may not expend association  
2209 funds in prosecuting a SLAPP suit against a cooperative  
2210 shareholder.

2211 Section 11. Section 719.1255, Florida Statutes, is amended  
2212 to read:

2213 719.1255 Alternative resolution of disputes.--The Division  
2214 of Florida Condominiums, Timeshares, and Mobile Homes of the  
2215 Department of Business and Professional Regulation shall provide  
2216 for alternative dispute resolution of matters related to  
2217 cooperative associations and shareholders in a manner like that  
2218 provided to condominium associations and unit owners in  
2219 accordance with s. 718.1255.

2220 Section 12. Section 719.1265, Florida Statutes, is created  
2221 to read:

2222 719.1265 Association emergency powers.--

2223 (1) To the extent allowed by law and unless specifically  
2224 prohibited by the cooperative documents or the bylaws of an  
2225 association, and consistent with the provisions of s. 617.0830,  
2226 the board of directors, in response to damage caused by an event  
2227 for which a state of emergency is declared pursuant to s. 252.36  
2228 in the locale in which the cooperative is located, may, but is  
2229 not required to, exercise the following powers:

2230 (a) Conduct board meetings and shareholder meetings with  
2231 notice given as is practicable. Such notice may be given in any  
2232 practicable manner, including publication, radio, United States  
2233 mail, the Internet, public service announcements, and  
2234 conspicuous posting on the cooperative property or any other  
2235 means the board deems reasonable under the circumstances. Notice

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2236 of board decisions may be communicated as provided in this  
2237 paragraph.

2238 (b) Cancel and reschedule any association meeting.

2239 (c) Name as assistant officers persons who are not  
2240 directors, which assistant officers shall have the same  
2241 authority as the executive officers to whom they are assistants  
2242 for during the state of emergency to accommodate the incapacity  
2243 or unavailability of any officer of the association.

2244 (d) Relocate the association's principal office or  
2245 designate alternative principal offices.

2246 (e) Enter into agreements with local counties and  
2247 municipalities to assist counties and municipalities with debris  
2248 removal.

2249 (f) Implement a disaster plan before or immediately  
2250 following the event for which a state of emergency is declared  
2251 which may include, but is not limited to, shutting down or off  
2252 elevators; electricity; water, sewer, or security systems; or  
2253 air conditioners.

2254 (g) Based upon advice of emergency management officials or  
2255 upon the advice of licensed professionals retained by the board,  
2256 determine any portion of the cooperative property unavailable  
2257 for entry or occupancy by shareholders, family members, tenants,  
2258 guests, agents, or invitees to protect the health, safety, or  
2259 welfare of such persons.

2260 (h) Require the evacuation of the cooperative property in  
2261 the event of a mandatory evacuation order in the locale in which  
2262 the cooperative is located. Should any shareholder or other  
2263 occupant of a cooperative fail or refuse to evacuate the

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2264 cooperative property when the board has required evacuation, the  
2265 association shall be immune from liability or injury to persons  
2266 or property arising from such failure or refusal.

2267 (i) Based upon advice of emergency management officials or  
2268 upon the advice of licensed professionals retained by the board,  
2269 determine whether the cooperative property can be safely  
2270 inhabited or occupied. However, such determination is not  
2271 conclusive as to any determination of habitability pursuant to  
2272 the declaration.

2273 (j) Mitigate further damage, including taking action to  
2274 contract for the removal of debris and to prevent or mitigate  
2275 the spread of fungus, including, but not limited to, mold or  
2276 mildew, by removing and disposing of wet drywall, insulation,  
2277 carpet, cabinetry, or other fixtures on or within the  
2278 cooperative property, even if the shareholder is obligated by  
2279 the cooperative documents or law to insure or replace those  
2280 fixtures and to remove personal property from a unit.

2281 (k) Contract, on behalf of any shareholder or  
2282 shareholders, for items or services for which the shareholder or  
2283 shareholders are otherwise individually responsible, but which  
2284 are necessary to prevent further damage to the cooperative  
2285 property. In such event, the shareholder or shareholders on  
2286 whose behalf the board has contracted are responsible for  
2287 reimbursing the association for the actual costs of the items or  
2288 services, and the association may use its lien authority  
2289 provided by s. 719.108 to enforce collection of the charges.  
2290 Without limitation, such items or services may include the  
2291 drying of units, the boarding of broken windows or doors, and

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2292 the replacement of damaged air conditioners or air handlers to  
2293 provide climate control in the units or other portions of the  
2294 property.

2295 (l) Regardless of any provision to the contrary and even  
2296 if such authority does not specifically appear in the  
2297 cooperative documents or bylaws of the association, levy special  
2298 assessments without a vote of the shareholders.

2299 (m) Without shareholders' approval, borrow money and  
2300 pledge association assets as collateral to fund emergency  
2301 repairs and carry out the duties of the association when  
2302 operating funds are insufficient. This paragraph does not limit  
2303 the general authority of the association to borrow money,  
2304 subject to such restrictions as are contained in the cooperative  
2305 documents or bylaws of the association.

2306 (2) The special powers authorized under subsection (1)  
2307 shall be limited to the time reasonably necessary to protect the  
2308 health, safety, and welfare of the association and the  
2309 shareholders and the shareholders' family members, tenants,  
2310 guests, agents, or invitees and the time reasonably necessary to  
2311 mitigate further damage and make emergency repairs.

2312 Additionally, unless 20 percent or more of the units are made  
2313 uninhabitable by the emergency, the special powers authorized  
2314 under subsection (1) shall only be exercised during the term of  
2315 the Governor's executive order or proclamation declaring the  
2316 state of emergency in the locale in which the condominium is  
2317 located.

2318 Section 13. Subsections (1) and (4) of section 719.301,  
2319 Florida Statutes, are amended to read:

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2320 719.301 Transfer of association control.--

2321 (1) When shareholders ~~unit-owners~~ other than the developer  
2322 own 15 percent or more of the units in a cooperative that will  
2323 be operated ultimately by an association, the shareholders ~~unit~~  
2324 ~~owners~~ other than the developer shall be entitled to elect not  
2325 less than one-third of the members of the board of  
2326 administration of the association. Shareholders ~~Unit-owners~~  
2327 other than the developer are entitled to elect not less than a  
2328 majority of the members of the board of administration of an  
2329 association:

2330 (a) Three years after 50 percent of the units that will be  
2331 operated ultimately by the association have been conveyed to  
2332 purchasers;

2333 (b) Three months after 90 percent of the units that will  
2334 be operated ultimately by the association have been conveyed to  
2335 purchasers;

2336 (c) When all the units that will be operated ultimately by  
2337 the association have been completed, some have been conveyed to  
2338 purchasers, and none of the others are being offered for sale by  
2339 the developer in the ordinary course of business;

2340 (d) When some of the units have been conveyed to  
2341 purchasers and none of the others are being constructed or  
2342 offered for sale by the developer in the ordinary course of  
2343 business; ~~or~~

2344 (e) When the developer files a petition seeking protection  
2345 in bankruptcy;

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2346        (f) When a receiver for the developer is appointed by a  
2347 circuit court and is not discharged within 30 days after such  
2348 appointment; or

2349        (g)~~(e)~~ Seven years after creation of the cooperative  
2350 association,

2351  
2352 whichever occurs first. The developer is entitled to elect at  
2353 least one member of the board of administration of an  
2354 association as long as the developer holds for sale in the  
2355 ordinary course of business at least 5 percent in cooperatives  
2356 with fewer than 500 units and 2 percent in cooperatives with 500  
2357 or more units in a cooperative operated by the association.  
2358 After the developer relinquishes control of the association, the  
2359 developer may exercise the right to vote any developer-owned  
2360 units in the same manner as any other shareholder ~~unit owner~~  
2361 except for purposes of reacquiring control of the association or  
2362 selecting the majority of the members of the board.

2363        (4) When shareholders ~~unit owners~~ other than the developer  
2364 elect a majority of the members of the board of administration  
2365 of an association, the developer shall relinquish control of the  
2366 association, and the shareholders ~~unit owners~~ shall accept  
2367 control. Simultaneously, or for the purpose of paragraph (c) not  
2368 more than 90 days thereafter, the developer shall deliver to the  
2369 association, at the developer's expense, all property of the  
2370 shareholders ~~unit owners~~ and of the association held or  
2371 controlled by the developer, including, but not limited to, the  
2372 following items, if applicable, as to each cooperative operated  
2373 by the association:

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2374 (a)1. The original or a photocopy of the recorded  
2375 cooperative documents and all amendments thereto. If a photocopy  
2376 is provided, it shall be certified by affidavit of the  
2377 developer, or an officer or agent of the developer, as being a  
2378 complete copy of the actual recorded cooperative documents.

2379 2. A certified copy of the association's articles of  
2380 incorporation, or if it is not incorporated, then copies of the  
2381 documents creating the association.

2382 3. A copy of the bylaws.

2383 4. The minute books, including all minutes, and other  
2384 books and records of the association, if any.

2385 5. Any house rules and regulations which have been  
2386 promulgated.

2387 (b) Resignations of officers and members of the board of  
2388 administration who are required to resign because the developer  
2389 is required to relinquish control of the association.

2390 (c) The financial records, including financial statements  
2391 of the association, and source documents since the incorporation  
2392 of the association through the date of turnover. The records  
2393 shall be audited for the period of the incorporation of the  
2394 association or for the period covered by the last audit, if an  
2395 audit has been performed for each fiscal year since  
2396 incorporation, by an independent certified public accountant.  
2397 All financial statements shall be prepared in accordance with  
2398 generally accepted accounting standards and shall be audited in  
2399 accordance with generally accepted auditing standards as  
2400 prescribed by the Board of Accountancy. The accountant  
2401 performing the review shall examine to the extent necessary

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2402 supporting documents and records, including the cash  
2403 disbursements and related paid invoices to determine if  
2404 expenditures were for association purposes and the billings,  
2405 cash receipts, and related records to determine that the  
2406 developer was charged and paid the proper amounts of  
2407 assessments.

2408 (d) Association funds or control thereof.

2409 (e) All tangible personal property that is property of the  
2410 association, represented by the developer to be part of the  
2411 common areas or ostensibly part of the common areas, and an  
2412 inventory of that property.

2413 (f) A copy of the plans and specifications utilized in the  
2414 construction or remodeling of improvements and the supplying of  
2415 equipment to the cooperative and in the construction and  
2416 installation of all mechanical components serving the  
2417 improvements and the site, with a certificate in affidavit form  
2418 of the developer, the developer's agent, or an architect or  
2419 engineer authorized to practice in this state that such plans  
2420 and specifications represent, to the best of their knowledge and  
2421 belief, the actual plans and specifications utilized in the  
2422 construction and improvement of the cooperative property and for  
2423 the construction and installation of the mechanical components  
2424 serving the improvements. If the cooperative property has been  
2425 organized as a cooperative more than 3 years after the  
2426 completion of construction or remodeling of the improvements,  
2427 the requirements of this paragraph shall not apply.

2428 (g) A list of the names and addresses, of which the  
2429 developer had knowledge at any time in the development of the  
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2430 cooperative, of all contractors, subcontractors, and suppliers  
2431 utilized in the construction or remodeling of the improvements  
2432 and in the landscaping.

2433 (h) Insurance policies.

2434 (i) Copies of any certificates of occupancy which may have  
2435 been issued for the cooperative property.

2436 (j) Any other permits issued by governmental bodies  
2437 applicable to the cooperative property in force or issued within  
2438 1 year prior to the date the shareholders ~~unit owners~~ other than  
2439 the developer take control of the association.

2440 (k) All written warranties of the contractor,  
2441 subcontractors, suppliers, and manufacturers, if any, that are  
2442 still effective.

2443 (l) A roster of shareholders ~~unit owners~~ and their  
2444 addresses and telephone numbers, if known, as shown on the  
2445 developer's records.

2446 (m) Leases of the common areas and other leases to which  
2447 the association is a party.

2448 (n) Employment contracts or service contracts in which the  
2449 association is one of the contracting parties or service  
2450 contracts in which the association or the shareholders ~~unit~~  
2451 ~~owners~~ have an obligation or responsibility, directly or  
2452 indirectly, to pay some or all of the fee or charge of the  
2453 person or persons performing the service.

2454 (o) All other contracts to which the association is a  
2455 party.

2456 (p) A turnover inspection report included in the official  
2457 records, under seal of an architect or engineer authorized to

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2458 practice in this state, attesting to required maintenance,  
2459 useful life, and replacement costs of the following applicable  
2460 common areas:

- 2461 1. Roof.
- 2462 2. Structure.
- 2463 3. Fireproofing and fire protection systems.
- 2464 4. Elevators.
- 2465 5. Heating and cooling systems.
- 2466 6. Plumbing.
- 2467 7. Electrical systems.
- 2468 8. Swimming pool or spa and equipment.
- 2469 9. Seawalls.
- 2470 10. Pavement and parking areas.
- 2471 11. Drainage systems.
- 2472 12. Painting.
- 2473 13. Irrigation systems.

2474 Section 14. Section 719.3025, Florida Statutes, is created  
2475 to read:

2476 719.3025 Agreements for operation, maintenance, or  
2477 management of cooperatives; specific requirements.--

2478 (1) No written contract between a party contracting to  
2479 provide maintenance or management services and an association  
2480 which contract provides for operation, maintenance, or  
2481 management of a cooperative association or property serving the  
2482 shareholders of a cooperative shall be valid or enforceable  
2483 unless the contract:

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2484 (a) Specifies the services, obligations, and  
2485 responsibilities of the party contracting to provide maintenance  
2486 or management services to the shareholders.

2487 (b) Specifies those costs incurred in the performance of  
2488 those services, obligations, or responsibilities which are to be  
2489 reimbursed by the association to the party contracting to  
2490 provide maintenance or management services.

2491 (c) Provides an indication of how often each service,  
2492 obligation, or responsibility is to be performed, whether stated  
2493 for each service, obligation, or responsibility or in categories  
2494 thereof.

2495 (d) Specifies a minimum number of personnel to be employed  
2496 by the party contracting to provide maintenance or management  
2497 services for the purpose of providing service to the  
2498 association.

2499 (e) Discloses any financial or ownership interest which  
2500 the developer, if the developer is in control of the  
2501 association, holds with regard to the party contracting to  
2502 provide maintenance or management services.

2503 (f) Discloses any financial or ownership interest a board  
2504 member or any party providing maintenance or management services  
2505 to the association holds with the contracting party.

2506 (2) In any case in which the party contracting to provide  
2507 maintenance or management services fails to provide such  
2508 services in accordance with the contract, the association is  
2509 authorized to procure such services from some other party and  
2510 shall be entitled to collect any fees or charges paid for

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2511 services performed by another party from the party contracting  
2512 to provide maintenance or management services.

2513 (3) Any services or obligations not stated on the face of  
2514 the contract shall be unenforceable.

2515 (4) Notwithstanding the fact that certain vendors contract  
2516 with associations to maintain equipment or property which is  
2517 made available to serve shareholders, it is the intent of the  
2518 Legislature that this section applies to contracts for  
2519 maintenance or management services for which the association  
2520 pays compensation. This section does not apply to contracts for  
2521 services or property made available for the convenience of  
2522 shareholders by lessees or licensees of the association, such as  
2523 coin-operated laundry, food, soft drink, or telephone vendors;  
2524 cable television operators; retail store operators; businesses;  
2525 restaurants; or similar vendors.

2526 Section 15. Section 719.3026, Florida Statutes, is amended  
2527 to read:

2528 719.3026 Contracts for products and services; in writing;  
2529 bids; exceptions.--Associations with 10 or fewer ~~less than 100~~  
2530 units may opt out of the provisions of this section if two-  
2531 thirds of the shareholders ~~unit owners~~ vote to do so, which opt-  
2532 out may be accomplished by a proxy specifically setting forth  
2533 the exception from this section.

2534 (1) All contracts as further described herein or any  
2535 contract that is not to be fully performed within 1 year after  
2536 the making thereof, for the purchase, lease, or renting of  
2537 materials or equipment to be used by the association in  
2538 accomplishing its purposes under this chapter, and all contracts  
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2539 for the provision of services, shall be in writing. If a  
2540 contract for the purchase, lease, or renting of materials or  
2541 equipment, or for the provision of services, requires payment by  
2542 the association in an amount which in the aggregate exceeds 5  
2543 percent of the association's budget, including reserves, the  
2544 association shall obtain competitive bids for the materials,  
2545 equipment, or services. Nothing contained herein shall be  
2546 construed to require the association to accept the lowest bid.

2547 (2) (a) ~~1.~~ Notwithstanding the foregoing, contracts with  
2548 employees of the association, and contracts for attorney,  
2549 accountant, architect, community association manager, timeshare  
2550 management firm, engineering, and landscape architect services  
2551 shall not be subject to the provisions of this section.

2552 ~~2. A contract executed before January 1, 1992, and any~~  
2553 ~~renewal thereof, is not subject to the competitive bid~~  
2554 ~~requirements of this section. If a contract was awarded under~~  
2555 ~~the competitive bid procedures of this section, any renewal of~~  
2556 ~~that contract is not subject to such competitive bid~~  
2557 ~~requirements if the contract contains a provision that allows~~  
2558 ~~the board to cancel the contract on 30 days' notice. Materials,~~  
2559 ~~equipment, or services provided to a cooperative pursuant to a~~  
2560 ~~local government franchise agreement by a franchise holder are~~  
2561 ~~not subject to the competitive bid requirement. A contract with~~  
2562 ~~a manager, if made by a competitive bid, may be made for up to 3~~  
2563 ~~years. A condominium whose declaration or bylaws provides for~~  
2564 ~~competitive bidding for services may operate under the~~  
2565 ~~provisions of that declaration or bylaws in lieu of this section~~

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2566 ~~if those provisions are not less stringent than the requirements~~  
2567 ~~of this section.~~

2568 (b) This section does not limit the ability of an  
2569 association to obtain needed products and services in an  
2570 emergency.

2571 (c) This section does not apply if the business entity  
2572 with which the association desires to enter into a contract is  
2573 the only source of supply within the county serving the  
2574 association.

2575 (d) Nothing contained in this subsection shall excuse a  
2576 party contracting to provide maintenance or management services  
2577 from compliance with s. 719.3025.

2578 (3) As to any contract or other transaction between an  
2579 association and one or more of its directors or any other  
2580 corporation, firm, association, or entity in which one or more  
2581 of its directors are directors or officers or are financially  
2582 interested:

2583 (a) The association shall comply with the requirements of  
2584 s. 617.0832.

2585 (b) The disclosures required by s. 617.0832 shall be  
2586 entered into the written minutes of the meeting.

2587 (c) Approval of the contract or other transaction shall  
2588 require an affirmative vote of two-thirds of the directors  
2589 present.

2590 (d) At the next regular or special meeting of the  
2591 shareholders, the existence of the contract or other transaction  
2592 shall be disclosed to the shareholders. Upon motion of any  
2593 shareholder, the contract or transaction shall be brought up for  
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2594 a vote and may be canceled by a majority vote of the  
2595 shareholders present. Should the shareholders cancel the  
2596 contract, the association shall only be liable for the  
2597 reasonable value of goods and services provided up to the time  
2598 of cancellation and shall not be liable for any termination fee,  
2599 liquidated damages, or other form of penalty for such  
2600 cancellation.

2601 Section 16. Section 719.303, Florida Statutes, is amended  
2602 to read:

2603 719.303 Obligations of shareholders ~~owners~~.--

2604 (1) Each shareholder ~~unit owner~~, each tenant and other  
2605 invitee, and each association shall be governed by, and shall  
2606 comply with the provisions of, this chapter, the cooperative  
2607 documents, the documents creating the association, and the  
2608 association bylaws, and the provisions thereof shall be deemed  
2609 expressly incorporated into any lease of a unit. Actions for  
2610 damages or for injunctive relief, or both, for failure to comply  
2611 with these provisions may be brought by the association or by a  
2612 shareholder ~~unit owner~~ against:

2613 (a) The association.

2614 (b) A shareholder ~~unit owner~~.

2615 (c) Directors designated by the developer, for actions  
2616 taken by them prior to the time control of the association is  
2617 assumed by shareholders ~~unit owners~~ other than the developer.

2618 (d) Any director who willfully and knowingly fails to  
2619 comply with these provisions.

2620 (e) Any tenant leasing a unit, and any other invitee  
2621 occupying a unit.

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2622  
2623 The prevailing party in any such action or in any action in  
2624 which the purchaser claims a right of voidability based upon  
2625 contractual provisions as required in s. 719.503(1)(a) is  
2626 entitled to recover reasonable attorney's fees. A shareholder  
2627 ~~unit owner~~ prevailing in an action between the association and  
2628 the shareholder ~~unit owner~~ under this section, in addition to  
2629 recovering his or her reasonable attorney's fees, may recover  
2630 additional amounts as determined by the court to be necessary to  
2631 reimburse the shareholder ~~unit owner~~ for his or her share of  
2632 assessments levied by the association to fund its expenses of  
2633 the litigation. This relief does not exclude other remedies  
2634 provided by law. Actions arising under this subsection shall not  
2635 be deemed to be actions for specific performance.

2636 (2) A provision of this chapter may not be waived if the  
2637 waiver would adversely affect the rights of a shareholder ~~unit~~  
2638 ~~owner~~ or the purpose of the provision, except that shareholders  
2639 ~~unit owners~~ or members of a board of administration may waive  
2640 notice of specific meetings in writing if provided by the  
2641 bylaws. Any instrument given in writing by the shareholder ~~unit~~  
2642 ~~owner~~ or purchaser to an escrow agent may be relied upon by an  
2643 escrow agent, whether or not such instruction and the payment of  
2644 funds thereunder might constitute a waiver of any provision of  
2645 this chapter.

2646 (3) If a shareholder is delinquent for more than 90 days  
2647 in the payment of a regular or special assessment or if the  
2648 cooperative documents so provide, the association may suspend,  
2649 for a reasonable time, the right of a shareholder or a

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2650 shareholder's occupant, licensee, or invitee to use the common  
2651 areas, common facilities, or any other association property.  
2652 This subsection does not apply to limited common areas intended  
2653 to be used by that unit, common areas that must be used to  
2654 access the unit, utility services provided to the unit, parking  
2655 areas, or elevators. The association may also levy reasonable  
2656 finances against a shareholder ~~unit-owner~~ for failure of the  
2657 ~~shareholder~~ ~~unit-owner~~ or his or her licensee or invitee or the  
2658 unit's occupant to comply with any provision of the cooperative  
2659 documents or reasonable rules of the association. No fine shall  
2660 become a lien against a unit. No fine shall exceed \$100 per  
2661 violation. However, a fine may be levied on the basis of each  
2662 day of a continuing violation, with a single notice and  
2663 opportunity for hearing, provided that no such fine shall in the  
2664 aggregate exceed \$1,000. No fine may be levied except after  
2665 giving reasonable notice and opportunity for a hearing to the  
2666 ~~shareholder~~ ~~unit-owner~~ and, if applicable, his or her licensee  
2667 or invitee. The hearing shall be held before a committee of  
2668 other shareholders who are neither board members nor persons  
2669 residing in a board member's household ~~unit-owners~~. If the  
2670 committee does not agree with the fine, it shall not be levied.  
2671 This subsection does not apply to unoccupied units.

2672 (4) The notice and hearing requirements of subsection (3)  
2673 do not apply to the imposition of suspensions and fines against  
2674 a shareholder or a shareholder's occupant, licensee, or invitee  
2675 because of the failure to pay any amounts due the association.  
2676 If such a fine or suspension is imposed, the association may  
2677 levy the fine or impose a reasonable suspension at a properly

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2678 noticed board meeting, and after the imposition of such fine or  
2679 suspension, the association must notify the shareholder and, if  
2680 applicable, the shareholder's occupant, licensee, or invitee by  
2681 mail or hand delivery.

2682 -----  
2683  
2684 **T I T L E A M E N D M E N T**

2685 Between lines 14 and 15, insert:

2686 amending s. 719.103, F.S.; revising definitions; changing  
2687 references from unit owner to shareholder in statutes relating  
2688 to cooperatives; amending s. 719.104, F.S.; requiring that  
2689 association access to a unit must be by two persons, one of whom  
2690 must be a board member or manager or employee of the  
2691 association; providing an exception for emergencies; providing  
2692 civil penalties for violations of accounting records  
2693 requirements; exempting certain personal information from unit  
2694 owner records requests; providing immunity from liability for  
2695 certain information provided by associations to prospective  
2696 purchasers or lienholders under certain circumstances; providing  
2697 requirements with respect to financial statements and reports;  
2698 providing that the operation of the cooperative shall be by the  
2699 association; providing that shareholders shall be members of the  
2700 association; providing legislative intent; providing that a  
2701 director of the association who abstains from voting on any  
2702 action taken on any corporate matter shall be presumed to have  
2703 taken no position with regard to the action; providing duties of  
2704 officers, directors, and agents of a cooperative association and  
2705 liability for monetary damages under certain circumstances;

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2706 providing that the association may contract, sue, or be sued  
2707 with respect to the exercise or nonexercise of its powers;  
2708 providing requirements for the borrowing of funds or committing  
2709 to a line of credit by the board; providing powers of the  
2710 association with respect to title to property and purchase of  
2711 units; providing requirements for the selection of cooperative  
2712 association board of directors meeting times and locations;  
2713 providing restrictions on the times set for certain meetings;  
2714 prohibiting certain expenditures and contributions by the  
2715 cooperative association; providing liability; amending s.  
2716 719.106, F.S.; requiring certain items to be placed on the  
2717 agenda of board meetings; revising notice requirements for board  
2718 meetings; providing requirements for shareholder meetings;  
2719 providing terms of office and election requirements for the  
2720 board of directors; providing criteria for the amendment of the  
2721 bylaws; providing eligibility to vote on certain questions  
2722 involving reserve funds; requiring proxy questions relating to  
2723 reserves to contain a specified statement; requiring the bylaws  
2724 to contain certain provisions; requiring that directors and  
2725 officers who are delinquent in certain payments owed in excess  
2726 of certain periods of time be deemed to have abandoned their  
2727 offices; requiring that directors and officers charged with  
2728 certain offenses involving an association's funds or property be  
2729 suspended from office pending resolution of the charge;  
2730 providing for the reinstatement of such directors and officers  
2731 under certain circumstances; providing qualifications for  
2732 directors; providing requirements for the borrowing of funds or  
2733 committing to a line of credit by the board; repealing s.

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2734 719.1064, F.S., relating to the failure to fill vacancies on  
2735 board of administration and the appointment of a receiver upon  
2736 petition of a shareholder; amending s. 719.107, F.S.; providing  
2737 the expense of installation, replacement, operation, repair, and  
2738 maintenance of hurricane shutters or other hurricane protection  
2739 shall constitute either a common expense or shall be charged  
2740 individually to the shareholders under certain conditions;  
2741 amending s. 719.108, F.S.; limiting the liability of a first  
2742 mortgagee and its successor and assignees acquiring title to a  
2743 unit by foreclosure or by deed in lieu of foreclosure for  
2744 certain unpaid assessments; providing a statement of  
2745 clarification and applicability; providing a definition;  
2746 providing grounds for disapproval of the proposed lease of a  
2747 unit by an association; providing lien requirements; providing  
2748 for the extension of certain liens; providing lien notice and  
2749 filing requirements; providing foreclosure requirements;  
2750 providing the association with the power to purchase a  
2751 cooperative unit at a foreclosure sale; requiring the  
2752 association to provide a certificate of assessment under certain  
2753 conditions; providing for the establishment of fees for the  
2754 preparation of such certificates; providing for the refund of  
2755 certain fees; authorizing the association to demand payment of  
2756 future assessments under certain circumstances; creating s.  
2757 719.113, F.S.; providing that maintenance of common areas is the  
2758 responsibility of the association; providing that the  
2759 cooperative documents may include reference that the association  
2760 provide certain maintenance for the condominium; providing that  
2761 there shall be no material alteration or substantial additions  
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2762 to the common areas or to real property which is association  
2763 property; providing for protection of the common areas; allowing  
2764 shareholders to display a United States flag as well as other  
2765 specified flags on designated days and patriotic holidays;  
2766 requiring the board to adopt hurricane shutter specifications;  
2767 authorizing the board to install certain hurricane protection;  
2768 prohibiting the board from installing certain hurricane shutters  
2769 or other hurricane protection under certain circumstances;  
2770 providing for the maintenance, repair, and replacement of  
2771 hurricane shutters or other hurricane protection; authorizing  
2772 the board to operate hurricane shutters without shareholder  
2773 permission under certain circumstances; prohibiting the board  
2774 from refusing to approve the installation or replacement of  
2775 hurricane shutters under certain conditions; requiring that the  
2776 board inspect certain buildings and issue a report under certain  
2777 conditions; providing an exception; prohibiting the board from  
2778 refusing a request for reasonable accommodation for the  
2779 attachment to a unit of religious objects meeting certain size  
2780 specifications; authorizing the board to install solar  
2781 collectors, clotheslines, or other energy-efficient devices upon  
2782 or within common areas or association property; creating s.  
2783 719.117, F.S.; providing legislative findings; providing  
2784 provisions relating to the termination of the cooperative form  
2785 of ownership of a property due to economic waste or  
2786 impossibility or optional termination; providing grounds for  
2787 termination; providing an exemption; providing that the approval  
2788 of a plan of termination by certain mortgage lienholders is not  
2789 required under certain conditions; providing powers and duties  
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2790 of the board relating to the plan of termination; providing  
2791 requirements following natural disasters; providing reporting  
2792 requirements; providing requirements for a plan of termination;  
2793 providing for the allocation of proceeds from the sale of  
2794 cooperative property; providing powers and duties of a  
2795 termination trustee; providing notice requirements; providing a  
2796 procedure for contesting a plan of termination; providing for  
2797 recovery of attorney's fees and costs; providing rules for the  
2798 distribution of property and sale proceeds; providing for the  
2799 association's status following termination; allowing the  
2800 creation of another cooperative by the trustee; creating s.  
2801 719.1224, F.S.; prohibiting strategic lawsuits against public  
2802 participation; providing legislative findings and intent;  
2803 prohibiting a governmental entity, business organization, or  
2804 individual from filing certain lawsuits made upon specified  
2805 bases against a shareholder; providing rights of a shareholder  
2806 who has been served with such a lawsuit; providing procedures  
2807 for the resolution of certain claims; providing for the award of  
2808 damages and attorney's fees; prohibiting associations from  
2809 expending association funds in prosecuting such a suit against a  
2810 shareholder; amending s. 719.1255, F.S.; requiring the division  
2811 to provide alternative dispute resolution for certain matters;  
2812 creating s. 719.1265, F.S.; authorizing an association to  
2813 exercise certain powers in instances involving damage caused by  
2814 an event for which a state of emergency has been declared;  
2815 limiting the applicability of such powers; amending s. 719.301,  
2816 F.S.; providing circumstances under which shareholders other  
2817 than a developer may elect not less than a majority of the  
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2818 members of the board; requiring a turnover inspection report;  
2819 requiring that the report contain certain information; creating  
2820 s. 719.3025, F.S.; requiring written contracts for the  
2821 operation, maintenance, or management of a cooperative  
2822 association or cooperative property; providing contract  
2823 requirements; authorizing the association to procure outside  
2824 services under certain circumstances; providing that services or  
2825 obligations not stated on the face of the contract shall be  
2826 unenforceable; providing applicability; amending s. 719.3026,  
2827 F.S.; revising a provision authorizing certain associations to  
2828 opt out of provisions relating to contracts for products and  
2829 services; removing provisions exempting contracts executed  
2830 before a specified date from certain competitive bid  
2831 requirements; providing requirements for any contract or  
2832 transaction between an association and one or more of its  
2833 directors or a specified other entity in which one or more of  
2834 its directors are directors or officers or have a financial  
2835 interest; amending s. 719.303, F.S.; authorizing an association  
2836 to suspend, for a reasonable time, the right of a shareholder or  
2837 the shareholders' occupant, licensee, or invitee to use certain  
2838 common elements under certain conditions; excluding certain  
2839 common elements from such authorization; providing that hearings  
2840 regarding noncompliance with a declaration be held before  
2841 certain persons; providing an exception to certain notice and  
2842 hearing requirements;

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