

By the Committee on Regulated Industries; and Senators Fasano and Ring

580-04105A-09

2009880c1

1                                   A bill to be entitled  
2       An act relating to community associations; amending s.  
3       718.110, F.S.; providing for the application of  
4       certain amendments to a declaration of condominium to  
5       certain unit owners; amending s. 718.111, F.S.;  
6       providing penalties for any person who knowingly or  
7       intentionally defaces or destroys certain records of  
8       an association with the intent to harm the association  
9       or any of its members; providing that an association  
10      is not responsible for the use or misuse of certain  
11      information obtained pursuant to state law requiring  
12      the maintenance of certain records of an association;  
13      providing an exception; providing that,  
14      notwithstanding the other requirements, certain  
15      records are not accessible to unit owners; requiring  
16      that any rules adopted for the purpose of setting  
17      forth accounting principles or addressing financial  
18      reporting requirements include certain provisions and  
19      standards; amending s. 718.112, F.S.; providing that  
20      the board of administration of an association has no  
21      obligation to take action with regard to certain items  
22      on its agenda; prohibiting coowners from  
23      simultaneously serving as members of the board of  
24      certain associations; providing an exception;  
25      requiring that each newly appointed director provide  
26      certain certifications in writing; authorizing the  
27      filing of an educational certificate as an alternative  
28      to such certification; providing a penalty for failure  
29      to timely file a certification or educational

580-04105A-09

2009880c1

30 certificate; requiring that the association retain  
31 such certification or educational certificate for a  
32 specified period; deleting a provision requiring an  
33 association to mail a certification containing certain  
34 provisions to unit owners before an election of board  
35 members; providing that a director or officer  
36 delinquent in the payment of fee, fine, regular  
37 assesment, or special assessments by more than a  
38 specified number of days is deemed to have abandoned  
39 the office; requiring that a director charged by  
40 information or indictment of certain offenses  
41 involving an association's funds or property be  
42 removed from office; amending s. 718.115, F.S.;  
43 requiring that certain services obtained pursuant to a  
44 bulk contract as provided in the declaration be deemed  
45 a common expense; requiring that such contracts  
46 contain certain provisions; authorizing the  
47 cancellation of certain contracts; amending s.  
48 718.116, F.S.; limiting the amount of certain costs to  
49 the unit owner; providing an exception; authorizing an  
50 association to demand future regular assessments  
51 related to the condominium unit under specified  
52 conditions; amending s. 718.303, F.S.; authorizing an  
53 association to suspend for a reasonable time the right  
54 of a unit owner or the unit's occupant, licensee, or  
55 invitee to use certain common elements if the  
56 declaration or bylaws so provide; excluding certain  
57 common elements from such authorization; prohibiting a  
58 fine from being levied or a suspension from being

580-04105A-09

2009880c1

59 imposed unless the association meets certain notice  
60 requirements; providing circumstances under which such  
61 notice requirements do not apply; providing procedures  
62 and notice requirements for levying a fine or imposing  
63 a suspension; authorizing an association to suspend  
64 voting rights due to nonpayment of assessments, fines,  
65 or other charges delinquent by a specified number of  
66 days under certain circumstances; amending s. 719.108,  
67 F.S.; authorizing an association to recover charges  
68 incurred in connection with collecting a delinquent  
69 assessment up to a specified maximum amount; providing  
70 a prioritized list for disbursement of payments  
71 received by an association; providing for a lien by an  
72 association on a condominium parcel for certain fees  
73 and costs; providing procedures and notice  
74 requirements for the filing of a lien by an  
75 association; authorizing an association to demand  
76 future regular assessments related to a share under  
77 specified conditions; amending s. 720.304, F.S.;  
78 providing that a flagpole and any flagpole display are  
79 subject to certain codes and regulations; amending s.  
80 720.305, F.S.; providing that certain provisions  
81 regarding the suspension-of-use rights of an  
82 association do not apply to certain common areas;  
83 providing procedures and notice requirements for  
84 levying a fine or imposing a suspension; amending s.  
85 720.3085, F.S.; authorizing an association to demand  
86 future regular assessments related to a parcel under  
87 specified conditions; amending s. 720.31, F.S.;

580-04105A-09

2009880c1

88 authorizing an association to enter into certain  
89 agreements; requiring that certain items be stated and  
90 fully described in the declaration; limiting an  
91 association's power to enter into such agreements  
92 after a specified period following the recording of a  
93 declaration; requiring that certain agreements be  
94 approved by a specified percentage of voting interests  
95 of an association when the declaration is silent as to  
96 the authority of an association to enter into such  
97 agreement; authorizing an association to join with  
98 other associations or a master association under  
99 certain circumstances and for specified purposes;  
100 amending s. 721.05, F.S.; limiting the definition of  
101 "facility" to certain permanent amenities; repealing  
102 s. 553.509(2), F.S., relating to public elevators and  
103 emergency operation plans in certain condominiums and  
104 multifamily dwellings; providing an effective date.  
105

106 Be It Enacted by the Legislature of the State of Florida:  
107

108 Section 1. Subsection (13) of section 718.110, Florida  
109 Statutes, is amended to read:

110 718.110 Amendment of declaration; correction of error or  
111 omission in declaration by circuit court.—

112 (13) Any amendment prohibiting ~~restricting~~ unit owners from  
113 renting their units or altering the number of times unit owners  
114 are entitled to rent their units during a specified period  
115 ~~owners' rights relating to the rental of units~~ applies only to  
116 unit owners who consent to the amendment and unit owners who

580-04105A-09

2009880c1

117 acquire title to ~~purchase~~ their units after the effective date  
118 of that amendment.

119 Section 2. Subsections (12) and (13) of section 718.111,  
120 Florida Statutes, are amended to read:

121 718.111 The association.—

122 (12) OFFICIAL RECORDS.—

123 (a) From the inception of the association, the association  
124 shall maintain each of the following items, when applicable,  
125 which shall constitute the official records of the association:

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

128 2. A photocopy of the recorded declaration of condominium  
129 of each condominium operated by the association and of each  
130 amendment to each declaration.

131 3. A photocopy of the recorded bylaws of the association  
132 and of each amendment to the bylaws.

133 4. A certified copy of the articles of incorporation of the  
134 association, or other documents creating the association, and of  
135 each amendment thereto.

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

137 6. A book or books which contain the minutes of all  
138 meetings of the association, of the board of administration, and  
139 of unit owners, which minutes shall be retained for a period of  
140 not less than 7 years.

141 7. A current roster of all unit owners and their mailing  
142 addresses, unit identifications, voting certifications, and, if  
143 known, telephone numbers. The association shall also maintain  
144 the electronic mailing addresses and the numbers designated by  
145 unit owners for receiving notice sent by electronic transmission

580-04105A-09

2009880c1

146 of those unit owners consenting to receive notice by electronic  
147 transmission. The electronic mailing addresses and numbers  
148 provided by unit owners to receive notice by electronic  
149 transmission shall be removed from association records when  
150 consent to receive notice by electronic transmission is revoked.  
151 However, the association is not liable for an erroneous  
152 disclosure of the electronic mail address or the number for  
153 receiving electronic transmission of notices.

154 8. All current insurance policies of the association and  
155 condominiums operated by the association.

156 9. A current copy of any management agreement, lease, or  
157 other contract to which the association is a party or under  
158 which the association or the unit owners have an obligation or  
159 responsibility.

160 10. Bills of sale or transfer for all property owned by the  
161 association.

162 11. Accounting records for the association and separate  
163 accounting records for each condominium which the association  
164 operates. All accounting records shall be maintained for a  
165 period of not less than 7 years. Any person who knowingly or  
166 intentionally defaces or destroys accounting records required to  
167 be created and maintained by this chapter during the period for  
168 which such records are required to be maintained pursuant to  
169 this chapter, or who knowingly or intentionally fails to create  
170 or maintain accounting records required to be maintained by this  
171 chapter, with the intent of causing harm to the association or  
172 one or more of its members, is personally subject to a civil  
173 penalty pursuant to s. 718.501(1)(d). The accounting records  
174 shall include, but are not limited to:

580-04105A-09

2009880c1

175 a. Accurate, itemized, and detailed records of all receipts  
176 and expenditures.

177 b. A current account and a monthly, bimonthly, or quarterly  
178 statement of the account for each unit designating the name of  
179 the unit owner, the due date and amount of each assessment, the  
180 amount paid upon the account, and the balance due.

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

183 d. All contracts for work to be performed. Bids for work to  
184 be performed shall also be considered official records and shall  
185 be maintained by the association.

186 12. Ballots, sign-in sheets, voting proxies, and all other  
187 papers relating to voting by unit owners, which shall be  
188 maintained for a period of 1 year from the date of the election,  
189 vote, or meeting to which the document relates, notwithstanding  
190 paragraph (b).

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

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

195 15. All other records of the association not specifically  
196 included in the foregoing which are related to the operation of  
197 the association.

198 16. A copy of the inspection report as provided for in s.  
199 718.301(4)(p).

200 (b) The official records of the association shall be  
201 maintained within the state for at least 7 years. The records of  
202 the association shall be made available to a unit owner within  
203 45 miles of the condominium property or within the county in

580-04105A-09

2009880c1

204 which the condominium property is located within 5 working days  
205 after receipt of written request by the board or its designee.  
206 However, such distance requirement does not apply to an  
207 association governing a timeshare condominium. This paragraph  
208 may be complied with by having a copy of the official records of  
209 the association available for inspection or copying on the  
210 condominium property or association property, or the association  
211 may offer the option of making the records of the association  
212 available to a unit owner either electronically via the Internet  
213 or by allowing the records to be viewed in electronic format on  
214 a computer screen and printed upon request. The association is  
215 not responsible for the use or misuse of the information  
216 provided pursuant to the compliance requirements of this chapter  
217 unless the association has an affirmative duty not to disclose  
218 such information pursuant to this chapter.

219 (c) The official records of the association are open to  
220 inspection by any association member or the authorized  
221 representative of such member at all reasonable times. The right  
222 to inspect the records includes the right to make or obtain  
223 copies, at the reasonable expense, if any, of the association  
224 member. The association may adopt reasonable rules regarding the  
225 frequency, time, location, notice, and manner of record  
226 inspections and copying. The failure of an association to  
227 provide the records within 10 working days after receipt of a  
228 written request shall create a rebuttable presumption that the  
229 association willfully failed to comply with this paragraph. A  
230 unit owner who is denied access to official records is entitled  
231 to the actual damages or minimum damages for the association's  
232 willful failure to comply with this paragraph. The minimum



580-04105A-09

2009880c1

233 damages shall be \$50 per calendar day up to 10 days, the  
234 calculation to begin on the 11th working day after receipt of  
235 the written request. The failure to permit inspection of the  
236 association records as provided herein entitles any person  
237 prevailing in an enforcement action to recover reasonable  
238 attorney's fees from the person in control of the records who,  
239 directly or indirectly, knowingly denied access to the records  
240 for inspection. Any person who knowingly or intentionally  
241 defaces or destroys accounting records that are required by this  
242 chapter to be created and maintained during the period for which  
243 such records are required to be maintained pursuant to this  
244 chapter, or who knowingly or intentionally fails to create or  
245 maintain accounting records that are required to be maintained  
246 by this chapter, with the intent of causing harm to the  
247 association or one or more of its members, is personally subject  
248 to a civil penalty pursuant to s. 718.501(1)(d). The association  
249 shall maintain an adequate number of copies of the declaration,  
250 articles of incorporation, bylaws, and rules, and all amendments  
251 to each of the foregoing, as well as the question and answer  
252 sheet provided for in s. 718.504 and year-end financial  
253 information required in this section, on the condominium  
254 property to ensure their availability to unit owners and  
255 prospective purchasers, and may charge its actual costs for  
256 preparing and furnishing these documents to those requesting the  
257 documents same. Notwithstanding the provisions of this  
258 paragraph, the following records shall not be accessible to unit  
259 owners:

260 1. Any record protected by the lawyer-client privilege as  
261 described in s. 90.502; and any record protected by the work-

580-04105A-09

2009880c1

262 product privilege, including any record prepared by an  
263 association attorney or prepared at the attorney's express  
264 direction; which reflects a mental impression, conclusion,  
265 litigation strategy, or legal theory of the attorney or the  
266 association, and which was prepared exclusively for civil or  
267 criminal litigation or for adversarial administrative  
268 proceedings, or which was prepared in anticipation of imminent  
269 civil or criminal litigation or imminent adversarial  
270 administrative proceedings until the conclusion of the  
271 litigation or adversarial administrative proceedings.

272 2. Information obtained by an association in connection  
273 with the approval of the lease, sale, or other transfer of a  
274 unit.

275 3. Disciplinary, health, insurance, and personnel records  
276 of the association's employees.

277 ~~4.3.~~ Medical records of unit owners.

278 ~~5.4.~~ Social security numbers, driver's license numbers,  
279 credit card numbers, e-mail addresses, and other personal  
280 identifying information of any person, excluding the person's  
281 name, unit designation, mailing address, property address, and  
282 other contact information.

283 6. Any electronic security measure that is used by the  
284 association to safeguard data, including passwords.

285 7. The data generated by software used by the association  
286 which allows manipulation of data. Such data is part of the  
287 official records of the association, even if the owner owns a  
288 copy of the same software used by the association, but the  
289 underlying software and operating system are not part of the  
290 official records of the association.

580-04105A-09

2009880c1

291 (13) FINANCIAL REPORTING.—Within 90 days after the end of  
292 the fiscal year, or annually on a date provided in the bylaws,  
293 the association shall prepare and complete, or contract for the  
294 preparation and completion of, a financial report for the  
295 preceding fiscal year. Within 21 days after the final financial  
296 report is completed by the association or received from the  
297 third party, but not later than 120 days after the end of the  
298 fiscal year or other date as provided in the bylaws, the  
299 association shall mail to each unit owner at the address last  
300 furnished to the association by the unit owner, or hand deliver  
301 to each unit owner, a copy of the financial report or a notice  
302 that a copy of the financial report will be mailed or hand  
303 delivered to the unit owner, without charge, upon receipt of a  
304 written request from the unit owner. The division shall adopt  
305 rules setting forth uniform accounting principles and standards  
306 to be used by all associations and shall adopt rules addressing  
307 financial reporting requirements for multicondominium  
308 associations. The rules shall include, but not be limited to,  
309 standards for presenting a summary of association reserves,  
310 including, but not limited to, a good faith estimate disclosing  
311 the annual amount of reserve funds that would be necessary for  
312 the association to fully fund reserves for each reserve item  
313 based on the straight-line accounting method. This disclosure is  
314 not applicable to reserves funded via the pooling method ~~uniform~~  
315 ~~accounting principles and standards for stating the disclosure~~  
316 ~~of at least a summary of the reserves, including information as~~  
317 ~~to whether such reserves are being funded at a level sufficient~~  
318 ~~to prevent the need for a special assessment and, if not, the~~  
319 ~~amount of assessments necessary to bring the reserves up to the~~

580-04105A-09

2009880c1

320 ~~level necessary to avoid a special assessment. The person~~  
321 ~~preparing the financial reports shall be entitled to rely on an~~  
322 ~~inspection report prepared for or provided to the association to~~  
323 ~~meet the fiscal and fiduciary standards of this chapter. In~~  
324 adopting such rules, the division shall consider the number of  
325 members and annual revenues of an association. Financial reports  
326 shall be prepared as follows:

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

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

335 2. An association with total annual revenues of at least  
336 \$200,000, but less than \$400,000, shall prepare reviewed  
337 financial statements.

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

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

343 2. An association that ~~which~~ operates fewer ~~less~~ than 50  
344 units, regardless of the association's annual revenues, shall  
345 prepare a report of cash receipts and expenditures in lieu of  
346 financial statements required by paragraph (a).

347 3. A report of cash receipts and disbursements must  
348 disclose the amount of receipts by accounts and receipt

580-04105A-09

2009880c1

349 classifications and the amount of expenses by accounts and  
350 expense classifications, including, but not limited to, the  
351 following, as applicable: costs for security, professional and  
352 management fees and expenses, taxes, costs for recreation  
353 facilities, expenses for refuse collection and utility services,  
354 expenses for lawn care, costs for building maintenance and  
355 repair, insurance costs, administration and salary expenses, and  
356 reserves accumulated and expended for capital expenditures,  
357 deferred maintenance, and any other category for which the  
358 association maintains reserves.

359 (c) An association may prepare or cause to be prepared,  
360 without a meeting of or approval by the unit owners:

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

364 2. Reviewed or audited financial statements, if the  
365 association is required to prepare compiled financial  
366 statements; or

367 3. Audited financial statements if the association is  
368 required to prepare reviewed financial statements.

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

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

374 2. A report of cash receipts and expenditures or a compiled  
375 financial statement in lieu of a reviewed or audited financial  
376 statement; or

377 3. A report of cash receipts and expenditures, a compiled

580-04105A-09

2009880c1

378 financial statement, or a reviewed financial statement in lieu  
379 of an audited financial statement.

380

381 Such meeting and approval must occur before ~~prior to~~ the end of  
382 the fiscal year and is effective only for the fiscal year in  
383 which the vote is taken, except that the approval also may be  
384 effective for the following fiscal year. With respect to an  
385 association to which the developer has not turned over control  
386 of the association, all unit owners, including the developer,  
387 may vote on issues related to the preparation of financial  
388 reports for the first 2 fiscal years of the association's  
389 operation, beginning with the fiscal year in which the  
390 declaration is recorded. Thereafter, all unit owners except the  
391 developer may vote on such issues until control is turned over  
392 to the association by the developer. Any audit or review  
393 prepared under this section shall be paid for by the developer  
394 if done prior to turnover of control of the association. An  
395 association may not waive the financial reporting requirements  
396 of this section for more than 3 consecutive years.

397 Section 3. Paragraphs (c), (d), (n), and (o) of subsection  
398 (2) of section 718.112, Florida Statutes, are amended to read:  
399 718.112 Bylaws.—

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

403 (c) *Board of administration meetings.*—Meetings of the board  
404 of administration at which a quorum of the members is present  
405 shall be open to all unit owners. Any unit owner may tape record  
406 or videotape meetings of the board of administration. The right

580-04105A-09

2009880c1

407 to attend such meetings includes the right to speak at such  
408 meetings with reference to all designated agenda items. The  
409 division shall adopt reasonable rules governing the tape  
410 recording and videotaping of the meeting. The association may  
411 adopt written reasonable rules governing the frequency,  
412 duration, and manner of unit owner statements. Adequate notice  
413 of all meetings, which notice shall specifically incorporate an  
414 identification of agenda items, shall be posted conspicuously on  
415 the condominium property at least 48 continuous hours preceding  
416 the meeting except in an emergency. If 20 percent of the voting  
417 interests petition the board to address an item of business, the  
418 board shall at its next regular board meeting or at a special  
419 meeting of the board, but not later than 60 days after the  
420 receipt of the petition, place the item on the agenda. However,  
421 the board has no obligation to take any action on the item. Any  
422 item not included on the notice may be taken up on an emergency  
423 basis by at least a majority plus one of the members of the  
424 board. Such emergency action shall be noticed and ratified at  
425 the next regular meeting of the board. However, written notice  
426 of any meeting at which nonemergency special assessments, or at  
427 which amendment to rules regarding unit use, will be considered  
428 shall be mailed, delivered, or electronically transmitted to the  
429 unit owners and posted conspicuously on the condominium property  
430 not less than 14 days prior to the meeting. Evidence of  
431 compliance with this 14-day notice shall be made by an affidavit  
432 executed by the person providing the notice and filed among the  
433 official records of the association. Upon notice to the unit  
434 owners, the board shall by duly adopted rule designate a  
435 specific location on the condominium property or association

580-04105A-09

2009880c1

436 property upon which all notices of board meetings shall be  
437 posted. If there is no condominium property or association  
438 property upon which notices can be posted, notices of board  
439 meetings shall be mailed, delivered, or electronically  
440 transmitted at least 14 days before the meeting to the owner of  
441 each unit. In lieu of or in addition to the physical posting of  
442 notice of any meeting of the board of administration on the  
443 condominium property, the association may, by reasonable rule,  
444 adopt a procedure for conspicuously posting and repeatedly  
445 broadcasting the notice and the agenda on a closed-circuit cable  
446 television system serving the condominium association. However,  
447 if broadcast notice is used in lieu of a notice posted  
448 physically on the condominium property, the notice and agenda  
449 must be broadcast at least four times every broadcast hour of  
450 each day that a posted notice is otherwise required under this  
451 section. When broadcast notice is provided, the notice and  
452 agenda must be broadcast in a manner and for a sufficient  
453 continuous length of time so as to allow an average reader to  
454 observe the notice and read and comprehend the entire content of  
455 the notice and the agenda. Notice of any meeting in which  
456 regular or special assessments against unit owners are to be  
457 considered for any reason shall specifically state that  
458 assessments will be considered and the nature, estimated cost,  
459 and description of the purposes for such assessments. Meetings  
460 of a committee to take final action on behalf of the board or  
461 make recommendations to the board regarding the association  
462 budget are subject to the provisions of this paragraph. Meetings  
463 of a committee that does not take final action on behalf of the  
464 board or make recommendations to the board regarding the



580-04105A-09

2009880c1

465 association budget are subject to the provisions of this  
466 section, unless those meetings are exempted from this section by  
467 the bylaws of the association. Notwithstanding any other law,  
468 the requirement that board meetings and committee meetings be  
469 open to ~~the~~ unit owners is inapplicable to meetings between the  
470 board or a committee and the association's attorney, with  
471 respect to proposed or pending litigation, when the meeting is  
472 held for the purpose of seeking or rendering legal advice.

473 (d) *Unit owner meetings.*—

474 1. There shall be an annual meeting of the unit owners held  
475 at the location provided in the association bylaws and, if the  
476 bylaws are silent as to the location, the meeting shall be held  
477 within 45 miles of the condominium property. However, such  
478 distance requirement does not apply to an association governing  
479 a timeshare condominium. Unless the bylaws provide otherwise, a  
480 vacancy on the board caused by the expiration of a director's  
481 term shall be filled by electing a new board member, and the  
482 election shall be by secret ballot; however, if the number of  
483 vacancies equals or exceeds the number of candidates, no  
484 election is required. Except in timeshare condominiums, the  
485 terms of all members of the board shall expire at the annual  
486 meeting and such board members may stand for reelection unless  
487 otherwise permitted by the bylaws. If ~~In the event that~~ the  
488 bylaws permit staggered terms of no more than 2 years ~~and upon~~  
489 ~~approval of a majority of the total voting interests,~~ the  
490 association board members may serve 2-year staggered terms. If  
491 no person is interested in or demonstrates an intention to run  
492 for the position of a board member whose term has expired  
493 according to the provisions of this subparagraph, such board

580-04105A-09

2009880c1

494 member whose term has expired shall be automatically reappointed  
495 to the board of administration and need not stand for  
496 reelection. In a condominium association of more than 10 units  
497 or in a condominium association that does not include timeshare  
498 units, coowners of a unit may not serve as members of the board  
499 of directors at the same time unless one coowner owns more than  
500 one unit. Any unit owner desiring to be a candidate for board  
501 membership shall comply with subparagraph 3. A person who has  
502 been suspended or removed by the division under this chapter, or  
503 any person who is delinquent in the payment of any fee, fine, or  
504 special or regular assessment by more than 90 days ~~as provided~~  
505 ~~in paragraph (n)~~, is not eligible for board membership. A person  
506 who has been convicted of any felony in this state or in a  
507 United States District or Territorial Court, or who has been  
508 convicted of any offense in another jurisdiction that would be  
509 considered a felony if committed in this state, is not eligible  
510 for board membership unless such felon's civil rights have been  
511 restored for a period of no less than 5 years as of the date on  
512 which such person seeks election to the board. The validity of  
513 an action by the board is not affected if it is later determined  
514 that a member of the board is ineligible for board membership  
515 due to having been convicted of a felony.

516 2. The bylaws shall provide the method of calling meetings  
517 of unit owners, including annual meetings. Written notice, which  
518 ~~notice~~ must include an agenda, shall be mailed, hand delivered,  
519 or electronically transmitted to each unit owner at least 14  
520 days prior to the annual meeting and shall be posted in a  
521 conspicuous place on the condominium property at least 14  
522 continuous days preceding the annual meeting. Upon notice to the

580-04105A-09

2009880c1

523 unit owners, the board shall by duly adopted rule designate a  
524 specific location on the condominium property or association  
525 property where ~~upon which~~ all notices of unit owner meetings  
526 shall be posted; however, if there is no condominium property or  
527 association property upon which notices can be posted, this  
528 requirement does not apply. In lieu of or in addition to the  
529 physical posting of notice of any meeting of the unit owners on  
530 the condominium property, the association may, by reasonable  
531 rule, adopt a procedure for conspicuously posting and repeatedly  
532 broadcasting the notice and the agenda on a closed-circuit cable  
533 television system serving the condominium association. However,  
534 if broadcast notice is used in lieu of a notice posted  
535 physically on the condominium property, the notice and agenda  
536 must be broadcast at least four times every broadcast hour of  
537 each day that a posted notice is otherwise required under this  
538 section. When broadcast notice is provided, the notice and  
539 agenda must be broadcast in a manner and for a sufficient  
540 continuous length of time so as to allow an average reader to  
541 observe the notice and read and comprehend the entire content of  
542 the notice and the agenda. Unless a unit owner waives in writing  
543 the right to receive notice of the annual meeting, such notice  
544 shall be hand delivered, mailed, or electronically transmitted  
545 to each unit owner. Notice for meetings and notice for all other  
546 purposes shall be mailed to each unit owner at the address last  
547 furnished to the association by the unit owner, or hand  
548 delivered to each unit owner. However, if a unit is owned by  
549 more than one person, the association shall provide notice, for  
550 meetings and all other purposes, to that one address which the  
551 developer initially identifies for that purpose and thereafter

580-04105A-09

2009880c1

552 as one or more of the owners of the unit shall so advise the  
553 association in writing, or if no address is given or the owners  
554 of the unit do not agree, to the address provided on the deed of  
555 record. An officer of the association, or the manager or other  
556 person providing notice of the association meeting, shall  
557 provide an affidavit or United States Postal Service certificate  
558 of mailing, to be included in the official records of the  
559 association affirming that the notice was mailed or hand  
560 delivered, in accordance with this provision.

561 3. The members of the board shall be elected by written  
562 ballot or voting machine. Proxies shall in no event be used in  
563 electing the board, either in general elections or elections to  
564 fill vacancies caused by recall, resignation, or otherwise,  
565 unless otherwise provided in this chapter. Not less than 60 days  
566 before a scheduled election, the association shall mail,  
567 deliver, or electronically transmit, whether by separate  
568 association mailing or included in another association mailing,  
569 delivery, or transmission, including regularly published  
570 newsletters, to each unit owner entitled to a vote, a first  
571 notice of the date of the election along with a certification  
572 form provided by the division attesting that he or she has read  
573 and understands, to the best of his or her ability, the  
574 governing documents of the association and the provisions of  
575 this chapter and any applicable rules. Within 90 days after  
576 being elected or appointed to the board, each newly elected or  
577 appointed director shall certify in writing to the secretary of  
578 the association that he or she has read the declaration of  
579 condominium for all condominiums operated by the association and  
580 the association's articles of incorporation, bylaws, and rules

580-04105A-09

2009880c1

581 and regulations; that he or she will work to uphold such  
582 documents and policies to the best of his or her ability; and  
583 that he or she will faithfully discharge his or her fiduciary  
584 responsibility to the association's members. In lieu of this  
585 written certification, the newly elected or appointed director  
586 may submit a certificate of satisfactory completion of the  
587 educational curriculum administered by a division-approved  
588 condominium education provider completed within 1 year before  
589 the 90-day deadline. Failure to timely file the written  
590 certification or educational certificate automatically  
591 disqualifies the director from service on the board. The  
592 secretary shall cause the association to retain a director's  
593 written certification or educational certificate for inspection  
594 by the members for 5 years after a director's election or  
595 appointment. Failure to have such written certification or  
596 educational certificate on file does not affect the validity of  
597 any appropriate action. Any unit owner or other eligible person  
598 desiring to be a candidate for the board must give written  
599 notice to the association not less than 40 days before a  
600 scheduled election. Together with the written notice and agenda  
601 as set forth in subparagraph 2., the association shall mail,  
602 deliver, or electronically transmit a second notice of the  
603 election to all unit owners entitled to vote therein, together  
604 with a ballot which shall list all candidates. Upon request of a  
605 candidate, the association shall include an information sheet,  
606 no larger than 8 1/2 inches by 11 inches, which must be  
607 furnished by the candidate not less than 35 days before the  
608 election ~~and, along with the signed certification form provided~~  
609 ~~for in this subparagraph, to be included with the mailing,~~

580-04105A-09

2009880c1

610 delivery, or transmission of the ballot, ~~with~~ The costs of  
611 mailing, delivery, or electronic transmission and copying shall  
612 ~~to~~ be borne by the association. The association is not liable  
613 for the contents of the information sheets prepared by the  
614 candidates. In order to reduce costs, the association may print  
615 or duplicate the information sheets on both sides of the paper.  
616 The division shall by rule establish voting procedures  
617 consistent with the provisions contained herein, including rules  
618 establishing procedures for giving notice by electronic  
619 transmission and rules providing for the secrecy of ballots.  
620 Elections shall be decided by a plurality of ~~these~~ ballots cast.  
621 There shall be no quorum requirement; however, at least 20  
622 percent of the eligible voters must cast a ballot in order to  
623 have a valid election of members of the board. No unit owner  
624 shall permit any other person to vote his or her ballot, and any  
625 such ballots improperly cast shall be deemed invalid, provided  
626 any unit owner who violates this provision may be fined by the  
627 association in accordance with s. 718.303. A unit owner who  
628 needs assistance in casting the ballot for the reasons stated in  
629 s. 101.051 may obtain assistance in casting the ballot. The  
630 regular election shall occur on the date of the annual meeting.  
631 The provisions of this subparagraph shall not apply to timeshare  
632 condominium associations. Notwithstanding the provisions of this  
633 subparagraph, an election is not required unless more candidates  
634 file notices of intent to run or are nominated than board  
635 vacancies exist.

636 4. Any approval by unit owners called for by this chapter  
637 or the applicable declaration or bylaws, including, but not  
638 limited to, the approval requirement in s. 718.111(8), shall be

580-04105A-09

2009880c1

639 made at a duly noticed meeting of unit owners and shall be  
640 subject to all requirements of this chapter or the applicable  
641 condominium documents relating to unit owner decisionmaking,  
642 except that unit owners may take action by written agreement,  
643 without meetings, on matters for which action by written  
644 agreement without meetings is expressly allowed by the  
645 applicable bylaws or declaration or any statute that provides  
646 for such action.

647         5. Unit owners may waive notice of specific meetings if  
648 allowed by the applicable bylaws or declaration or any statute.  
649 If authorized by the bylaws, notice of meetings of the board of  
650 administration, unit owner meetings, except unit owner meetings  
651 called to recall board members under paragraph (j), and  
652 committee meetings may be given by electronic transmission to  
653 unit owners who consent to receive notice by electronic  
654 transmission.

655         6. Unit owners shall have the right to participate in  
656 meetings of unit owners with reference to all designated agenda  
657 items. However, the association may adopt reasonable rules  
658 governing the frequency, duration, and manner of unit owner  
659 participation.

660         7. Any unit owner may tape record or videotape a meeting of  
661 the unit owners subject to reasonable rules adopted by the  
662 division.

663         8. Unless otherwise provided in the bylaws, any vacancy  
664 occurring on the board before the expiration of a term may be  
665 filled by the affirmative vote of the majority of the remaining  
666 directors, even if the remaining directors constitute less than  
667 a quorum, or by the sole remaining director. In the alternative,

580-04105A-09

2009880c1

668 a board may hold an election to fill the vacancy, in which case  
669 the election procedures must conform to the requirements of  
670 subparagraph 3. unless the association governs 10 units or less  
671 and has opted out of the statutory election process, in which  
672 case the bylaws of the association control. Unless otherwise  
673 provided in the bylaws, a board member appointed or elected  
674 under this section shall fill the vacancy for the unexpired term  
675 of the seat being filled. Filling vacancies created by recall is  
676 governed by paragraph (j) and rules adopted by the division.

677

678 Notwithstanding subparagraphs (b)2. and (d)3., an association of  
679 10 or fewer units may, by the affirmative vote of a majority of  
680 the total voting interests, provide for different voting and  
681 election procedures in its bylaws, which vote may be by a proxy  
682 specifically delineating the different voting and election  
683 procedures. The different voting and election procedures may  
684 provide for elections to be conducted by limited or general  
685 proxy.

686 (n) *Director or officer delinquencies.*—A director or  
687 officer more than 90 days delinquent in the payment of any fee,  
688 fine, regular assessment, or special assessment ~~assessments~~  
689 shall be deemed to have abandoned the office, creating a vacancy  
690 in the office to be filled according to law.

691 (o) *Director or officer offenses.*—A director or officer  
692 charged by information or indictment with a felony theft or  
693 embezzlement offense involving the association's funds or  
694 property shall be removed from office, creating a vacancy in the  
695 office to be filled according to law. While such director or  
696 officer has such criminal charge pending, he or she may not be



580-04105A-09

2009880c1

697 appointed or elected to a position as a director or officer.  
698 However, should the charges be resolved without a finding of  
699 guilt, the director or officer shall be reinstated for the  
700 remainder of his or her term of office, if any.

701 Section 4. Paragraph (d) of subsection (1) of section  
702 718.115, Florida Statutes, is amended to read:

703 718.115 Common expenses and common surplus.—

704 (1)

705 (d) If so provided in the declaration, the cost of  
706 communications services as defined in chapter 202, information  
707 services, or Internet services ~~a master antenna television~~  
708 ~~system or duly franchised cable television service~~ obtained  
709 pursuant to a bulk contract shall be deemed a common expense. If  
710 the declaration does not provide for the cost of communications  
711 services as defined in chapter 202, information services, or  
712 Internet services ~~a master antenna television system or duly~~  
713 ~~franchised cable television service~~ obtained under a bulk  
714 contract as a common expense, the board may enter into such a  
715 contract, and the cost of the service will be a common expense  
716 but allocated on a per-unit basis rather than a percentage basis  
717 if the declaration provides for other than an equal sharing of  
718 common expenses, and any contract entered into before July 1,  
719 1998, in which the cost of the service is not equally divided  
720 among all unit owners, may be changed by vote of a majority of  
721 the voting interests present at a regular or special meeting of  
722 the association, to allocate the cost equally among all units.  
723 The contract shall be for a term of not less than 2 years.

724 1. Any contract made by the board after the effective date  
725 hereof for communications services as defined in chapter 202,

580-04105A-09

2009880c1

726 information services, or Internet services ~~a community antenna~~  
727 ~~system or duly franchised cable television service~~ may be  
728 canceled by a majority of the voting interests present at the  
729 next regular or special meeting of the association. Any member  
730 may make a motion to cancel the ~~said~~ contract, but if no motion  
731 is made or if such motion fails to obtain the required majority  
732 at the next regular or special meeting, whichever occurs ~~is~~  
733 sooner, following the making of the contract, ~~then~~ such contract  
734 shall be deemed ratified for the term therein expressed.

735 2. Any such contract shall provide, and shall be deemed to  
736 provide if not expressly set forth, that any hearing-impaired or  
737 legally blind unit owner who does not occupy the unit with a  
738 non-hearing-impaired or sighted person, or any unit owner  
739 receiving supplemental security income under Title XVI of the  
740 Social Security Act or food stamps as administered by the  
741 Department of Children and Family Services pursuant to s.  
742 414.31, may discontinue the cable or video service without  
743 incurring disconnect fees, penalties, or subsequent service  
744 charges, and, as to such units, the owners shall not be required  
745 to pay any common expenses charge related to such service. If  
746 fewer ~~less~~ than all members of an association share the expenses  
747 of cable or video service ~~television~~, the expense shall be  
748 shared equally by all participating unit owners. The association  
749 may use the provisions of s. 718.116 to enforce payment of the  
750 shares of such costs by the unit owners receiving cable or video  
751 service ~~television~~.

752 Section 5. Paragraph (b) of subsection (5) of section  
753 718.116, Florida Statutes, is amended, and subsection (11) is  
754 added to that section, to read:

580-04105A-09

2009880c1

755           718.116 Assessments; liability; lien and priority;  
756 interest; collection.-

757           (5)

758           (b) To be valid, a claim of lien must state the description  
759 of the condominium parcel, the name of the record owner, the  
760 name and address of the association, the amount due, and the due  
761 dates. It must be executed and acknowledged by an officer or  
762 authorized agent of the association. No such lien shall be  
763 effective longer than 1 year after the claim of lien was  
764 recorded unless, within that time, an action to enforce the lien  
765 is commenced. The 1-year period shall automatically be extended  
766 for any length of time during which the association is prevented  
767 from filing a foreclosure action by an automatic stay resulting  
768 from a bankruptcy petition filed by the parcel owner or any  
769 other person claiming an interest in the parcel. The claim of  
770 lien shall secure all unpaid assessments which are due and which  
771 may accrue subsequent to the recording of the claim of lien and  
772 before ~~prior to~~ the entry of a certificate of title, as well as  
773 interest and all reasonable costs and attorney's fees incurred  
774 by the association incident to the collection process. Costs to  
775 the unit owner secured by the association's claim of lien with  
776 regard to collection letters or any other collection efforts by  
777 management companies or licensed managers as to any delinquent  
778 installment of an assessment may not exceed \$75 unless the  
779 management company prepares any letter or certificate required  
780 by this chapter and charges a reasonable fee related to the  
781 preparation of such letter or certificate. Upon payment in full,  
782 the person making the payment is entitled to a satisfaction of  
783 the lien.

580-04105A-09

2009880c1

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785 After notice of contest of lien has been recorded, the clerk of  
786 the circuit court shall mail a copy of the recorded notice to  
787 the association by certified mail, return receipt requested, at  
788 the address shown in the claim of lien or most recent amendment  
789 to it and shall certify to the service on the face of the  
790 notice. Service is complete upon mailing. After service, the  
791 association has 90 days in which to file an action to enforce  
792 the lien; and, if the action is not filed within the 90-day  
793 period, the lien is void. However, the 90-day period shall be  
794 extended for any length of time that the association is  
795 prevented from filing its action because of an automatic stay  
796 resulting from the filing of a bankruptcy petition by the unit  
797 owner or by any other person claiming an interest in the parcel.

798 (11) If the unit is occupied by a tenant and the unit owner  
799 is delinquent in the payment of regular assessments, the  
800 association may demand that the tenant pay to the association  
801 the future regular assessments related to the condominium unit.  
802 The demand is continuing in nature, and upon demand, the tenant  
803 shall continue to pay the regular assessments to the association  
804 until the association releases the tenant or the tenant  
805 discontinues tenancy in the unit. The association shall mail  
806 written notice to the unit owner of the association's demand  
807 that the tenant pay regular assessments to the association. The  
808 tenant is not liable for increases in the amount of the regular  
809 assessment due unless the tenant was reasonably notified of the  
810 increase before the day on which the rent is due. The tenant  
811 shall be given a credit against rents due to the unit owner in  
812 the amount of assessments paid to the association. The

580-04105A-09

2009880c1

813 association shall, upon request, provide the tenant with written  
814 receipts for payments made. The association may issue notices  
815 under s. 83.56 and may sue for eviction under ss. 83.59-83.625  
816 as if the association were a landlord under part II of chapter  
817 83 if the tenant fails to pay an assessment. However, the  
818 association is not otherwise considered a landlord under chapter  
819 83 and specifically has no duties under s. 83.51. The tenant  
820 does not, by virtue of payment of assessments, have any of the  
821 rights of a unit owner to vote in any election or to examine the  
822 books and records of the association. A court may supersede the  
823 effect of this subsection by appointing a receiver.

824 Section 6. Section 718.303, Florida Statutes, is amended to  
825 read:

826 718.303 Obligations of owners and occupants; waiver; levy  
827 of finances, suspension of use or voting rights, and other  
828 nonexclusive remedies in law or equity ~~fine against unit~~ by an  
829 association.-

830 (1) Each unit owner, each tenant and other invitee, and  
831 each association shall be governed by, and shall comply with the  
832 provisions of, this chapter, the declaration, the documents  
833 creating the association, and the association bylaws and the  
834 provisions thereof shall be deemed expressly incorporated into  
835 any lease of a unit. Actions for damages or for injunctive  
836 relief, or both, for failure to comply with these provisions may  
837 be brought by the association or by a unit owner against:

838 (a) The association.

839 (b) A unit owner.

840 (c) Directors designated by the developer, for actions  
841 taken by them prior to the time control of the association is

580-04105A-09

2009880c1

842 assumed by unit owners other than the developer.

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

845 (e) Any tenant leasing a unit, and any other invitee  
846 occupying a unit.

847

848 The prevailing party in any such action or in any action in  
849 which the purchaser claims a right of voidability based upon  
850 contractual provisions as required in s. 718.503(1)(a) is  
851 entitled to recover reasonable attorney's fees. A unit owner  
852 prevailing in an action between the association and the unit  
853 owner under this section, in addition to recovering his or her  
854 reasonable attorney's fees, may recover additional amounts as  
855 determined by the court to be necessary to reimburse the unit  
856 owner for his or her share of assessments levied by the  
857 association to fund its expenses of the litigation. This relief  
858 does not exclude other remedies provided by law. Actions arising  
859 under this subsection shall not be deemed to be actions for  
860 specific performance.

861 (2) A provision of this chapter may not be waived if the  
862 waiver would adversely affect the rights of a unit owner or the  
863 purpose of the provision, except that unit owners or members of  
864 a board of administration may waive notice of specific meetings  
865 in writing if provided by the bylaws. Any instruction given in  
866 writing by a unit owner or purchaser to an escrow agent may be  
867 relied upon by an escrow agent, whether or not such instruction  
868 and the payment of funds thereunder might constitute a waiver of  
869 any provision of this chapter.

870 (3) If the declaration or bylaws so provide, the

580-04105A-09

2009880c1

871 association may suspend, for a reasonable time, the right of a  
872 unit owner or a unit's occupant, licensee, or invitee to use  
873 common elements, common facilities, or any other association  
874 property. This subsection does not apply to limited common  
875 elements intended to be used only by that unit, common elements  
876 that must be used to access the unit, utility services provided  
877 to the unit, parking spaces, or elevators. The association may  
878 also levy reasonable fines ~~against a unit~~ for the failure of the  
879 owner of the unit, or its occupant, licensee, or invitee, to  
880 comply with any provision of the declaration, the association  
881 bylaws, or reasonable rules of the association. No fine will  
882 become a lien against a unit. A ~~No~~ fine may not exceed \$100 per  
883 violation. However, a fine may be levied on the basis of each  
884 day of a continuing violation, with a single notice and  
885 opportunity for hearing, provided that no such fine shall in the  
886 aggregate exceed \$1,000. A ~~No~~ fine may not be levied and a  
887 suspension may not be imposed unless the association first gives  
888 ~~except after giving~~ reasonable notice and opportunity for a  
889 hearing to the unit owner and, if applicable, its occupant,  
890 licensee, or invitee. The hearing must be held before a  
891 committee of other unit owners who are neither board members nor  
892 persons residing in a board member's household. If the committee  
893 does not agree with the fine or suspension, the fine or  
894 suspension may not be levied or imposed. ~~The provisions of this~~  
895 ~~subsection do not apply to unoccupied units.~~

896 (4) The notice and hearing requirements of subsection (3)  
897 do not apply to the imposition of suspensions or fines against a  
898 unit owner or a unit's occupant, licensee, or invitee because of  
899 the failure to pay any amounts due the association. If such a

580-04105A-09

2009880c1

900 fine or suspension is imposed, the association must levy the  
901 fine or impose a reasonable suspension at a properly noticed  
902 board meeting, and after the imposition of such fine or  
903 suspension, the association must notify the unit owner and, if  
904 applicable, the unit's occupant, licensee, or invitee by mail or  
905 hand delivery.

906 (5) If the declaration or bylaws so provide, an association  
907 may also suspend the voting rights of a member due to nonpayment  
908 of assessments, fines, or other charges payable to the  
909 association which are delinquent in excess of 90 days.

910 Section 7. Subsections (3) and (4) of section 719.108,  
911 Florida Statutes, are amended, and subsection (10) is added to  
912 that section, to read:

913 719.108 Rents and assessments; liability; lien and  
914 priority; interest; collection; cooperative ownership.—

915 (3) Rents and assessments, and installments on them, not  
916 paid when due bear interest at the rate provided in the  
917 cooperative documents from the date due until paid. This rate  
918 may not exceed the rate allowed by law, and, if no rate is  
919 provided in the cooperative documents, then interest shall  
920 accrue at 18 percent per annum. Also, if the cooperative  
921 documents or bylaws so provide, the association may charge an  
922 administrative late fee in addition to such interest, in an  
923 amount not to exceed the greater of \$25 or 5 percent of each  
924 installment of the assessment for each delinquent installment  
925 that the payment is late. Costs to the unit owner secured by the  
926 association's claim of lien with regard to collection letters or  
927 any other collection efforts by management companies or licensed  
928 managers as to any delinquent installment of an assessment may



580-04105A-09

2009880c1

929 not exceed \$75 unless the management company prepares any letter  
930 or certificate required by this chapter and charges a reasonable  
931 fee related to the preparation of such letter or certificate.

932 Any payment received by an association shall be applied first to  
933 any interest accrued by the association, then to any  
934 administrative late fee, then to any costs and reasonable  
935 attorney's fees incurred in collection, then to any reasonable  
936 costs for collection services for which the association has  
937 contracted, and then to the delinquent assessment. The foregoing  
938 shall be applicable notwithstanding any restrictive endorsement,  
939 designation, or instruction placed on or accompanying a payment.  
940 A late fee is not subject to chapter 687 or s. 719.303(3).

941 (4) The association shall have a lien on each cooperative  
942 parcel for any unpaid rents and assessments, plus interest, any  
943 authorized administrative late fees, and any reasonable costs  
944 for collection services for which the association has contracted  
945 against the unit owner of the cooperative parcel. If authorized  
946 by the cooperative documents, said lien shall also secure  
947 reasonable attorney's fees incurred by the association incident  
948 to the collection of the rents and assessments or enforcement of  
949 such lien. The lien is effective from and after the recording of  
950 a claim of lien in the public records in the county in which the  
951 cooperative parcel is located which states the description of  
952 the cooperative parcel, the name of the unit owner, the amount  
953 due, and the due dates. The lien shall expire if a claim of lien  
954 is not filed within 1 year after the date the assessment was  
955 due, and no such lien shall continue for a longer period than 1  
956 year after the claim of lien has been recorded unless, within  
957 that time, an action to enforce the lien is commenced in a court

580-04105A-09

2009880c1

958 of competent jurisdiction. Except as otherwise provided in this  
959 chapter, a lien may not be filed by the association against a  
960 cooperative parcel until 30 days after the date on which a  
961 notice of intent to file a lien has been delivered to the owner  
962 by registered or certified mail, return receipt requested, and  
963 by first-class United States mail to the owner at his or her  
964 last address in the records of the association, if the address  
965 is within the United States, and delivered to the owner at the  
966 address of the unit if the owner's address as reflected in the  
967 records of the association is not the unit address. If the  
968 address in the records is outside the United States, notice  
969 shall be sent to that address and to the unit address by first-  
970 class United States mail. Delivery of the notice shall be deemed  
971 given upon mailing as required by this subsection. ~~No lien may~~  
972 ~~be filed by the association against a cooperative parcel until~~  
973 ~~30 days after the date on which a notice of intent to file a~~  
974 ~~lien has been served on the unit owner of the cooperative parcel~~  
975 ~~by certified mail or by personal service in the manner~~  
976 ~~authorized by chapter 48 and the Florida Rules of Civil~~  
977 ~~Procedure.~~

978 (10) If the share is occupied by a tenant and the share  
979 owner is delinquent in the payment of regular assessments, the  
980 association may demand that the tenant pay to the association  
981 the future regular assessments related to the condominium share.  
982 The demand is continuing in nature, and upon demand, the tenant  
983 shall continue to pay the regular assessments to the association  
984 until the association releases the tenant or the tenant  
985 discontinues tenancy in the share. The association shall mail  
986 written notice to the share owner of the association's demand

580-04105A-09

2009880c1

987 that the tenant pay regular assessments to the association. The  
988 tenant is not liable for increases in the amount of the regular  
989 assessment due unless the tenant was reasonably notified of the  
990 increase before the day on which the rent is due. The tenant  
991 shall be given a credit against rents due to the share owner in  
992 the amount of assessments paid to the association. The  
993 association shall, upon request, provide the tenant with written  
994 receipts for payments made. The association may issue notices  
995 under s. 83.56 and may sue for eviction under ss. 83.59-83.625  
996 as if the association were a landlord under part II of chapter  
997 83 if the tenant fails to pay an assessment. However, the  
998 association is not otherwise considered a landlord under chapter  
999 83 and specifically has no duties under s. 83.51. The tenant  
1000 does not, by virtue of payment of assessments, have any of the  
1001 rights of a share owner to vote in any election or to examine  
1002 the books and records of the association. A court may supersede  
1003 the effect of this subsection by appointing a receiver.

1004 Section 8. Paragraph (b) of subsection (2) of section  
1005 720.304, Florida Statutes, is amended to read:

1006 720.304 Right of owners to peaceably assemble; display of  
1007 flag; SLAPP suits prohibited.—

1008 (2)

1009 (b) Any homeowner may erect a freestanding flagpole no more  
1010 than 20 feet high on any portion of the homeowner's real  
1011 property, regardless of any covenants, restrictions, bylaws,  
1012 rules, or requirements of the association, if the flagpole does  
1013 not obstruct sightlines at intersections and is not erected  
1014 within or upon an easement. The homeowner may further display in  
1015 a respectful manner from that flagpole, regardless of any

580-04105A-09

2009880c1

1016 covenants, restrictions, bylaws, rules, or requirements of the  
1017 association, one official United States flag, not larger than 4  
1018 1/2 feet by 6 feet, and may additionally display one official  
1019 flag of the State of Florida or the United States Army, Navy,  
1020 Air Force, Marines, or Coast Guard, or a POW-MIA flag. Such  
1021 additional flag must be equal in size to or smaller than the  
1022 United States flag. The flagpole and display are subject to all  
1023 building codes, zoning setbacks, and other applicable  
1024 governmental regulations, including, but not limited to, noise  
1025 and lighting ordinances in the county or municipality in which  
1026 the flag pole is erected.

1027 Section 9. Subsection (2) of section 720.305, Florida  
1028 Statutes, is amended to read:

1029 720.305 Obligations of members; remedies at law or in  
1030 equity; levy of fines and suspension of use rights.-

1031 (2) If the governing documents so provide, an association  
1032 may suspend, for a reasonable period of time, the rights of a  
1033 member or a member's tenants, guests, or invitees, or both, to  
1034 use common areas and facilities and may levy reasonable fines,  
1035 not to exceed \$100 per violation, against any member or any  
1036 tenant, guest, or invitee. A fine may be levied on the basis of  
1037 each day of a continuing violation, with a single notice and  
1038 opportunity for hearing, except that no such fine shall exceed  
1039 \$1,000 in the aggregate unless otherwise provided in the  
1040 governing documents. A fine shall not become a lien against a  
1041 parcel. In any action to recover a fine, the prevailing party is  
1042 entitled to collect its reasonable attorney's fees and costs  
1043 from the nonprevailing party as determined by the court. The  
1044 provisions regarding the suspension-of-use rights do not apply

580-04105A-09

2009880c1

1045 to common areas that must be used to provide access to the  
1046 parcel or utility services provided to the parcel.

1047 (a) A fine or suspension may not be imposed without notice  
1048 of at least 14 days to the person sought to be fined or  
1049 suspended and an opportunity for a hearing before a committee of  
1050 at least three members appointed by the board who are not  
1051 officers, directors, or employees of the association, or the  
1052 spouse, parent, child, brother, or sister of an officer,  
1053 director, or employee. If the committee, by majority vote, does  
1054 not approve a proposed fine or suspension, it may not be  
1055 imposed.

1056 (b) The requirements of this subsection do not apply to the  
1057 imposition of suspensions or fines upon any member because of  
1058 the failure of the member to pay assessments or other charges  
1059 when due if such action is authorized by the governing  
1060 documents. If such a fine or suspension is imposed, the  
1061 association must levy the fine or impose a reasonable suspension  
1062 at a properly noticed board meeting, and after the imposition of  
1063 such fine or suspension, the association must notify the owner  
1064 and, if applicable, the unit's occupant, licensee, or invitee by  
1065 mail or hand delivery.

1066 (c) Suspension of common-area-use rights shall not impair  
1067 the right of an owner or tenant of a parcel to have vehicular  
1068 and pedestrian ingress to and egress from the parcel, including,  
1069 but not limited to, the right to park.

1070 Section 10. Subsection (8) is added to section 720.3085,  
1071 Florida Statutes, to read:

1072 720.3085 Payment for assessments; lien claims.—

1073 (8) If the parcel is occupied by a tenant and the parcel

580-04105A-09

2009880c1

1074 owner is delinquent in the payment of regular assessments, the  
1075 association may demand that the tenant pay to the association  
1076 the future regular assessments related to the condominium  
1077 parcel. The demand is continuing in nature, and upon demand, the  
1078 tenant shall continue to pay the regular assessments to the  
1079 association until the association releases the tenant or the  
1080 tenant discontinues tenancy in the parcel. The association shall  
1081 mail written notice to the parcel owner of the association's  
1082 demand that the tenant pay regular assessments to the  
1083 association. The tenant is not liable for increases in the  
1084 amount of the regular assessment due unless the tenant was  
1085 reasonably notified of the increase before the day on which the  
1086 rent is due. The tenant shall be given a credit against rents  
1087 due to the parcel owner in the amount of assessments paid to the  
1088 association. The association shall, upon request, provide the  
1089 tenant with written receipts for payments made. The association  
1090 may issue notices under s. 83.56 and may sue for eviction under  
1091 ss. 83.59-83.625 as if the association were a landlord under  
1092 part II of chapter 83 if the tenant fails to pay an assessment.  
1093 However, the association is not otherwise considered a landlord  
1094 under chapter 83 and specifically has no duties under s. 83.51.  
1095 The tenant does not, by virtue of payment of assessments, have  
1096 any of the rights of a parcel owner to vote in any election or  
1097 to examine the books and records of the association. A court may  
1098 supersede the effect of this subsection by appointing a  
1099 receiver.

1100 Section 11. Subsection (6) is added to section 720.31,  
1101 Florida Statutes, to read:

1102 720.31 Recreational leaseholds; right to acquire;

580-04105A-09

2009880c1

1103 escalation clauses.—

1104 (6) An association may enter into agreements to acquire  
1105 leaseholds, memberships, and other possessory or use interests  
1106 in lands or facilities such as country clubs, golf courses,  
1107 marinas, and other recreational facilities. An association may  
1108 enter into such agreements regardless of whether the lands or  
1109 facilities are contiguous to the lands of the community or  
1110 whether such lands or facilities are intended to provide  
1111 enjoyment, recreation, or other use or benefit to the owners.  
1112 All leaseholds, memberships, and other possessory or use  
1113 interests existing or created at the time of recording the  
1114 declaration must be stated and fully described in the  
1115 declaration. Subsequent to the recording of the declaration,  
1116 agreements acquiring leaseholds, memberships, or other  
1117 possessory or use interests not entered into within 12 months  
1118 following the recording of the declaration may be entered into  
1119 only if authorized by the declaration for material alterations  
1120 or substantial additions to the common areas or association  
1121 property. If the declaration is silent, any such transaction  
1122 requires the approval of 75 percent of the total voting  
1123 interests of the association. The declaration may provide that  
1124 the rental, membership fees, operations, replacements, or other  
1125 expenses are common expenses; impose covenants and restrictions  
1126 concerning their use; and contain other provisions not  
1127 inconsistent with this subsection. An association exercising its  
1128 rights under this section may join with other associations that  
1129 are part of the same development or with a master association  
1130 responsible for the enforcement of shared covenants, conditions,  
1131 and restrictions in carrying out the intent of this subsection.

580-04105A-09

2009880c1

1132 Section 12. Subsection (17) of section 721.05, Florida  
1133 Statutes, is amended to read:

1134 721.05 Definitions.—As used in this chapter, the term:

1135 (17) "Facility" means any permanent amenity, including any  
1136 structure, furnishing, fixture, equipment, service, improvement,  
1137 or real or personal property, improved or unimproved, other than  
1138 an accommodation of the timeshare plan, which is made available  
1139 to the purchasers of a timeshare plan. The term does not include  
1140 an incidental benefit as defined in this section.

1141 Section 13. Subsection (2) of section 553.509, Florida  
1142 Statutes, is repealed.

1143 Section 14. This act shall take effect October 1, 2009.