

By the Committees on Judiciary; and Regulated Industries; and  
Senators Fasano and Ring

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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.; revising  
20          requirements for the reappointment of certain board  
21          members; revising board eligibility requirements;  
22          revising notice requirements for board candidates;  
23          establishing requirements for newly elected board  
24          members; providing that a director or officer  
25          delinquent in the payment of fee, fine, regular  
26          assesment, or special assessments by more than a  
27          specified number of days is deemed to have abandoned  
28          the office; requiring that a director charged by  
29          information or indictment of certain offenses

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30 involving an association's funds or property be  
31 removed from office; amending s. 718.115, F.S.;  
32 requiring that certain services obtained pursuant to a  
33 bulk contract as provided in the declaration be deemed  
34 a common expense; requiring that such contracts  
35 contain certain provisions; authorizing the  
36 cancellation of certain contracts; amending s.  
37 718.116, F.S.; limiting the amount of certain costs to  
38 the unit owner; providing an exception; authorizing an  
39 association to demand future regular assessments  
40 related to the condominium unit under specified  
41 conditions; providing that the demand is continuing in  
42 nature; requiring that a tenant continue to pay  
43 assessments until the occurrence of specified events;  
44 requiring the delivery of notice of such demand;  
45 limiting the liability of a tenant; amending s.  
46 718.303, F.S.; authorizing an association to suspend  
47 for a reasonable time the right of a unit owner or the  
48 unit's occupant, licensee, or invitee to use certain  
49 common elements under certain circumstances; excluding  
50 certain common elements from such authorization;  
51 prohibiting a fine from being levied or a suspension  
52 from being imposed unless the association meets  
53 certain notice requirements; providing circumstances  
54 under which such notice requirements do not apply;  
55 providing procedures and notice requirements for  
56 levying a fine or imposing a suspension; authorizing  
57 an association to suspend voting rights due to  
58 nonpayment of assessments, fines, or other charges

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59 delinquent by a specified number of days under certain  
60 circumstances; amending s. 718.103, F.S.; expanding  
61 the definition of "developer" to include a bulk  
62 assignee or bulk buyer; amending s. 718.301, F.S.;  
63 revising conditions under which unit owners other than  
64 the developer may elect not less than a majority of  
65 the members of the board of administration of an  
66 association; creating part VII of ch. 718, F.S.;  
67 providing a short title; providing legislative  
68 findings and intent; defining the terms "bulk  
69 assignee" and "bulk buyer"; providing for the  
70 assignment of developer rights by a bulk assignee;  
71 specifying liabilities of bulk assignees and bulk  
72 buyers; providing exceptions; providing additional  
73 responsibilities of bulk assignees and bulk buyers;  
74 authorizing certain entities to assign developer  
75 rights to a bulk assignee; limiting the number of bulk  
76 assignees at any given time; providing for the  
77 transfer of control of a board of administration;  
78 providing effects of such transfer on parcels acquired  
79 by a bulk assignee; providing obligations of a bulk  
80 assignee upon the transfer of control of a board of  
81 administration; requiring that a bulk assignee certify  
82 certain information in writing; providing for the  
83 resolution of a conflict between specified provisions  
84 of state law; providing that the failure of a bulk  
85 assignee or bulk buyer to comply with specified  
86 provisions of state law results in the loss of certain  
87 protections and exemptions; requiring that a bulk

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88 assignee or bulk buyer file certain information with  
89 the Division of Florida Condominiums, Timeshares, and  
90 Mobile Homes of the Department of Business and  
91 Professional Regulation before offering any units for  
92 sale or lease in excess of a specified term; requiring  
93 that a copy of such information be provided to a  
94 prospective purchaser; requiring that certain  
95 contracts and disclosure statements contain specified  
96 statements; requiring that a bulk assignee or bulk  
97 buyer comply with certain disclosure requirements;  
98 prohibiting a bulk assignee from taking certain  
99 actions on behalf of an association while the bulk  
100 assignee is in control of the board of administration  
101 of the association and requiring that such bulk  
102 assignee comply with certain requirements; requiring  
103 that a bulk assignee or bulk buyer comply with certain  
104 requirements regarding certain contracts; providing  
105 unit owners with specified protections regarding  
106 certain contracts; requiring that a bulk buyer comply  
107 with certain requirements regarding the transfer of a  
108 unit; prohibiting a person from being classified as a  
109 bulk assignee or bulk buyer unless condominium parcels  
110 were acquired before a specified date; providing for  
111 the determination of the date of acquisition of a  
112 parcel; providing that the assignment of developer  
113 rights to a bulk assignee does not release a developer  
114 from certain liabilities; preserving certain  
115 liabilities for certain parties; amending s. 719.108,  
116 F.S.; authorizing an association to recover charges

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117 incurred in connection with collecting a delinquent  
118 assessment up to a specified maximum amount; providing  
119 a prioritized list for disbursement of payments  
120 received by an association; providing for a lien by an  
121 association on a condominium unit for certain fees and  
122 costs; providing procedures and notice requirements  
123 for the filing of a lien by an association;  
124 authorizing an association to demand future regular  
125 assessments related to a unit under specified  
126 conditions; amending s. 720.304, F.S.; providing that  
127 a flagpole and any flagpole display are subject to  
128 certain codes and regulations; amending s. 720.305,  
129 F.S.; authorizing the association to suspend certain  
130 rights under certain circumstances; providing that  
131 certain provisions regarding the suspension-of-use  
132 rights of an association do not apply to certain  
133 portions of common areas; providing procedures and  
134 notice requirements for levying a fine or imposing a  
135 suspension; amending s. 720.3085, F.S.; authorizing an  
136 association to demand future regular assessments  
137 related to a parcel under specified conditions;  
138 amending s. 720.31, F.S.; authorizing an association  
139 to enter into certain agreements; requiring that  
140 certain items be stated and fully described in the  
141 declaration; limiting an association's power to enter  
142 into such agreements after a specified period  
143 following the recording of a declaration; requiring  
144 that certain agreements be approved by a specified  
145 percentage of voting interests of an association when

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146 the declaration is silent as to the authority of an  
147 association to enter into such agreement; authorizing  
148 an association to join with other associations or a  
149 master association under certain circumstances and for  
150 specified purposes; amending s. 721.05, F.S.; limiting  
151 the definition of "facility" to certain permanent  
152 amenities; repealing s. 553.509(2), F.S., relating to  
153 public elevators and emergency operation plans in  
154 certain condominiums and multifamily dwellings;  
155 amending s. 720.303, F.S.; revising provisions  
156 relating to homeowners' association board meetings,  
157 inspection and copying of records, and reserve  
158 accounts of budgets; prohibiting certain association  
159 personnel from receiving a salary or compensation;  
160 providing exceptions; amending s. 720.306, F.S.;

161 providing requirements for secret ballots; creating s.  
162 720.315, F.S.; prohibiting the board of directors of a  
163 homeowners' association from levying a special  
164 assessment before turnover of the association by the  
165 developer unless certain conditions are met; amending  
166 s. 723.071, F.S.; revising notice requirements  
167 relating to the sale of mobile home parks; revising  
168 provisions relating to a homeowners' association's  
169 right to purchase the mobile home park; providing  
170 requirements for the purchase of the park by a  
171 homeowners' association; requiring that a park owner  
172 comply with certain provisions of state law if the  
173 mobile home owners have informed the park owner that  
174 they are ready and willing to purchase the park;

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175 providing that the park owner has no obligation to  
176 comply with such provisions under certain  
177 circumstances; providing requirements for the  
178 homeowners' expression of readiness and willingness to  
179 purchase the park; deleting definitions to conform to  
180 changes made by the act; providing an effective date.  
181

182 Be It Enacted by the Legislature of the State of Florida:  
183

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

186 718.110 Amendment of declaration; correction of error or  
187 omission in declaration by circuit court.—

188 (13) Any amendment prohibiting ~~restricting~~ unit owners from  
189 renting their units or altering the number of times unit owners  
190 are entitled to rent their units during a specified period  
191 ~~owners' rights relating to the rental of units~~ applies only to  
192 unit owners who consent to the amendment and unit owners who  
193 acquire title to ~~purchase~~ their units after the effective date  
194 of that amendment.

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

197 718.111 The association.—

198 (12) OFFICIAL RECORDS.—

199 (a) From the inception of the association, the association  
200 shall maintain each of the following items, when applicable,  
201 which shall constitute the official records of the association:

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

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204           2. A photocopy of the recorded declaration of condominium  
205 of each condominium operated by the association and of each  
206 amendment to each declaration.

207           3. A photocopy of the recorded bylaws of the association  
208 and of each amendment to the bylaws.

209           4. A certified copy of the articles of incorporation of the  
210 association, or other documents creating the association, and of  
211 each amendment thereto.

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

213           6. A book or books which contain the minutes of all  
214 meetings of the association, of the board of administration, and  
215 of unit owners, which minutes shall be retained for a period of  
216 not less than 7 years.

217           7. A current roster of all unit owners and their mailing  
218 addresses, unit identifications, voting certifications, and, if  
219 known, telephone numbers. The association shall also maintain  
220 the electronic mailing addresses and the numbers designated by  
221 unit owners for receiving notice sent by electronic transmission  
222 of those unit owners consenting to receive notice by electronic  
223 transmission. The electronic mailing addresses and numbers  
224 provided by unit owners to receive notice by electronic  
225 transmission shall be removed from association records when  
226 consent to receive notice by electronic transmission is revoked.  
227 However, the association is not liable for an erroneous  
228 disclosure of the electronic mail address or the number for  
229 receiving electronic transmission of notices.

230           8. All current insurance policies of the association and  
231 condominiums operated by the association.

232           9. A current copy of any management agreement, lease, or



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233 other contract to which the association is a party or under  
234 which the association or the unit owners have an obligation or  
235 responsibility.

236 10. Bills of sale or transfer for all property owned by the  
237 association.

238 11. Accounting records for the association and separate  
239 accounting records for each condominium which the association  
240 operates. All accounting records shall be maintained for a  
241 period of not less than 7 years. Any person who knowingly or  
242 intentionally defaces or destroys accounting records required to  
243 be created and maintained by this chapter during the period for  
244 which such records are required to be maintained pursuant to  
245 this chapter, or who knowingly or intentionally fails to create  
246 or maintain accounting records required to be maintained by this  
247 chapter, with the intent of causing harm to the association or  
248 one or more of its members, is personally subject to a civil  
249 penalty pursuant to s. 718.501(1)(d). The accounting records  
250 shall include, but are not limited to:

251 a. Accurate, itemized, and detailed records of all receipts  
252 and expenditures.

253 b. A current account and a monthly, bimonthly, or quarterly  
254 statement of the account for each unit designating the name of  
255 the unit owner, the due date and amount of each assessment, the  
256 amount paid upon the account, and the balance due.

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

259 d. All contracts for work to be performed. Bids for work to  
260 be performed shall also be considered official records and shall  
261 be maintained by the association.

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

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

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

271 15. All other records of the association not specifically  
272 included in the foregoing which are related to the operation of  
273 the association.

274 16. A copy of the inspection report as provided for in s.  
275 718.301(4)(p).

276 (b) The official records of the association shall be  
277 maintained within the state for at least 7 years. The records of  
278 the association shall be made available to a unit owner within  
279 45 miles of the condominium property or within the county in  
280 which the condominium property is located within 5 working days  
281 after receipt of written request by the board or its designee.  
282 However, such distance requirement does not apply to an  
283 association governing a timeshare condominium. This paragraph  
284 may be complied with by having a copy of the official records of  
285 the association available for inspection or copying on the  
286 condominium property or association property, or the association  
287 may offer the option of making the records of the association  
288 available to a unit owner either electronically via the Internet  
289 or by allowing the records to be viewed in electronic format on  
290 a computer screen and printed upon request. The association is

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291 not responsible for the use or misuse of the information  
292 provided pursuant to the compliance requirements of this chapter  
293 unless the association has an affirmative duty not to disclose  
294 such information pursuant to this chapter.

295 (c) The official records of the association are open to  
296 inspection by any association member or the authorized  
297 representative of such member at all reasonable times. The right  
298 to inspect the records includes the right to make or obtain  
299 copies, at the reasonable expense, if any, of the association  
300 member. The association may adopt reasonable rules regarding the  
301 frequency, time, location, notice, and manner of record  
302 inspections and copying. The failure of an association to  
303 provide the records within 10 working days after receipt of a  
304 written request shall create a rebuttable presumption that the  
305 association willfully failed to comply with this paragraph. A  
306 unit owner who is denied access to official records is entitled  
307 to the actual damages or minimum damages for the association's  
308 willful failure to comply with this paragraph. The minimum  
309 damages shall be \$50 per calendar day up to 10 days, the  
310 calculation to begin on the 11th working day after receipt of  
311 the written request. The failure to permit inspection of the  
312 association records as provided herein entitles any person  
313 prevailing in an enforcement action to recover reasonable  
314 attorney's fees from the person in control of the records who,  
315 directly or indirectly, knowingly denied access to the records  
316 for inspection. Any person who knowingly or intentionally  
317 defaces or destroys accounting records that are required by this  
318 chapter to be created and maintained during the period for which  
319 such records are required to be maintained pursuant to this

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320 chapter, or who knowingly or intentionally fails to create or  
321 maintain accounting records that are required to be maintained  
322 by this chapter, with the intent of causing harm to the  
323 association or one or more of its members, is personally subject  
324 to a civil penalty pursuant to s. 718.501(1)(d). The association  
325 shall maintain an adequate number of copies of the declaration,  
326 articles of incorporation, bylaws, and rules, and all amendments  
327 to each of the foregoing, as well as the question and answer  
328 sheet provided for in s. 718.504 and year-end financial  
329 information required in this section, on the condominium  
330 property to ensure their availability to unit owners and  
331 prospective purchasers, and may charge its actual costs for  
332 preparing and furnishing these documents to those requesting the  
333 documents ~~same~~. Notwithstanding the provisions of this  
334 paragraph, the following records shall not be accessible to unit  
335 owners:

336 1. Any record protected by the lawyer-client privilege as  
337 described in s. 90.502; and any record protected by the work-  
338 product privilege, including any record prepared by an  
339 association attorney or prepared at the attorney's express  
340 direction; which reflects a mental impression, conclusion,  
341 litigation strategy, or legal theory of the attorney or the  
342 association, and which was prepared exclusively for civil or  
343 criminal litigation or for adversarial administrative  
344 proceedings, or which was prepared in anticipation of imminent  
345 civil or criminal litigation or imminent adversarial  
346 administrative proceedings until the conclusion of the  
347 litigation or adversarial administrative proceedings.

348 2. Information obtained by an association in connection

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349 with the approval of the lease, sale, or other transfer of a  
350 unit.

351 3. Disciplinary, health, insurance, and personnel records  
352 of the association's employees.

353 ~~4.3.~~ Medical records of unit owners.

354 ~~5.4.~~ Social security numbers, driver's license numbers,  
355 credit card numbers, e-mail addresses, and other personal  
356 identifying information of any person, excluding the person's  
357 name, unit designation, mailing address, property address, and  
358 other contact information.

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

361 7. The data generated by software used by the association  
362 which allows manipulation of data. Such data is part of the  
363 official records of the association, even if the owner owns a  
364 copy of the same software used by the association, but the  
365 underlying software and operating system are not part of the  
366 official records of the association.

367 (13) FINANCIAL REPORTING.—Within 90 days after the end of  
368 the fiscal year, or annually on a date provided in the bylaws,  
369 the association shall prepare and complete, or contract for the  
370 preparation and completion of, a financial report for the  
371 preceding fiscal year. Within 21 days after the final financial  
372 report is completed by the association or received from the  
373 third party, but not later than 120 days after the end of the  
374 fiscal year or other date as provided in the bylaws, the  
375 association shall mail to each unit owner at the address last  
376 furnished to the association by the unit owner, or hand deliver  
377 to each unit owner, a copy of the financial report or a notice

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378 that a copy of the financial report will be mailed or hand  
379 delivered to the unit owner, without charge, upon receipt of a  
380 written request from the unit owner. The division shall adopt  
381 rules setting forth uniform accounting principles and standards  
382 to be used by all associations and shall adopt rules addressing  
383 financial reporting requirements for multicondominium  
384 associations. The rules shall include, but not be limited to,  
385 standards for presenting a summary of association reserves,  
386 including, but not limited to, a good faith estimate disclosing  
387 the annual amount of reserve funds that would be necessary for  
388 the association to fully fund reserves for each reserve item  
389 based on the straight-line accounting method. This disclosure is  
390 not applicable to reserves funded via the pooling method ~~uniform~~  
391 ~~accounting principles and standards for stating the disclosure~~  
392 ~~of at least a summary of the reserves, including information as~~  
393 ~~to whether such reserves are being funded at a level sufficient~~  
394 ~~to prevent the need for a special assessment and, if not, the~~  
395 ~~amount of assessments necessary to bring the reserves up to the~~  
396 ~~level necessary to avoid a special assessment. The person~~  
397 ~~preparing the financial reports shall be entitled to rely on an~~  
398 ~~inspection report prepared for or provided to the association to~~  
399 ~~meet the fiscal and fiduciary standards of this chapter. In~~  
400 adopting such rules, the division shall consider the number of  
401 members and annual revenues of an association. Financial reports  
402 shall be prepared as follows:

403 (a) An association that meets the criteria of this  
404 paragraph shall prepare or cause to be prepared a complete set  
405 of financial statements in accordance with generally accepted  
406 accounting principles. The financial statements shall be based

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407 upon the association's total annual revenues, as follows:

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

411 2. An association with total annual revenues of at least  
412 \$200,000, but less than \$400,000, shall prepare reviewed  
413 financial statements.

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

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

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

423 3. A report of cash receipts and disbursements must  
424 disclose the amount of receipts by accounts and receipt  
425 classifications and the amount of expenses by accounts and  
426 expense classifications, including, but not limited to, the  
427 following, as applicable: costs for security, professional and  
428 management fees and expenses, taxes, costs for recreation  
429 facilities, expenses for refuse collection and utility services,  
430 expenses for lawn care, costs for building maintenance and  
431 repair, insurance costs, administration and salary expenses, and  
432 reserves accumulated and expended for capital expenditures,  
433 deferred maintenance, and any other category for which the  
434 association maintains reserves.

435 (c) An association may prepare or cause to be prepared,

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436 without a meeting of or approval by the unit owners:

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

440 2. Reviewed or audited financial statements, if the  
441 association is required to prepare compiled financial  
442 statements; or

443 3. Audited financial statements if the association is  
444 required to prepare reviewed financial statements.

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

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

450 2. A report of cash receipts and expenditures or a compiled  
451 financial statement in lieu of a reviewed or audited financial  
452 statement; or

453 3. A report of cash receipts and expenditures, a compiled  
454 financial statement, or a reviewed financial statement in lieu  
455 of an audited financial statement.

456

457 Such meeting and approval must occur before ~~prior to~~ the end of  
458 the fiscal year and is effective only for the fiscal year in  
459 which the vote is taken, except that the approval also may be  
460 effective for the following fiscal year. With respect to an  
461 association to which the developer has not turned over control  
462 of the association, all unit owners, including the developer,  
463 may vote on issues related to the preparation of financial  
464 reports for the first 2 fiscal years of the association's



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465 operation, beginning with the fiscal year in which the  
466 declaration is recorded. Thereafter, all unit owners except the  
467 developer may vote on such issues until control is turned over  
468 to the association by the developer. Any audit or review  
469 prepared under this section shall be paid for by the developer  
470 if done prior to turnover of control of the association. An  
471 association may not waive the financial reporting requirements  
472 of this section for more than 3 consecutive years.

473 Section 3. Paragraphs (d), (n), and (o) of subsection (2)  
474 of section 718.112, Florida Statutes, are amended to read:

475 718.112 Bylaws.—

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

479 (d) *Unit owner meetings.*—

480 1. There shall be an annual meeting of the unit owners held  
481 at the location provided in the association bylaws and, if the  
482 bylaws are silent as to the location, the meeting shall be held  
483 within 45 miles of the condominium property. However, such  
484 distance requirement does not apply to an association governing  
485 a timeshare condominium. Unless the bylaws provide otherwise, a  
486 vacancy on the board caused by the expiration of a director's  
487 term shall be filled by electing a new board member, and the  
488 election shall be by secret ballot; however, if the number of  
489 vacancies equals ~~or exceeds~~ the number of candidates, no  
490 election is required. The terms of all members of the board  
491 shall expire at the annual meeting and such board members may  
492 stand for reelection unless otherwise permitted by the bylaws.  
493 In the event that the bylaws permit staggered terms of no more

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494 than 2 years and upon approval of a majority of the total voting  
495 interests, the association board members may serve 2-year  
496 staggered terms. If the number ~~no person is interested in or~~  
497 ~~demonstrates an intention to run for the position~~ of a board  
498 members ~~member~~ whose terms have ~~term has~~ expired according to  
499 the provisions of this subparagraph exceeds the number of  
500 eligible members showing interest in or demonstrating an  
501 intention to run for the vacant positions, each ~~such~~ board  
502 member whose term has expired shall become eligible for  
503 reappointment ~~be automatically reappointed~~ to the board of  
504 administration and need not stand for reelection. In a  
505 condominium association of more than 10 units, coowners of a  
506 unit may not serve as members of the board of directors at the  
507 same time unless they own more than one unit and are not co-  
508 occupants of a unit or unless there are not enough owners to  
509 fill the vacancies on the board. Any unit owner desiring to be a  
510 candidate for board membership shall comply with sub-  
511 subparagraph ~~subparagraph~~ 3.a. A person who has been suspended  
512 or removed by the division under this chapter, or who is  
513 delinquent in the payment of any fee, fine, or special or  
514 regular assessment as provided in paragraph (n), is not eligible  
515 for board membership. A person who has been convicted of any  
516 felony in this state or in a United States District or  
517 Territorial Court, or who has been convicted of any offense in  
518 another jurisdiction that would be considered a felony if  
519 committed in this state, is not eligible for board membership  
520 unless such felon's civil rights have been restored for a period  
521 of no less than 5 years as of the date on which such person  
522 seeks election to the board. The validity of an action by the

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523 board is not affected if it is later determined that a member of  
524 the board is ineligible for board membership due to having been  
525 convicted of a felony.

526         2. The bylaws shall provide the method of calling meetings  
527 of unit owners, including annual meetings. Written notice, which  
528 notice must include an agenda, shall be mailed, hand delivered,  
529 or electronically transmitted to each unit owner at least 14  
530 days prior to the annual meeting and shall be posted in a  
531 conspicuous place on the condominium property at least 14  
532 continuous days preceding the annual meeting. Upon notice to the  
533 unit owners, the board shall by duly adopted rule designate a  
534 specific location on the condominium property or association  
535 property upon which all notices of unit owner meetings shall be  
536 posted; however, if there is no condominium property or  
537 association property upon which notices can be posted, this  
538 requirement does not apply. In lieu of or in addition to the  
539 physical posting of notice of any meeting of the unit owners on  
540 the condominium property, the association may, by reasonable  
541 rule, adopt a procedure for conspicuously posting and repeatedly  
542 broadcasting the notice and the agenda on a closed-circuit cable  
543 television system serving the condominium association. However,  
544 if broadcast notice is used in lieu of a notice posted  
545 physically on the condominium property, the notice and agenda  
546 must be broadcast at least four times every broadcast hour of  
547 each day that a posted notice is otherwise required under this  
548 section. When broadcast notice is provided, the notice and  
549 agenda must be broadcast in a manner and for a sufficient  
550 continuous length of time so as to allow an average reader to  
551 observe the notice and read and comprehend the entire content of

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552 the notice and the agenda. Unless a unit owner waives in writing  
553 the right to receive notice of the annual meeting, such notice  
554 shall be hand delivered, mailed, or electronically transmitted  
555 to each unit owner. Notice for meetings and notice for all other  
556 purposes shall be mailed to each unit owner at the address last  
557 furnished to the association by the unit owner, or hand  
558 delivered to each unit owner. However, if a unit is owned by  
559 more than one person, the association shall provide notice, for  
560 meetings and all other purposes, to that one address which the  
561 developer initially identifies for that purpose and thereafter  
562 as one or more of the owners of the unit shall so advise the  
563 association in writing, or if no address is given or the owners  
564 of the unit do not agree, to the address provided on the deed of  
565 record. An officer of the association, or the manager or other  
566 person providing notice of the association meeting, shall  
567 provide an affidavit or United States Postal Service certificate  
568 of mailing, to be included in the official records of the  
569 association affirming that the notice was mailed or hand  
570 delivered, in accordance with this provision.

571       3.a. The members of the board shall be elected by written  
572 ballot or voting machine. Proxies shall in no event be used in  
573 electing the board, either in general elections or elections to  
574 fill vacancies caused by recall, resignation, or otherwise,  
575 unless otherwise provided in this chapter. Not less than 60 days  
576 before a scheduled election, the association shall mail,  
577 deliver, or electronically transmit, whether by separate  
578 association mailing or included in another association mailing,  
579 delivery, or transmission, including regularly published  
580 newsletters, to each unit owner entitled to a vote, a first

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581 notice of the date of the election ~~along with a certification~~  
582 ~~form provided by the division attesting that he or she has read~~  
583 ~~and understands, to the best of his or her ability, the~~  
584 ~~governing documents of the association and the provisions of~~  
585 ~~this chapter and any applicable rules.~~ Any unit owner or other  
586 eligible person desiring to be a candidate for the board must  
587 give written notice of his or her intent to be a candidate to  
588 the association not less than 40 days before a scheduled  
589 election. Together with the written notice and agenda as set  
590 forth in subparagraph 2., the association shall mail, deliver,  
591 or electronically transmit a second notice of the election to  
592 all unit owners entitled to vote therein, together with a ballot  
593 which shall list all candidates. Upon request of a candidate,  
594 ~~the association shall include~~ an information sheet, no larger  
595 than 8 1/2 inches by 11 inches, which must be furnished by the  
596 candidate not less than 35 days before the election, shall ~~along~~  
597 ~~with the signed certification form provided for in this~~  
598 ~~subparagraph,~~ to be included with the mailing, delivery, or  
599 transmission of the ballot, with the costs of mailing, delivery,  
600 or electronic transmission and copying to be borne by the  
601 association. The association is not liable for the contents of  
602 the information sheets prepared by the candidates. In order to  
603 reduce costs, the association may print or duplicate the  
604 information sheets on both sides of the paper. The division  
605 shall by rule establish voting procedures consistent with the  
606 provisions contained herein, including rules establishing  
607 procedures for giving notice by electronic transmission and  
608 rules providing for the secrecy of ballots. Elections shall be  
609 decided by a plurality of those ballots cast. There shall be no

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610 quorum requirement; however, at least 20 percent of the eligible  
611 voters must cast a ballot in order to have a valid election of  
612 members of the board. No unit owner shall permit any other  
613 person to vote his or her ballot, and any such ballots  
614 improperly cast shall be deemed invalid, provided any unit owner  
615 who violates this provision may be fined by the association in  
616 accordance with s. 718.303. A unit owner who needs assistance in  
617 casting the ballot for the reasons stated in s. 101.051 may  
618 obtain assistance in casting the ballot. The regular election  
619 shall occur on the date of the annual meeting. The provisions of  
620 this sub-subparagraph ~~subparagraph~~ shall not apply to timeshare  
621 condominium associations. Notwithstanding the provisions of this  
622 sub-subparagraph ~~subparagraph~~, an election is not required  
623 unless more candidates file notices of intent to run or are  
624 nominated than board vacancies exist.

625 b. Within 90 days after being elected to the board, each  
626 newly elected director shall certify in writing to the secretary  
627 of the association that he or she has read the association's  
628 declarations of covenants and restrictions, articles of  
629 incorporation, bylaws, and current written policies; that he or  
630 she will work to uphold such documents and policies to the best  
631 of his or her ability; and that he or she will faithfully  
632 discharge his or her fiduciary responsibility to the  
633 association's members. In lieu of this written certification,  
634 the newly elected director may submit a certificate of  
635 satisfactory completion of the educational curriculum  
636 administered by a division-approved condominium education  
637 provider. Failure to timely file the written certification or  
638 educational certificate automatically disqualifies the director

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639 from service on the board. The secretary shall cause the  
640 association to retain a director's written certification or  
641 educational certificate for inspection by the members for 5  
642 years after a director's election. Failure to have such written  
643 certification or educational certificate on file does not affect  
644 the validity of any appropriate action.

645 4. Any approval by unit owners called for by this chapter  
646 or the applicable declaration or bylaws, including, but not  
647 limited to, the approval requirement in s. 718.111(8), shall be  
648 made at a duly noticed meeting of unit owners and shall be  
649 subject to all requirements of this chapter or the applicable  
650 condominium documents relating to unit owner decisionmaking,  
651 except that unit owners may take action by written agreement,  
652 without meetings, on matters for which action by written  
653 agreement without meetings is expressly allowed by the  
654 applicable bylaws or declaration or any statute that provides  
655 for such action.

656 5. Unit owners may waive notice of specific meetings if  
657 allowed by the applicable bylaws or declaration or any statute.  
658 If authorized by the bylaws, notice of meetings of the board of  
659 administration, unit owner meetings, except unit owner meetings  
660 called to recall board members under paragraph (j), and  
661 committee meetings may be given by electronic transmission to  
662 unit owners who consent to receive notice by electronic  
663 transmission.

664 6. Unit owners shall have the right to participate in  
665 meetings of unit owners with reference to all designated agenda  
666 items. However, the association may adopt reasonable rules  
667 governing the frequency, duration, and manner of unit owner

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668 participation.

669 7. Any unit owner may tape record or videotape a meeting of  
670 the unit owners subject to reasonable rules adopted by the  
671 division.

672 8. Unless otherwise provided in the bylaws, any vacancy  
673 occurring on the board before the expiration of a term may be  
674 filled by the affirmative vote of the majority of the remaining  
675 directors, even if the remaining directors constitute less than  
676 a quorum, or by the sole remaining director. In the alternative,  
677 a board may hold an election to fill the vacancy, in which case  
678 the election procedures must conform to the requirements of sub-  
679 subparagraph ~~subparagraph~~ 3.a. unless the association governs 10  
680 units or fewer ~~less~~ and has opted out of the statutory election  
681 process, in which case the bylaws of the association control.  
682 Unless otherwise provided in the bylaws, a board member  
683 appointed or elected under this section shall fill the vacancy  
684 for the unexpired term of the seat being filled. Filling  
685 vacancies created by recall is governed by paragraph (j) and  
686 rules adopted by the division.

687  
688 Notwithstanding subparagraph ~~subparagraphs~~ (b)2. and sub-  
689 subparagraph (d)3.a., an association of 10 or fewer units may,  
690 by the affirmative vote of a majority of the total voting  
691 interests, provide for different voting and election procedures  
692 in its bylaws, which vote may be by a proxy specifically  
693 delineating the different voting and election procedures. The  
694 different voting and election procedures may provide for  
695 elections to be conducted by limited or general proxy.

696 (n) *Director or officer delinquencies.*—A director or



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697 officer more than 90 days delinquent in the payment of any fee,  
698 fine, regular assessment, or special assessment ~~assessments~~  
699 shall be deemed to have abandoned the office, creating a vacancy  
700 in the office to be filled according to law.

701 (o) *Director or officer offenses.*—A director or officer  
702 charged by information or indictment with a felony theft or  
703 embezzlement offense involving the association's funds or  
704 property shall be removed from office, creating a vacancy in the  
705 office to be filled according to law. While such director or  
706 officer has such criminal charge pending, he or she may not be  
707 appointed or elected to a position as a director or officer.  
708 However, should the charges be resolved without a finding of  
709 guilt, the director or officer shall be reinstated for the  
710 remainder of his or her term of office, if any.

711 Section 4. Paragraph (d) of subsection (1) of section  
712 718.115, Florida Statutes, is amended to read:

713 718.115 Common expenses and common surplus.—

714 (1)

715 (d) If so provided in the declaration, the cost of  
716 communications services as defined in chapter 202, information  
717 services, or Internet services ~~a master antenna television~~  
718 ~~system or duly franchised cable television service~~ obtained  
719 pursuant to a bulk contract shall be deemed a common expense. If  
720 the declaration does not provide for the cost of communications  
721 services as defined in chapter 202, information services, or  
722 Internet services ~~a master antenna television system or duly~~  
723 ~~franchised cable television service~~ obtained under a bulk  
724 contract as a common expense, the board may enter into such a  
725 contract, and the cost of the service will be a common expense

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726 but allocated on a per-unit basis rather than a percentage basis  
727 if the declaration provides for other than an equal sharing of  
728 common expenses, and any contract entered into before July 1,  
729 1998, in which the cost of the service is not equally divided  
730 among all unit owners, may be changed by vote of a majority of  
731 the voting interests present at a regular or special meeting of  
732 the association, to allocate the cost equally among all units.  
733 The contract shall be for a term of not less than 2 years.

734 1. Any contract made by the board after the effective date  
735 hereof for communications services as defined in chapter 202,  
736 information services, or Internet services ~~a community antenna~~  
737 ~~system or duly franchised cable television service~~ may be  
738 canceled by a majority of the voting interests present at the  
739 next regular or special meeting of the association. Any member  
740 may make a motion to cancel the ~~said~~ contract, but if no motion  
741 is made or if such motion fails to obtain the required majority  
742 at the next regular or special meeting, whichever occurs ~~is~~  
743 sooner, following the making of the contract, ~~then~~ such contract  
744 shall be deemed ratified for the term therein expressed.

745 2. Any such contract shall provide, and shall be deemed to  
746 provide if not expressly set forth, that any hearing-impaired or  
747 legally blind unit owner who does not occupy the unit with a  
748 non-hearing-impaired or sighted person, or any unit owner  
749 receiving supplemental security income under Title XVI of the  
750 Social Security Act or food stamps as administered by the  
751 Department of Children and Family Services pursuant to s.  
752 414.31, may discontinue the cable or video service without  
753 incurring disconnect fees, penalties, or subsequent service  
754 charges, and, as to such units, the owners shall not be required

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755 to pay any common expenses charge related to such service. If  
756 fewer ~~less~~ than all members of an association share the expenses  
757 of cable or video service television, the expense shall be  
758 shared equally by all participating unit owners. The association  
759 may use the provisions of s. 718.116 to enforce payment of the  
760 shares of such costs by the unit owners receiving cable or video  
761 service television.

762 Section 5. Paragraph (b) of subsection (5) of section  
763 718.116, Florida Statutes, is amended, and subsection (11) is  
764 added to that section, to read:

765 718.116 Assessments; liability; lien and priority;  
766 interest; collection.—

767 (5)

768 (b) To be valid, a claim of lien must state the description  
769 of the condominium parcel, the name of the record owner, the  
770 name and address of the association, the amount due, and the due  
771 dates. It must be executed and acknowledged by an officer or  
772 authorized agent of the association. No such lien shall be  
773 effective longer than 1 year after the claim of lien was  
774 recorded unless, within that time, an action to enforce the lien  
775 is commenced. The 1-year period shall automatically be extended  
776 for any length of time during which the association is prevented  
777 from filing a foreclosure action by an automatic stay resulting  
778 from a bankruptcy petition filed by the parcel owner or any  
779 other person claiming an interest in the parcel. The claim of  
780 lien shall secure all unpaid assessments which are due and which  
781 may accrue subsequent to the recording of the claim of lien and  
782 before ~~prior to~~ the entry of a certificate of title, as well as  
783 interest and all reasonable costs and attorney's fees incurred

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784 by the association incident to the collection process. Costs to  
785 the unit owner secured by the association's claim of lien with  
786 regard to collection letters or any other collection efforts by  
787 management companies or licensed managers as to any delinquent  
788 installment of an assessment may not exceed \$75 unless the  
789 management company prepares any letter or estoppel certificate  
790 required by this chapter and charges a reasonable fee related to  
791 the preparation of such letter or estoppel certificate. Upon  
792 payment in full, the person making the payment is entitled to a  
793 satisfaction of the lien.

794

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

808 (11) If the unit is occupied by a tenant and the unit owner  
809 is delinquent in the payment of regular assessments, the  
810 association may demand that the tenant pay to the association  
811 the future regular assessments related to the condominium unit.  
812 The demand is continuing in nature, and upon demand, the tenant

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813 shall continue to pay the regular assessments to the association  
814 until the association releases the tenant or the tenant  
815 discontinues tenancy in the unit. The association shall mail  
816 written notice to the unit owner of the association's demand  
817 that the tenant pay regular assessments to the association. The  
818 tenant is not liable for increases in the amount of the regular  
819 assessment due unless the tenant was reasonably notified of the  
820 increase before the day on which the rent is due. The liability  
821 of the tenant may not exceed the amount due from the tenant to  
822 the tenant's landlord. The tenant's landlord shall provide the  
823 tenant a credit against rents due to the unit owner in the  
824 amount of assessments paid to the association under this  
825 section. The association shall, upon request, provide the tenant  
826 with written receipts for payments made. The association may  
827 issue notices under s. 83.56 and may sue for eviction under ss.  
828 83.59-83.625 as if the association were a landlord under part II  
829 of chapter 83 if the tenant fails to pay an assessment. However,  
830 the association is not otherwise considered a landlord under  
831 chapter 83 and specifically has no duties under s. 83.51. The  
832 tenant does not, by virtue of payment of assessments, have any  
833 of the rights of a unit owner to vote in any election or to  
834 examine the books and records of the association. A court may  
835 supersede the effect of this subsection by appointing a  
836 receiver.

837 Section 6. Section 718.303, Florida Statutes, is amended to  
838 read:

839 718.303 Obligations of owners and occupants; waiver; levy  
840 of fines, suspension of use or voting rights, and other  
841 nonexclusive remedies in law or equity ~~fine against unit~~ by an

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842 association.—

843 (1) Each unit owner, each tenant and other invitee, and  
844 each association shall be governed by, and shall comply with the  
845 provisions of, this chapter, the declaration, the documents  
846 creating the association, and the association bylaws and the  
847 provisions thereof shall be deemed expressly incorporated into  
848 any lease of a unit. Actions for damages or for injunctive  
849 relief, or both, for failure to comply with these provisions may  
850 be brought by the association or by a unit owner against:

851 (a) The association.

852 (b) A unit owner.

853 (c) Directors designated by the developer, for actions  
854 taken by them prior to the time control of the association is  
855 assumed by unit owners other than the developer.

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

858 (e) Any tenant leasing a unit, and any other invitee  
859 occupying a unit.

860

861 The prevailing party in any such action or in any action in  
862 which the purchaser claims a right of voidability based upon  
863 contractual provisions as required in s. 718.503(1)(a) is  
864 entitled to recover reasonable attorney's fees. A unit owner  
865 prevailing in an action between the association and the unit  
866 owner under this section, in addition to recovering his or her  
867 reasonable attorney's fees, may recover additional amounts as  
868 determined by the court to be necessary to reimburse the unit  
869 owner for his or her share of assessments levied by the  
870 association to fund its expenses of the litigation. This relief

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871 does not exclude other remedies provided by law. Actions arising  
872 under this subsection shall not be deemed to be actions for  
873 specific performance.

874 (2) A provision of this chapter may not be waived if the  
875 waiver would adversely affect the rights of a unit owner or the  
876 purpose of the provision, except that unit owners or members of  
877 a board of administration may waive notice of specific meetings  
878 in writing if provided by the bylaws. Any instruction given in  
879 writing by a unit owner or purchaser to an escrow agent may be  
880 relied upon by an escrow agent, whether or not such instruction  
881 and the payment of funds thereunder might constitute a waiver of  
882 any provision of this chapter.

883 (3) If a unit owner is delinquent for more than 90 days in  
884 the payment of a regular or special assessment or if the  
885 declaration or bylaws so provide, the association may suspend,  
886 for a reasonable time, the right of a unit owner or a unit's  
887 occupant, licensee, or invitee to use common elements, common  
888 facilities, or any other association property. This subsection  
889 does not apply to limited common elements intended to be used  
890 only by that unit, common elements that must be used to access  
891 the unit, utility services provided to the unit, parking spaces,  
892 or elevators. The association may also levy reasonable fines  
893 ~~against a unit~~ for the failure of the owner of the unit, or its  
894 occupant, licensee, or invitee, to comply with any provision of  
895 the declaration, the association bylaws, or reasonable rules of  
896 the association. No fine will become a lien against a unit. A ~~No~~  
897 fine may not exceed \$100 per violation. However, a fine may be  
898 levied on the basis of each day of a continuing violation, with  
899 a single notice and opportunity for hearing, provided that no

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900 such fine shall in the aggregate exceed \$1,000. A ~~No~~ fine may  
901 not be levied and a suspension may not be imposed unless the  
902 association first gives ~~except after giving~~ reasonable notice  
903 and opportunity for a hearing to the unit owner and, if  
904 applicable, its occupant, licensee, or invitee. The hearing must  
905 be held before a committee of other unit owners who are neither  
906 board members nor persons residing in a board member's  
907 household. If the committee does not agree with the fine or  
908 suspension, the fine or suspension may not be levied or imposed.  
909 ~~The provisions of this subsection do not apply to unoccupied~~  
910 ~~units.~~

911 (4) The notice and hearing requirements of subsection (3)  
912 do not apply to the imposition of suspensions or fines against a  
913 unit owner or a unit's occupant, licensee, or invitee because of  
914 the failure to pay any amounts due the association. If such a  
915 fine or suspension is imposed, the association must levy the  
916 fine or impose a reasonable suspension at a properly noticed  
917 board meeting, and after the imposition of such fine or  
918 suspension, the association must notify the unit owner and, if  
919 applicable, the unit's occupant, licensee, or invitee by mail or  
920 hand delivery.

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

925 Section 7. Subsection (16) of section 718.103, Florida  
926 Statutes, is amended to read:

927 718.103 Definitions.—As used in this chapter, the term:

928 (16) "Developer" means a person who creates a condominium



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929 or offers condominium parcels for sale or lease in the ordinary  
930 course of business, but does not include:

931 (a) An owner or lessee of a condominium or cooperative unit  
932 who has acquired the unit for his or her own occupancy; ~~nor~~  
933 ~~does it include~~

934 (b) A cooperative association that ~~which~~ creates a  
935 condominium by conversion of an existing residential cooperative  
936 after control of the association has been transferred to the  
937 unit owners if, following the conversion, the unit owners will  
938 be the same persons who were unit owners of the cooperative and  
939 no units are offered for sale or lease to the public as part of  
940 the plan of conversion;~~;~~

941 (c) A bulk assignee or bulk buyer as defined in s. 718.703;  
942 or

943 (d) A state, county, or municipal entity ~~is not a developer~~  
944 ~~for any purposes under this act when it is~~ acting as a lessor  
945 and not otherwise named as a developer in the declaration of  
946 condominium association.

947 Section 8. Subsection (1) of section 718.301, Florida  
948 Statutes, is amended to read:

949 718.301 Transfer of association control; claims of defect  
950 by association.-

951 (1) When unit owners other than the developer own 15  
952 percent or more of the units in a condominium that will be  
953 operated ultimately by an association, the unit owners other  
954 than the developer shall be entitled to elect no less than one-  
955 third of the members of the board of administration of the  
956 association. Unit owners other than the developer are entitled  
957 to elect not less than a majority of the members of the board of

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958 administration of an association:

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

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

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

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

972 (e) When the developer files a petition seeking protection  
973 in bankruptcy;

974 (f) When a receiver for the developer is appointed by a  
975 circuit court and is not discharged within 30 days after such  
976 appointment, unless the court determines within 30 days after  
977 appointment of the receiver that transfer of control would be  
978 detrimental to the association or its members; or

979 (g) Seven years after recordation of the declaration of  
980 condominium; or, in the case of an association which may  
981 ultimately operate more than one condominium, 7 years after  
982 recordation of the declaration for the first condominium it  
983 operates; or, in the case of an association operating a phase  
984 condominium created pursuant to s. 718.403, 7 years after  
985 recordation of the declaration creating the initial phase,  
986 whichever occurs first. The developer is entitled to elect at

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987 least one member of the board of administration of an  
988 association as long as the developer holds for sale in the  
989 ordinary course of business at least 5 percent, in condominiums  
990 with fewer than 500 units, and 2 percent, in condominiums with  
991 more than 500 units, of the units in a condominium operated by  
992 the association. Following the time the developer relinquishes  
993 control of the association, the developer may exercise the right  
994 to vote any developer-owned units in the same manner as any  
995 other unit owner except for purposes of reacquiring control of  
996 the association or selecting the majority members of the board  
997 of administration.

998 Section 9. Part VII of chapter 718, Florida Statutes,  
999 consisting of sections 718.701, 718.702, 718.703, 718.704,  
1000 718.705, 718.706, 718.707, and 718.708, is created to read:

1001 718.701 Short title.—This part may be cited as the  
1002 “Distressed Condominium Relief Act.”

1003 718.702 Legislative intent.—

1004 (1) The Legislature acknowledges the massive downturn in  
1005 the condominium market which has transpired throughout the state  
1006 and the impact of such downturn on developers, lenders, unit  
1007 owners, and condominium associations. Numerous condominium  
1008 projects have either failed or are in the process of failing,  
1009 whereby the condominium has a small percentage of third-party  
1010 unit owners as compared to the unsold inventory of units. As a  
1011 result of the inability to find purchasers for this inventory of  
1012 units, which results in part from the devaluing of real estate  
1013 in this state, developers are unable to satisfy the requirements  
1014 of their lenders, leading to defaults on mortgages.  
1015 Consequently, lenders are faced with the task of finding a

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1016 solution to the problem in order to be paid for their  
1017 investments.

1018 (2) The Legislature recognizes that all of the factors  
1019 listed in this section lead to condominiums becoming distressed,  
1020 resulting in detriment to the unit owners and the condominium  
1021 association on account of the resulting shortage of assessment  
1022 moneys available to support the financial requirements for  
1023 proper maintenance of the condominium. Such shortage and the  
1024 resulting lack of proper maintenance further erodes property  
1025 values. The Legislature finds that individuals and entities  
1026 within Florida and in other states have expressed interest in  
1027 purchasing unsold inventory in one or more condominium projects,  
1028 but are reticent to do so because of accompanying liabilities  
1029 inherited from the original developer, which are by definition  
1030 imputed to the successor purchaser, including a foreclosing  
1031 mortgagee. This results in the potential purchaser having  
1032 unknown and unquantifiable risks, and potential successor  
1033 purchasers are unwilling to accept such risks. The result is  
1034 that condominium projects stagnate, leaving all parties involved  
1035 at an impasse without the ability to find a solution.

1036 (3) The Legislature finds and declares that it is the  
1037 public policy of this state to protect the interests of  
1038 developers, lenders, unit owners, and condominium associations  
1039 with regard to distressed condominiums, and that there is a need  
1040 for relief from certain provisions of the Florida Condominium  
1041 Act geared toward enabling economic opportunities within these  
1042 condominiums for successor purchasers, including foreclosing  
1043 mortgagees. Such relief would benefit existing unit owners and  
1044 condominium associations. The Legislature further finds and

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1045 declares that this situation cannot be open-ended without  
1046 potentially prejudicing the rights of unit owners and  
1047 condominium associations, and thereby declares that the  
1048 provisions of this part shall be used by purchasers of  
1049 condominium inventory for a specific and defined period.

1050 718.703 Definitions.—As used in this part, the term:

1051 (1) "Bulk assignee" means a person who:

1052 (a) Acquires more than seven condominium parcels as set  
1053 forth in s. 718.707; and

1054 (b) Receives an assignment of some or all of the rights of  
1055 the developer as are set forth in the declaration of condominium  
1056 or in this chapter by a written instrument recorded as an  
1057 exhibit to the deed or as a separate instrument in the public  
1058 records of the county in which the condominium is located.

1059 (2) "Bulk buyer" means a person who acquires more than  
1060 seven condominium parcels as set forth in s. 718.707 but who  
1061 does not receive an assignment of any developer rights other  
1062 than the right to conduct sales, leasing, and marketing  
1063 activities within the condominium.

1064 718.704 Assignment and assumption of developer rights by  
1065 bulk assignee; bulk buyer.—

1066 (1) A bulk assignee shall be deemed to have assumed and is  
1067 liable for all duties and responsibilities of the developer  
1068 under the declaration and this chapter, except:

1069 (a) Warranties of the developer under s. 718.203(1) or s.  
1070 718.618, except for design, construction, development, or repair  
1071 work performed by or on behalf of such bulk assignee;

1072 (b) The obligation to:

1073 1. Fund converter reserves under s. 718.618 for a unit that

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1074 was not acquired by the bulk assignee; or

1075 2. Provide converter warranties on any portion of the  
1076 condominium property except as may be expressly provided by the  
1077 bulk assignee in the contract for purchase and sale executed  
1078 with a purchaser and pertaining to any design, construction,  
1079 development, or repair work performed by or on behalf of the  
1080 bulk assignee;

1081 (c) The requirement to provide the association with a  
1082 cumulative audit of the association's finances from the date of  
1083 formation of the condominium association as required by s.  
1084 718.301. However, the bulk assignee shall provide an audit for  
1085 the period for which the bulk assignee elects a majority of the  
1086 members of the board of administration;

1087 (d) Any liability arising out of or in connection with  
1088 actions taken by the board of administration or the developer-  
1089 appointed directors before the bulk assignee elects a majority  
1090 of the members of the board of administration; and

1091 (e) Any liability for or arising out of the developer's  
1092 failure to fund previous assessments or to resolve budgetary  
1093 deficits in relation to a developer's right to guarantee  
1094 assessments, except as otherwise provided in subsection (2).

1095  
1096 Further, the bulk assignee is responsible for delivering  
1097 documents and materials in accordance with s. 718.705(3). A bulk  
1098 assignee may expressly assume some or all of the obligations of  
1099 the developer described in paragraphs (a)-(e).

1100 (2) A bulk assignee receiving the assignment of the rights  
1101 of the developer to guarantee the level of assessments and fund  
1102 budgetary deficits pursuant to s. 718.116 shall be deemed to

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1103 have assumed and is liable for all obligations of the developer  
1104 with respect to such guarantee, including any applicable funding  
1105 of reserves to the extent required by law, for as long as the  
1106 guarantee remains in effect. A bulk assignee not receiving an  
1107 assignment of the right of the developer to guarantee the level  
1108 of assessments and fund budgetary deficits pursuant to s.  
1109 718.116 or a bulk buyer is not deemed to have assumed and is not  
1110 liable for the obligations of the developer with respect to such  
1111 guarantee, but is responsible for payment of assessments in the  
1112 same manner as all other owners of condominium parcels.

1113 (3) A bulk buyer is liable for the duties and  
1114 responsibilities of the developer under the declaration and this  
1115 chapter only to the extent provided in this part, together with  
1116 any other duties or responsibilities of the developer expressly  
1117 assumed in writing by the bulk buyer.

1118 (4) An acquirer of condominium parcels is not considered a  
1119 bulk assignee or a bulk buyer if the transfer to such acquirer  
1120 was made with the intent to hinder, delay, or defraud any  
1121 purchaser, unit owner, or the association, or if the acquirer is  
1122 a person who would constitute an insider under s. 726.102(7).

1123 (5) An assignment of developer rights to a bulk assignee  
1124 may be made by the developer, a previous bulk assignee, or a  
1125 court of competent jurisdiction acting on behalf of the  
1126 developer or the previous bulk assignee. At any particular time,  
1127 there may be no more than one bulk assignee within a  
1128 condominium, but there may be more than one bulk buyer. If more  
1129 than one acquirer of condominium parcels receives an assignment  
1130 of developer rights from the same person, the bulk assignee is  
1131 the acquirer whose instrument of assignment is recorded first in

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1132 applicable public records.

1133 718.705 Board of administration; transfer of control.-

1134 (1) For purposes of determining the timing for transfer of  
1135 control of the board of administration of the association to  
1136 unit owners other than the developer under s. 718.301(1) (a) and  
1137 (b), if a bulk assignee is entitled to elect a majority of the  
1138 members of the board, a condominium parcel acquired by the bulk  
1139 assignee shall not be deemed to be conveyed to a purchaser, or  
1140 to be owned by an owner other than the developer, until such  
1141 condominium parcel is conveyed to an owner who is not a bulk  
1142 assignee.

1143 (2) Unless control of the board of administration of the  
1144 association has already been relinquished pursuant to s.  
1145 718.301(1), the bulk assignee is obligated to relinquish control  
1146 of the association in accordance with s. 718.301 and this part.

1147 (3) When a bulk assignee relinquishes control of the board  
1148 of administration as set forth in s. 718.301, the bulk assignee  
1149 shall deliver all of those items required by s. 718.301(4).  
1150 However, the bulk assignee is not required to deliver items and  
1151 documents not in the possession of the bulk assignee during the  
1152 period during which the bulk assignee was the owner of  
1153 condominium parcels. In conjunction with acquisition of  
1154 condominium parcels, a bulk assignee shall undertake a good  
1155 faith effort to obtain the documents and materials required to  
1156 be provided to the association pursuant to s. 718.301(4). To the  
1157 extent the bulk assignee is not able to obtain all of such  
1158 documents and materials, the bulk assignee shall certify in  
1159 writing to the association the names or descriptions of the  
1160 documents and materials that were not obtainable by the bulk



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1161 assignee. Delivery of the certificate relieves the bulk assignee  
1162 of responsibility for the delivery of the documents and  
1163 materials referenced in the certificate as otherwise required  
1164 under ss. 718.112 and 718.301 and this part. The responsibility  
1165 of the bulk assignee for the audit required by s. 718.301(4)  
1166 shall commence as of the date on which the bulk assignee elected  
1167 a majority of the members of the board of administration.

1168 (4) If a conflict arises between the provisions or  
1169 application of this section and s. 718.301, this section shall  
1170 prevail.

1171 (5) Failure of a bulk assignee or bulk buyer to comply with  
1172 all the requirements contained in this part shall result in the  
1173 loss of any and all protections or exemptions provided under  
1174 this part.

1175 718.706 Specific provisions pertaining to offering of units  
1176 by a bulk assignee or bulk buyer.—

1177 (1) Before offering any units for sale or for lease for a  
1178 term exceeding 5 years, a bulk assignee or a bulk buyer shall  
1179 file the following documents with the division and provide such  
1180 documents to a prospective purchaser:

1181 (a) An updated prospectus or offering circular, or a  
1182 supplement to the prospectus or offering circular, filed by the  
1183 creating developer prepared in accordance with s. 718.504, which  
1184 shall include the form of contract for purchase and sale in  
1185 compliance with s. 718.503(2);

1186 (b) An updated Frequently Asked Questions and Answers  
1187 sheet;

1188 (c) The executed escrow agreement if required under s.  
1189 718.202; and

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1190 (d) The financial information required by s. 718.111(13).  
1191 However, if a financial information report does not exist for  
1192 the fiscal year before acquisition of title by the bulk assignee  
1193 or bulk buyer, or accounting records cannot be obtained in good  
1194 faith by the bulk assignee or the bulk buyer which would permit  
1195 preparation of the required financial information report, the  
1196 bulk assignee or bulk buyer is excused from the requirement of  
1197 this paragraph. However, the bulk assignee or bulk buyer must  
1198 include in the purchase contract the following statement in  
1199 conspicuous type:

1200 THE FINANCIAL INFORMATION REPORT REQUIRED UNDER S.  
1201 718.111(13) FOR THE IMMEDIATELY PRECEDING FISCAL YEAR  
1202 OF THE ASSOCIATION IS NOT AVAILABLE OR CANNOT BE  
1203 CREATED BY THE SELLER AS A RESULT OF INSUFFICIENT  
1204 ACCOUNTING RECORDS OF THE ASSOCIATION.

1205 (2) Before offering any units for sale or for lease for a  
1206 term exceeding 5 years, a bulk assignee shall file with the  
1207 division and provide to a prospective purchaser a disclosure  
1208 statement that must include, but is not limited to:

1209 (a) A description to the purchaser of any rights of the  
1210 developer which have been assigned to the bulk assignee;

1211 (b) The following statement in conspicuous type:  
1212 THE SELLER IS NOT OBLIGATED FOR ANY WARRANTIES OF THE  
1213 DEVELOPER UNDER S. 718.203(1) OR S. 718.618, AS  
1214 APPLICABLE, EXCEPT FOR DESIGN, CONSTRUCTION,  
1215 DEVELOPMENT, OR REPAIR WORK PERFORMED BY OR ON BEHALF  
1216 OF SELLER; and

1217 (c) If the condominium is a conversion subject to part VI,  
1218 the following statement in conspicuous type:

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1219 THE SELLER HAS NO OBLIGATION TO FUND CONVERTER  
1220 RESERVES OR TO PROVIDE CONVERTER WARRANTIES UNDER S.  
1221 718.618 ON ANY PORTION OF THE CONDOMINIUM PROPERTY  
1222 EXCEPT AS MAY BE EXPRESSLY REQUIRED OF THE SELLER IN  
1223 THE CONTRACT FOR PURCHASE AND SALE EXECUTED BY THE  
1224 SELLER AND THE PREVIOUS DEVELOPER AND PERTAINING TO  
1225 ANY DESIGN, CONSTRUCTION, DEVELOPMENT, OR REPAIR WORK  
1226 PERFORMED BY OR ON BEHALF OF THE SELLER.

1227 (3) In addition to the requirements set forth in subsection  
1228 (1), a bulk assignee or bulk buyer must comply with the  
1229 nondeveloper disclosure requirements set forth in s. 718.503(2)  
1230 before offering any units for sale or for lease for a term  
1231 exceeding 5 years.

1232 (4) A bulk assignee, while it is in control of the board of  
1233 administration of the association, may not authorize, on behalf  
1234 of the association:

1235 (a) The waiver of reserves or the reduction of funding of  
1236 the reserves in accordance with s. 718.112(2)(f)2., unless  
1237 approved by a majority of the voting interests not controlled by  
1238 the developer, bulk assignee, and bulk buyer; or

1239 (b) The use of reserve expenditures for other purposes in  
1240 accordance with s. 718.112(2)(f)3., unless approved by a  
1241 majority of the voting interests not controlled by the  
1242 developer, bulk assignee, and bulk buyer.

1243 (5) A bulk assignee, while it is in control of the board of  
1244 administration of the association, shall comply with the  
1245 requirements imposed upon developers to transfer control of the  
1246 association to the unit owners in accordance with s. 718.301.

1247 (6) A bulk assignee or a bulk buyer shall comply with all

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1248 the requirements of s. 718.302 regarding any contracts entered  
1249 into by the association during the period the bulk assignee or  
1250 bulk buyer maintains control of the board of administration.  
1251 Unit owners shall be afforded all the protections contained in  
1252 s. 718.302 regarding agreements entered into by the association  
1253 before unit owners other than the developer, bulk assignee, or  
1254 bulk buyer elected a majority of the board of administration.

1255 (7) A bulk buyer shall comply with the requirements  
1256 contained in the declaration regarding any transfer of a unit,  
1257 including sales, leases, and subleases. A bulk buyer is not  
1258 entitled to any exemptions afforded a developer or successor  
1259 developer under this chapter regarding any transfer of a unit,  
1260 including sales, leases, or subleases.

1261 718.707 Time limitation for classification as bulk assignee  
1262 or bulk buyer.—A person acquiring condominium parcels may not be  
1263 classified as a bulk assignee or bulk buyer unless the  
1264 condominium parcels were acquired before July 1, 2011. The date  
1265 of such acquisition shall be determined by the date of recording  
1266 of a deed or other instrument of conveyance for such parcels in  
1267 the public records of the county in which the condominium is  
1268 located, or by the date of issuance of a certificate of title in  
1269 a foreclosure proceeding with respect to such condominium  
1270 parcels.

1271 718.708 Liability of developers and others.—An assignment  
1272 of developer rights to a bulk assignee or bulk buyer does not  
1273 release the developer from any liabilities under the declaration  
1274 or this chapter. This part does not limit the liability of the  
1275 developer for claims brought by unit owners, bulk assignees, or  
1276 bulk buyers for violations of this chapter by the developer,

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1277 unless specifically excluded in this part. Nothing contained  
1278 within this part waives, releases, compromises, or limits the  
1279 liability of contractors, subcontractors, materialmen,  
1280 manufacturers, architects, engineers, or any participant in the  
1281 design or construction of a condominium for any claim brought by  
1282 an association, unit owners, bulk assignees, or bulk buyers  
1283 arising from the design of the condominium, construction  
1284 defects, misrepresentations associated with condominium  
1285 property, or violations of this chapter, unless specifically  
1286 excluded in this part.

1287 Section 10. Subsections (3) and (4) of section 719.108,  
1288 Florida Statutes, are amended, and subsection (10) is added to  
1289 that section, to read:

1290 719.108 Rents and assessments; liability; lien and  
1291 priority; interest; collection; cooperative ownership.—

1292 (3) Rents and assessments, and installments on them, not  
1293 paid when due bear interest at the rate provided in the  
1294 cooperative documents from the date due until paid. This rate  
1295 may not exceed the rate allowed by law, and, if no rate is  
1296 provided in the cooperative documents, then interest shall  
1297 accrue at 18 percent per annum. Also, if the cooperative  
1298 documents or bylaws so provide, the association may charge an  
1299 administrative late fee in addition to such interest, in an  
1300 amount not to exceed the greater of \$25 or 5 percent of each  
1301 installment of the assessment for each delinquent installment  
1302 that the payment is late. Costs to the unit owner secured by the  
1303 association's claim of lien with regard to collection letters or  
1304 any other collection efforts by management companies or licensed  
1305 managers as to any delinquent installment of an assessment may

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1306 not exceed \$75 unless the management company prepares any letter  
1307 or estoppel certificate required by this chapter and charges a  
1308 reasonable fee related to the preparation of such letter or  
1309 estoppel certificate. Any payment received by an association  
1310 shall be applied first to any interest accrued by the  
1311 association, then to any administrative late fee, then to any  
1312 costs and reasonable attorney's fees incurred in collection,  
1313 then to any reasonable costs for collection services for which  
1314 the association has contracted, and then to the delinquent  
1315 assessment. The foregoing shall be applicable notwithstanding  
1316 any restrictive endorsement, designation, or instruction placed  
1317 on or accompanying a payment. A late fee is not subject to  
1318 chapter 687 or s. 719.303(3).

1319 (4) The association shall have a lien on each cooperative  
1320 parcel for any unpaid rents and assessments, plus interest, any  
1321 authorized administrative late fees, and any reasonable costs  
1322 for collection services for which the association has contracted  
1323 against the unit owner of the cooperative parcel. If authorized  
1324 by the cooperative documents, said lien shall also secure  
1325 reasonable attorney's fees incurred by the association incident  
1326 to the collection of the rents and assessments or enforcement of  
1327 such lien. The lien is effective from and after the recording of  
1328 a claim of lien in the public records in the county in which the  
1329 cooperative parcel is located which states the description of  
1330 the cooperative parcel, the name of the unit owner, the amount  
1331 due, and the due dates. The lien shall expire if a claim of lien  
1332 is not filed within 1 year after the date the assessment was  
1333 due, and no such lien shall continue for a longer period than 1  
1334 year after the claim of lien has been recorded unless, within

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1335 that time, an action to enforce the lien is commenced in a court  
1336 of competent jurisdiction. Except as otherwise provided in this  
1337 chapter, a lien may not be filed by the association against a  
1338 cooperative parcel until 30 days after the date on which a  
1339 notice of intent to file a lien has been delivered to the owner  
1340 by registered or certified mail, return receipt requested, and  
1341 by first-class United States mail to the owner at his or her  
1342 last address in the records of the association, if the address  
1343 is within the United States, and delivered to the owner at the  
1344 address of the unit if the owner's address as reflected in the  
1345 records of the association is not the unit address. If the  
1346 address in the records is outside the United States, notice  
1347 shall be sent to that address and to the unit address by first-  
1348 class United States mail. Delivery of the notice shall be deemed  
1349 given upon mailing as required by this subsection. ~~No lien may~~  
1350 ~~be filed by the association against a cooperative parcel until~~  
1351 ~~30 days after the date on which a notice of intent to file a~~  
1352 ~~lien has been served on the unit owner of the cooperative parcel~~  
1353 ~~by certified mail or by personal service in the manner~~  
1354 ~~authorized by chapter 48 and the Florida Rules of Civil~~  
1355 ~~Procedure.~~

1356 (10) If the share is occupied by a tenant and the share  
1357 owner is delinquent in the payment of regular assessments, the  
1358 association may demand that the tenant pay to the association  
1359 the future regular assessments related to the condominium share.  
1360 The demand is continuing in nature, and upon demand, the tenant  
1361 shall continue to pay the regular assessments to the association  
1362 until the association releases the tenant or the tenant  
1363 discontinues tenancy in the share. The association shall mail

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1364 written notice to the share owner of the association's demand  
1365 that the tenant pay regular assessments to the association. The  
1366 tenant is not liable for increases in the amount of the regular  
1367 assessment due unless the tenant was reasonably notified of the  
1368 increase before the day on which the rent is due. The liability  
1369 of the tenant may not exceed the amount due from the tenant to  
1370 the tenants' landlord. The tenant's landlord shall provide the  
1371 tenant a credit against rents due to the unit owner in the  
1372 amount of assessments paid to the association under this  
1373 section. The association shall, upon request, provide the tenant  
1374 with written receipts for payments made. The association may  
1375 issue notices under s. 83.56 and may sue for eviction under ss.  
1376 83.59-83.625 as if the association were a landlord under part II  
1377 of chapter 83 if the tenant fails to pay an assessment. However,  
1378 the association is not otherwise considered a landlord under  
1379 chapter 83 and specifically has no duties under s. 83.51. The  
1380 tenant does not, by virtue of payment of assessments, have any  
1381 of the rights of a share owner to vote in any election or to  
1382 examine the books and records of the association. A court may  
1383 supersede the effect of this subsection by appointing a  
1384 receiver.

1385 Section 11. Paragraph (b) of subsection (2) of section  
1386 720.304, Florida Statutes, is amended to read:

1387 720.304 Right of owners to peaceably assemble; display of  
1388 flag; SLAPP suits prohibited.—

1389 (2)

1390 (b) Any homeowner may erect a freestanding flagpole no more  
1391 than 20 feet high on any portion of the homeowner's real  
1392 property, regardless of any covenants, restrictions, bylaws,



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1393 rules, or requirements of the association, if the flagpole does  
1394 not obstruct sightlines at intersections and is not erected  
1395 within or upon an easement. The homeowner may further display in  
1396 a respectful manner from that flagpole, regardless of any  
1397 covenants, restrictions, bylaws, rules, or requirements of the  
1398 association, one official United States flag, not larger than 4  
1399 1/2 feet by 6 feet, and may additionally display one official  
1400 flag of the State of Florida or the United States Army, Navy,  
1401 Air Force, Marines, or Coast Guard, or a POW-MIA flag. Such  
1402 additional flag must be equal in size to or smaller than the  
1403 United States flag. The flagpole and display are subject to all  
1404 building codes, zoning setbacks, and other applicable  
1405 governmental regulations, including, but not limited to, noise  
1406 and lighting ordinances in the county or municipality in which  
1407 the flag pole is erected.

1408 Section 12. Subsection (2) of section 720.305, Florida  
1409 Statutes, is amended to read:

1410 720.305 Obligations of members; remedies at law or in  
1411 equity; levy of fines and suspension of use rights.—

1412 (2) If a member is delinquent for more than 90 days in the  
1413 payment of a regular or special assessment or if the governing  
1414 documents so provide, an association may suspend, for a  
1415 reasonable period of time, the rights of a member or a member's  
1416 tenants, guests, or invitees, or both, to use common areas and  
1417 facilities and may levy reasonable fines of up to, ~~not to exceed~~  
1418 \$100 per violation, against any member or any tenant, guest, or  
1419 invitee. A fine may be levied on the basis of each day of a  
1420 continuing violation, with a single notice and opportunity for  
1421 hearing, except that a ~~no such~~ fine may not ~~shall~~ exceed \$1,000

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1422 in the aggregate unless otherwise provided in the governing  
1423 documents. A fine of less than \$1,000 may ~~shall~~ not become a  
1424 lien against a parcel. In any action to recover a fine, the  
1425 prevailing party is entitled to collect its reasonable  
1426 attorney's fees and costs from the nonprevailing party as  
1427 determined by the court. The provisions regarding the  
1428 suspension-of-use rights do not apply to the portion of common  
1429 areas that must be used to provide access to the parcel or  
1430 utility services provided to the parcel.

1431 (a) A fine or suspension may not be imposed without notice  
1432 of at least 14 days to the person sought to be fined or  
1433 suspended and an opportunity for a hearing before a committee of  
1434 at least three members appointed by the board who are not  
1435 officers, directors, or employees of the association, or the  
1436 spouse, parent, child, brother, or sister of an officer,  
1437 director, or employee. If the committee, by majority vote, does  
1438 not approve a proposed fine or suspension, it may not be  
1439 imposed.

1440 (b) The requirements of this subsection do not apply to the  
1441 imposition of suspensions or fines upon any member because of  
1442 the failure of the member to pay assessments or other charges  
1443 when due if such action is authorized by the governing  
1444 documents. If such a fine or suspension is imposed, the  
1445 association must levy the fine or impose a reasonable suspension  
1446 at a properly noticed board meeting, and after the imposition of  
1447 such fine or suspension, the association must notify the owner  
1448 and, if applicable, the unit's occupant, licensee, or invitee by  
1449 mail or hand delivery.

1450 (c) Suspension of common-area-use rights shall not impair

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1451 the right of an owner or tenant of a parcel to have vehicular  
1452 and pedestrian ingress to and egress from the parcel, including,  
1453 but not limited to, the right to park.

1454 Section 13. Subsection (8) is added to section 720.3085,  
1455 Florida Statutes, to read:

1456 720.3085 Payment for assessments; lien claims.—

1457 (8) If the parcel is occupied by a tenant and the parcel  
1458 owner is delinquent in the payment of regular assessments, the  
1459 association may demand that the tenant pay to the association  
1460 the future regular assessments related to the parcel. The demand  
1461 is continuing in nature, and upon demand, the tenant shall  
1462 continue to pay the regular assessments to the association until  
1463 the association releases the tenant or the tenant discontinues  
1464 tenancy in the parcel. The association shall mail written notice  
1465 to the parcel owner of the association's demand that the tenant  
1466 pay regular assessments to the association. The tenant is not  
1467 liable for increases in the amount of the regular assessment due  
1468 unless the tenant was reasonably notified of the increase before  
1469 the day on which the rent is due. The tenant shall be given a  
1470 credit against rents due to the parcel owner in the amount of  
1471 assessments paid to the association. The association shall, upon  
1472 request, provide the tenant with written receipts for payments  
1473 made. The association may issue notices under s. 83.56 and may  
1474 sue for eviction under ss. 83.59-83.625 as if the association  
1475 were a landlord under part II of chapter 83 if the tenant fails  
1476 to pay an assessment. However, the association is not otherwise  
1477 considered a landlord under chapter 83 and specifically has no  
1478 duties under s. 83.51. The tenant does not, by virtue of payment  
1479 of assessments, have any of the rights of a parcel owner to vote

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1480 in any election or to examine the books and records of the  
1481 association. A court may supersede the effect of this subsection  
1482 by appointing a receiver.

1483 Section 14. Subsection (6) is added to section 720.31,  
1484 Florida Statutes, to read:

1485 720.31 Recreational leaseholds; right to acquire;  
1486 escalation clauses.—

1487 (6) An association may enter into agreements to acquire  
1488 leaseholds, memberships, and other possessory or use interests  
1489 in lands or facilities such as country clubs, golf courses,  
1490 marinas, and other recreational facilities. An association may  
1491 enter into such agreements regardless of whether the lands or  
1492 facilities are contiguous to the lands of the community or  
1493 whether such lands or facilities are intended to provide  
1494 enjoyment, recreation, or other use or benefit to the owners.  
1495 All leaseholds, memberships, and other possessory or use  
1496 interests existing or created at the time of recording the  
1497 declaration must be stated and fully described in the  
1498 declaration. Subsequent to the recording of the declaration,  
1499 agreements acquiring leaseholds, memberships, or other  
1500 possessory or use interests not entered into within 12 months  
1501 following the recording of the declaration may be entered into  
1502 only if authorized by the declaration for material alterations  
1503 or substantial additions to the common areas or association  
1504 property. If the declaration is silent, any such transaction  
1505 requires the approval of 75 percent of the total voting  
1506 interests of the association. The declaration may provide that  
1507 the rental, membership fees, operations, replacements, or other  
1508 expenses are common expenses; impose covenants and restrictions

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1509 concerning their use; and contain other provisions not  
1510 inconsistent with this subsection. An association exercising its  
1511 rights under this subsection may join with other associations  
1512 that are part of the same development or with a master  
1513 association responsible for the enforcement of shared covenants,  
1514 conditions, and restrictions in carrying out the intent of this  
1515 subsection.

1516 Section 15. Subsection (17) of section 721.05, Florida  
1517 Statutes, is amended to read:

1518 721.05 Definitions.—As used in this chapter, the term:

1519 (17) "Facility" means any permanent amenity, including any  
1520 structure, furnishing, fixture, equipment, service, improvement,  
1521 or real or personal property, improved or unimproved, other than  
1522 an accommodation of the timeshare plan, which is made available  
1523 to the purchasers of a timeshare plan. The term does not include  
1524 an incidental benefit as defined in this section.

1525 Section 16. Subsection (2) of section 553.509, Florida  
1526 Statutes, is repealed.

1527 Section 17. Paragraph (b) of subsection (2), paragraphs (a)  
1528 and (c) of subsection (5), and paragraphs (b), (c), (d), (f),  
1529 and (g) of subsection (6) of section 720.303, Florida Statutes,  
1530 are amended, and subsection (12) is added to that section, to  
1531 read:

1532 720.303 Association powers and duties; meetings of board;  
1533 official records; budgets; financial reporting; association  
1534 funds; recalls.—

1535 (2) BOARD MEETINGS.—

1536 (b) Members have the right to attend all meetings of the  
1537 board and to speak on any matter placed on the agenda by

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1538 petition of the voting interests for at least 3 minutes. The  
1539 association may adopt written reasonable rules expanding the  
1540 right of members to speak and governing the frequency, duration,  
1541 and other manner of member statements, which rules must be  
1542 consistent with this paragraph and may include a sign-up sheet  
1543 for members wishing to speak. Notwithstanding any other law, ~~the~~  
1544 ~~requirement that board meetings and committee meetings be open~~  
1545 ~~to the members is inapplicable to~~ meetings between the board or  
1546 a committee and the association's attorney to discuss proposed  
1547 or pending litigation, or with respect to meetings of the board  
1548 held for the purpose of discussing personnel matters are not  
1549 required to be open to the members.

1550 (5) INSPECTION AND COPYING OF RECORDS.—The official records  
1551 shall be maintained within the state and must be open to  
1552 inspection and available for photocopying by members or their  
1553 authorized agents at reasonable times and places within 10  
1554 business days after receipt of a written request for access.  
1555 This subsection may be complied with by having a copy of the  
1556 official records available for inspection or copying in the  
1557 community. If the association has a photocopy machine available  
1558 where the records are maintained, it must provide parcel owners  
1559 with copies on request during the inspection if the entire  
1560 request is limited to no more than 25 pages.

1561 (a) The failure of an association to provide access to the  
1562 records within 10 business days after receipt of a written  
1563 request submitted by certified mail, return receipt requested,  
1564 creates a rebuttable presumption that the association willfully  
1565 failed to comply with this subsection.

1566 (c) The association may adopt reasonable written rules

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1567 governing the frequency, time, location, notice, records to be  
1568 inspected, and manner of inspections, but may not require ~~impose~~  
1569 ~~a requirement that~~ a parcel owner to demonstrate any proper  
1570 purpose for the inspection, state any reason for the inspection,  
1571 or limit a parcel owner's right to inspect records to less than  
1572 one 8-hour business day per month. The association may impose  
1573 fees to cover the costs of providing copies of the official  
1574 records, including, without limitation, the costs of copying.  
1575 The association may charge up to 50 cents per page for copies  
1576 made on the association's photocopier. If the association does  
1577 not have a photocopy machine available where the records are  
1578 kept, or if the records requested to be copied exceed 25 pages  
1579 in length, the association may have copies made by an outside  
1580 vendor or association management company personnel and may  
1581 charge the actual cost of copying, including any reasonable  
1582 costs involving personnel fees and charges at an hourly rate for  
1583 employee time to cover administrative costs to the association.  
1584 The association shall maintain an adequate number of copies of  
1585 the recorded governing documents, to ensure their availability  
1586 to members and prospective members. Notwithstanding the  
1587 provisions of this paragraph, the following records are ~~shall~~  
1588 not ~~be~~ accessible to members or parcel owners:

1589       1. Any record protected by the lawyer-client privilege as  
1590 described in s. 90.502 and any record protected by the work-  
1591 product privilege, including, but not limited to, any record  
1592 prepared by an association attorney or prepared at the  
1593 attorney's express direction which reflects a mental impression,  
1594 conclusion, litigation strategy, or legal theory of the attorney  
1595 or the association and which was prepared exclusively for civil

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1596 or criminal litigation or for adversarial administrative  
1597 proceedings or which was prepared in anticipation of imminent  
1598 civil or criminal litigation or imminent adversarial  
1599 administrative proceedings until the conclusion of the  
1600 litigation or ~~adversarial~~ administrative proceedings.

1601 2. Information obtained by an association in connection  
1602 with the approval of the lease, sale, or other transfer of a  
1603 parcel.

1604 3. Disciplinary, health, insurance, and personnel records,  
1605 including payroll records, of the association's employees.

1606 4. Medical records of parcel owners or community residents.

1607 (6) BUDGETS.—

1608 (b) In addition to annual operating expenses, the budget  
1609 may include reserve accounts for capital expenditures and  
1610 deferred maintenance for which the association is responsible.  
1611 If reserve accounts are not established pursuant to paragraph  
1612 (d), funding of such reserves shall be limited to the extent  
1613 that the governing documents ~~do not~~ limit increases in  
1614 assessments, including reserves. If the budget of the  
1615 association includes reserve accounts established pursuant to  
1616 paragraph (d), such reserves shall be determined, maintained,  
1617 and waived in the manner provided in this subsection. Once an  
1618 association provides for reserve accounts pursuant to paragraph  
1619 (d) in the budget, the association shall thereafter determine,  
1620 maintain, and waive reserves in compliance with this subsection.  
1621 The provisions of this section do not preclude the termination  
1622 of a reserve account established pursuant to this paragraph upon  
1623 approval of a majority of the voting interests of the  
1624 association. Upon such approval, the terminating reserve account



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1625 shall be removed from the budget.

1626 (c)1. If the budget of the association does not provide for  
1627 reserve accounts pursuant to paragraph (d) ~~governed by this~~  
1628 ~~subsection~~ and the association is responsible for the repair and  
1629 maintenance of capital improvements that may result in a special  
1630 assessment if reserves are not provided, each financial report  
1631 for the preceding fiscal year required by subsection (7) shall  
1632 contain the following statement in conspicuous type: THE BUDGET  
1633 OF THE ASSOCIATION DOES NOT PROVIDE FOR RESERVE ACCOUNTS FOR  
1634 CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE THAT MAY RESULT IN  
1635 SPECIAL ASSESSMENTS. OWNERS MAY ELECT TO PROVIDE FOR RESERVE  
1636 ACCOUNTS PURSUANT TO THE PROVISIONS OF SECTION 720.303(6),  
1637 FLORIDA STATUTES, UPON OBTAINING THE APPROVAL OF ~~NOT LESS THAN~~ A  
1638 MAJORITY OF THE TOTAL VOTING INTERESTS OF THE ASSOCIATION BY  
1639 VOTE OF THE MEMBERS AT A MEETING OR BY WRITTEN CONSENT.

1640 2. If the budget of the association does provide for  
1641 funding accounts for deferred expenditures, including, but not  
1642 limited to, funds for capital expenditures and deferred  
1643 maintenance, but such accounts are not created or established  
1644 pursuant to paragraph (d), each financial report for the  
1645 preceding fiscal year required under subsection (7) must also  
1646 contain the following statement in conspicuous type: THE BUDGET  
1647 OF THE ASSOCIATION DOES PROVIDE FOR LIMITED VOLUNTARY DEFERRED  
1648 EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES AND  
1649 DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED IN  
1650 OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED TO  
1651 PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6),  
1652 FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE  
1653 RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR

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1654 ARE RESERVES CALCULATED IN ACCORDANCE WITH THAT STATUTE.

1655 (d) An association shall be deemed to have provided for  
1656 reserve accounts if ~~when~~ reserve accounts have been initially  
1657 established by the developer or if ~~when~~ the membership of the  
1658 association affirmatively elects to provide for reserves. If  
1659 reserve accounts are not initially provided for by the  
1660 developer, the membership of the association may elect to do so  
1661 upon the affirmative approval of ~~not less than~~ a majority of the  
1662 total voting interests of the association. Such approval may be  
1663 obtained ~~attained~~ by vote of the members at a duly called  
1664 meeting of the membership or by the ~~upon a~~ written consent of  
1665 ~~executed by not less than~~ a majority of the total voting  
1666 interests in the community. The approval action of the  
1667 membership shall state that reserve accounts shall be provided  
1668 for in the budget and shall designate the components for which  
1669 the reserve accounts are to be established. Upon approval by the  
1670 membership, the board of directors shall include ~~provide for~~ the  
1671 required reserve accounts ~~for inclusion~~ in the budget in the  
1672 next fiscal year following the approval and ~~in~~ each year  
1673 thereafter. Once established as provided in this subsection, the  
1674 reserve accounts shall be funded or maintained or shall have  
1675 their funding waived in the manner provided in paragraph (f).

1676 (f) After one or more ~~Once a reserve account or~~ reserve  
1677 accounts are established, the membership of the association,  
1678 upon a majority vote at a meeting at which a quorum is present,  
1679 may provide for no reserves or less reserves than required by  
1680 this section. If a meeting of the unit owners has been called to  
1681 determine whether to waive or reduce the funding of reserves and  
1682 no such result is achieved or a quorum is not present, the

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1683 reserves as included in the budget shall go into effect. After  
1684 the turnover, the developer may vote its voting interest to  
1685 waive or reduce the funding of reserves. Any vote taken pursuant  
1686 to this subsection to waive or reduce reserves is ~~shall be~~  
1687 applicable only to one budget year.

1688 (g) Funding formulas for reserves authorized by this  
1689 section shall be based on either a separate analysis of each of  
1690 the required assets or a pooled analysis of two or more of the  
1691 required assets.

1692 1. If the association maintains separate reserve accounts  
1693 for each of the required assets, the amount of the contribution  
1694 to each reserve account is ~~shall be~~ the sum of the following two  
1695 calculations:

1696 a. The total amount necessary, if any, to bring a negative  
1697 component balance to zero.

1698 b. The total estimated deferred maintenance expense or  
1699 estimated replacement cost of the reserve component less the  
1700 estimated balance of the reserve component as of the beginning  
1701 of the period ~~for which~~ the budget will be in effect. The  
1702 remainder, if greater than zero, shall be divided by the  
1703 estimated remaining useful life of the component.

1704

1705 The formula may be adjusted each year for changes in estimates  
1706 and deferred maintenance performed during the year and may  
1707 include factors such as inflation and earnings on invested  
1708 funds.

1709 2. If the association maintains a pooled account of two or  
1710 more of the required reserve assets, the amount of the  
1711 contribution to the pooled reserve account as disclosed on the

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1712 proposed budget may ~~shall~~ not be less than that required to  
1713 ensure that the balance on hand at the beginning of the period  
1714 ~~for which~~ the budget will go into effect plus the projected  
1715 annual cash inflows over the remaining estimated useful life of  
1716 all of the assets that make up the reserve pool are equal to or  
1717 greater than the projected annual cash outflows over the  
1718 remaining estimated useful lives of all ~~of~~ the assets that make  
1719 up the reserve pool, based on the current reserve analysis. The  
1720 projected annual cash inflows may include estimated earnings  
1721 from investment of principal and accounts receivable minus the  
1722 allowance for doubtful accounts. The reserve funding formula may  
1723 ~~shall~~ not include any type of balloon payments.

1724 (12) COMPENSATION PROHIBITED.—A director, officer, or  
1725 committee member of the association may not directly receive any  
1726 salary or compensation from the association for the performance  
1727 of duties as a director, officer, or committee member and may  
1728 not in any other way benefit financially from service to the  
1729 association. This subsection does not preclude:

1730 (a) Participation by such person in a financial benefit  
1731 accruing to all or a significant number of members as a result  
1732 of actions lawfully taken by the board or a committee of which  
1733 he or she is a member, including, but not limited to, routine  
1734 maintenance, repair, or replacement of community assets.

1735 (b) Reimbursement for out-of-pocket expenses incurred by  
1736 such person on behalf of the association, subject to approval in  
1737 accordance with procedures established by the association's  
1738 governing documents or, in the absence of such procedures, in  
1739 accordance with an approval process established by the board.

1740 (c) Any recovery of insurance proceeds derived from a

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1741 policy of insurance maintained by the association for the  
1742 benefit of its members.

1743 (d) Any fee or compensation authorized in the governing  
1744 documents.

1745 (e) Any fee or compensation authorized in advance by a vote  
1746 of a majority of the voting interests voting in person or by  
1747 proxy at a meeting of the members.

1748 (f) A developer or its representative from serving as a  
1749 director, officer, or committee member of the association and  
1750 benefitting financially from service to the association.

1751 Section 18. Subsections (8) and (9) of section 720.306,  
1752 Florida Statutes, are amended to read:

1753 720.306 Meetings of members; voting and election  
1754 procedures; amendments.—

1755 (8) PROXY VOTING.—The members have the right, unless  
1756 otherwise provided in this subsection or in the governing  
1757 documents, to vote in person or by proxy.

1758 (a) To be valid, a proxy must be dated, must state the  
1759 date, time, and place of the meeting for which it was given, and  
1760 must be signed by the authorized person who executed the proxy.  
1761 A proxy is effective only for the specific meeting for which it  
1762 was originally given, as the meeting may lawfully be adjourned  
1763 and reconvened from time to time, and automatically expires 90  
1764 days after the date of the meeting for which it was originally  
1765 given. A proxy is revocable at any time at the pleasure of the  
1766 person who executes it. If the proxy form expressly so provides,  
1767 any proxy holder may appoint, in writing, a substitute to act in  
1768 his or her place.

1769 (b) If the governing documents permit voting by secret

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1770 ballot by members who are not in attendance at a meeting of the  
1771 members for the election of directors, such ballots shall be  
1772 placed in an inner envelope with no identifying markings and  
1773 mailed or delivered to the association in an outer envelope  
1774 bearing identifying information reflecting the name of the  
1775 member, the lot or parcel for which the vote is being cast, and  
1776 the signature of the lot or parcel owner casting that ballot. If  
1777 the eligibility of the member to vote is confirmed and no other  
1778 ballot has been submitted for that lot or parcel, the inner  
1779 envelope shall be removed from the outer envelope bearing the  
1780 identification information, placed with the ballots which were  
1781 personally cast, and opened when the ballots are counted. If  
1782 more than one ballot is submitted for a lot or parcel, the  
1783 ballots for that lot or parcel shall be disqualified. Any vote  
1784 by ballot received after the closing of the balloting may not be  
1785 considered.

1786 (9) ELECTIONS.—Elections of directors must be conducted in  
1787 accordance with the procedures set forth in the governing  
1788 documents of the association. All members of the association are  
1789 ~~shall be~~ eligible to serve on the board of directors, and a  
1790 member may nominate himself or herself as a candidate for the  
1791 board at a meeting where the election is to be held or, if the  
1792 election process allows voting by absentee ballot, in advance of  
1793 the balloting. Except as otherwise provided in the governing  
1794 documents, boards of directors must be elected by a plurality of  
1795 the votes cast by eligible voters. Any election dispute between  
1796 a member and an association must be submitted to mandatory  
1797 binding arbitration with the division. Such proceedings shall be  
1798 conducted in the manner provided by s. 718.1255 and the

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1799 procedural rules adopted by the division.

1800 Section 19. Section 720.315, Florida Statutes, is created  
1801 to read:

1802 720.315 Passage of special assessments before turnover by  
1803 developer.—Before turnover, the board of directors controlled by  
1804 the developer may not levy a special assessment unless a  
1805 majority of the parcel owners other than the developer have  
1806 approved the special assessment by a majority vote at a duly  
1807 called special meeting of the membership at which a quorum is  
1808 present.

1809 Section 20. Section 723.071, Florida Statutes, is amended  
1810 to read:

1811 723.071 Sale of mobile home parks.—

1812 (1) (a) If a mobile home park owner intends to offer ~~offers~~  
1813 a mobile home park for sale, or if a mobile home park owner  
1814 receives a bona fide offer to purchase the park which she or he  
1815 intends to consider or make a counteroffer to, she or he shall  
1816 notify, by certified mail, the officers of the homeowners'  
1817 association created pursuant to ss. 723.075-723.079, and the  
1818 Florida Housing Finance Corporation, of the offer, or of her or  
1819 his intent to offer, stating the price and the terms and  
1820 conditions of sale, if the requirements of the homeowners' offer  
1821 to purchase as set forth in subsection (2) have been met by the  
1822 homeowners' association.

1823 (b) The mobile home owners, by and through the association  
1824 defined in s. 723.075, shall have the right to purchase the  
1825 park, and the mobile home park owner is obligated to sell to the  
1826 home owners, provided the home owners meet the price and terms  
1827 and conditions of the mobile home park owner by executing a

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1828 contract with the park owner within 45 days, unless agreed to  
1829 otherwise, from the date of mailing of the notice and provided  
1830 they have complied with ss. 723.075-723.079. If a contract  
1831 between the park owner and the association is not executed  
1832 within such 45-day period, then, unless the park owner  
1833 thereafter elects to offer the park at a price lower than the  
1834 price specified in her or his notice to the officers of the  
1835 homeowners' association, the park owner has no further  
1836 obligations under this subsection, and her or his only  
1837 obligation shall be as set forth in subsection (2).

1838 (c) If the park owner thereafter elects to offer the park  
1839 at a price lower or higher than the price specified in her or  
1840 his notice to the home owners, the home owners, by and through  
1841 the association, will have an additional 21 ~~10~~ days to meet the  
1842 price and terms and conditions of the park owner by executing a  
1843 contract. The homeowners, by and through the association, shall  
1844 have 21 days to meet the price and terms and conditions of a  
1845 counteroffer.

1846 (2) If the mobile home owners, by and through the  
1847 association, have informed the mobile home park owner that they  
1848 are ready and willing to purchase the park, the park owner shall  
1849 comply with the provisions of subsection (1). The expression of  
1850 readiness and willingness to purchase the park must be renewed  
1851 annually by certified mail to the park owner and must include  
1852 information about the number of homeowners concurring; the date,  
1853 time, and place of the homeowners' association meeting  
1854 authorizing the notice to be sent; and information concerning  
1855 the ability of the homeowners to purchase the park using the  
1856 income approach method to estimate the property value. If the



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1857 homeowners' association has not substantially complied with this  
1858 requirement, the park owner has no obligation to comply with the  
1859 provisions of subsection (1). If a mobile home park owner  
1860 receives a bona fide offer to purchase the park that she or he  
1861 intends to consider or make a counteroffer to, the park owner's  
1862 only obligation shall be to notify the officers of the  
1863 homeowners' association that she or he has received an offer and  
1864 disclose the price and material terms and conditions upon which  
1865 she or he would consider selling the park and consider any offer  
1866 made by the home owners, provided the home owners have complied  
1867 with ss. 723.075-723.079. The park owner shall be under no  
1868 obligation to sell to the home owners or to interrupt or delay  
1869 other negotiations and shall be free at any time to execute a  
1870 contract for the sale of the park to a party or parties other  
1871 than the home owners or the association.

1872 ~~(3)(a) As used in subsections (1) and (2), the term~~  
1873 ~~"notify" means the placing of a notice in the United States mail~~  
1874 ~~addressed to the officers of the homeowners' association. Each~~  
1875 ~~such notice shall be deemed to have been given upon the deposit~~  
1876 ~~of the notice in the United States mail.~~

1877 ~~(b) As used in subsection (1), the term "offer" means any~~  
1878 ~~solicitation by the park owner to the general public.~~

1879 (3)(4) This section does not apply to:

1880 (a) Any sale or transfer to a person who would be included  
1881 within the table of descent and distribution if the park owner  
1882 were to die intestate.

1883 (b) Any transfer by gift, devise, or operation of law.

1884 (c) Any transfer by a corporation to an affiliate. As used  
1885 herein, the term "affiliate" means any shareholder of the

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1886 transferring corporation; any corporation or entity owned or  
1887 controlled, directly or indirectly, by the transferring  
1888 corporation; or any other corporation or entity owned or  
1889 controlled, directly or indirectly, by any shareholder of the  
1890 transferring corporation.

1891 (d) Any transfer by a partnership to any of its partners.

1892 (e) Any conveyance of an interest in a mobile home park  
1893 incidental to the financing of such mobile home park.

1894 (f) Any conveyance resulting from the foreclosure of a  
1895 mortgage, deed of trust, or other instrument encumbering a  
1896 mobile home park or any deed given in lieu of such foreclosure.

1897 (g) Any sale or transfer between or among joint tenants or  
1898 tenants in common owning a mobile home park.

1899 (h) Any exchange of a mobile home park for other real  
1900 property, whether or not such exchange also involves the payment  
1901 of cash or other boot.

1902 (i) The purchase of a mobile home park by a governmental  
1903 entity under its powers of eminent domain.

1904 Section 21. This act shall take effect July 1, 2009.