

By Senator Ring

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1                   A bill to be entitled  
2           An act relating to condominium and homeowners'  
3           associations; amending s. 718.110, F.S.; limiting the  
4           application of certain amendments to the declaration  
5           of condominium to certain unit owners; amending s.  
6           718.111, F.S.; providing that a homeowners'  
7           association may satisfy its obligation to provide unit  
8           owners access to the association's official records by  
9           making such records available by specified means;  
10          providing that certain records shall not be accessible  
11          to unit owners; amending s. 718.112, F.S.; deleting a  
12          requirement that each unit owner eligible to vote in  
13          an election of board members submit a form certifying  
14          certain information within a specified period before  
15          such election; requiring that each newly elected board  
16          member certify certain information in writing within a  
17          specified period after being elected; providing that  
18          failure to timely file such certification disqualifies  
19          the director from serving on the board; requiring that  
20          the secretary of the association retain such  
21          certification for a specified period; providing that  
22          failure to have such certification on file does not  
23          affect the validity of any association action;  
24          amending s. 718.113, F.S.; authorizing the board to  
25          install code-compliant impact glass under certain  
26          conditions; amending s. 718.116, F.S.; further  
27          limiting the application of certain limitations to the  
28          liability of a first mortgagee, its successor, or  
29          assignee acquiring title to a unit by foreclosure or

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30 deed in lieu of foreclosure for certain unpaid  
31 assessments; clarifying the definition of "successor  
32 or assignee"; limiting the amount of costs to a unit  
33 owner resulting from certain collection efforts by an  
34 association under certain conditions; providing an  
35 exception; providing for the collection of transfer  
36 fees; amending s. 718.303, F.S.; authorizing an  
37 association to suspend the right of a unit owner or a  
38 unit's occupant, licensee, or invitee to use certain  
39 common elements or association property; excluding  
40 certain common elements and property from such  
41 authorization; authorizing the association to levy  
42 fines for certain activities; requiring that  
43 reasonable notice and opportunity for a hearing be  
44 provided before an association levies such fines;  
45 granting certain powers to the committee before which  
46 hearings are held; providing exceptions to notice and  
47 hearing requirements; authorizing an association to  
48 suspend the voting rights of a member due to  
49 nonpayment of assessments, fines, or other charges  
50 delinquent for a specified period under certain  
51 circumstances; creating s. 720.3076, F.S.; authorizing  
52 the amendment of certain governing documents of  
53 certain associations if such amendment is approved by  
54 a specified portion of parcels; providing an  
55 exception; providing that a governing document may not  
56 require that amendments be approved by more than a  
57 specified percentage of parcel owners; providing that  
58 nonmaterial errors or omissions in the amendment

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59 process do not invalidate an otherwise properly  
60 adopted amendment; providing that an amendment to a  
61 governing document is effective when properly recorded  
62 in the public records of the county in which the  
63 declaration is recorded; providing that an amendment  
64 to the articles of the association becomes effective  
65 when properly filed with the state; providing  
66 legislative findings and intent; amending s. 720.3085,  
67 F.S.; limiting the amount of costs to a unit owner  
68 resulting from certain collection efforts by an  
69 association under certain conditions; providing  
70 exceptions; further limiting the application of  
71 certain limitations to the liability of a first  
72 mortgagee, its successor, or assignee acquiring title  
73 to a unit by foreclosure or deed in lieu of  
74 foreclosure for certain unpaid assessments; amending  
75 s. 720.30851, F.S.; inserting a cross-reference to  
76 clarify the manner of collection of a refund of  
77 certain fees; amending s. 720.303, F.S.; specifying  
78 actions constituting compliance with provisions of  
79 state law regarding inspection and copying of official  
80 records of an association; providing that any official  
81 record of a homeowners' association requested by an  
82 owner shall be deemed provided under certain  
83 conditions; providing an effective date.

84  
85 Be It Enacted by the Legislature of the State of Florida:

86  
87 Section 1. Subsection (13) of section 718.110, Florida

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88 Statutes, is amended to read:

89 718.110 Amendment of declaration; correction of error or  
90 omission in declaration by circuit court.-

91 (13) Any amendment prohibiting ~~restricting~~ unit owners from  
92 renting their units or altering the number of times unit owners  
93 are entitled to rent their units during a specified period  
94 ~~owners' rights relating to the rental of units~~ applies only to  
95 unit owners who consent to the amendment and unit owners who  
96 acquire title to ~~purchase~~ their units after the effective date  
97 of that amendment.

98 Section 2. Paragraphs (b) and (c) of subsection (12) of  
99 section 718.111, Florida Statutes, are amended to read:

100 718.111 The association.-

101 (12) OFFICIAL RECORDS.-

102 (b) The official records of the association shall be  
103 maintained within the state for at least 7 years. The records of  
104 the association shall be made available to a unit owner within  
105 45 miles of the condominium property or within the county in  
106 which the condominium property is located within 5 working days  
107 after receipt of written request by the board or its designee.  
108 However, such distance requirement does not apply to an  
109 association governing a timeshare condominium. This paragraph  
110 may be complied with by having a copy of the official records of  
111 the association available for inspection or copying on the  
112 condominium property or association property, or the association  
113 may offer the option of making the records of the association  
114 available to a unit owner either electronically via the Internet  
115 or by allowing the records to be viewed in electronic format on  
116 a computer screen or website and printed by the unit owner ~~upon~~

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117 ~~request.~~

118 (c) The official records of the association are open to  
119 inspection by any association member or the authorized  
120 representative of such member at all reasonable times. The right  
121 to inspect the records includes the right to make or obtain  
122 copies, at the reasonable expense, if any, of the association  
123 member. The association may adopt reasonable rules regarding the  
124 frequency, time, location, notice, and manner of record  
125 inspections and copying. The failure of an association to  
126 provide the records within 10 working days after receipt of a  
127 written request shall create a rebuttable presumption that the  
128 association willfully failed to comply with this paragraph. A  
129 unit owner who is denied access to official records is entitled  
130 to the actual damages or minimum damages for the association's  
131 willful failure to comply with this paragraph. The minimum  
132 damages shall be \$50 per calendar day up to 10 days, the  
133 calculation to begin on the 11th working day after receipt of  
134 the written request. The failure to permit inspection of the  
135 association records as provided herein entitles any person  
136 prevailing in an enforcement action to recover reasonable  
137 attorney's fees from the person in control of the records who,  
138 directly or indirectly, knowingly denied access to the records  
139 for inspection. Any person who knowingly or intentionally  
140 defaces or destroys accounting records that are required by this  
141 chapter, or knowingly or intentionally fails to create or  
142 maintain accounting records that are required by this chapter,  
143 is personally subject to a civil penalty pursuant to s.  
144 718.501(1)(d). The association shall maintain an adequate number  
145 of copies of the declaration, articles of incorporation, bylaws,

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146 and rules, and all amendments to each of the foregoing, as well  
147 as the question and answer sheet provided for in s. 718.504 and  
148 year-end financial information required in this section on the  
149 condominium property to ensure their availability to unit owners  
150 and prospective purchasers, and may charge its actual costs for  
151 preparing and furnishing these documents to those requesting the  
152 same. Notwithstanding the provisions of this paragraph, the  
153 following records shall not be accessible to unit owners:

154 1. Any record protected by the lawyer-client privilege as  
155 described in s. 90.502; and any record protected by the work-  
156 product privilege, including any record prepared by an  
157 association attorney or prepared at the attorney's express  
158 direction; which reflects a mental impression, conclusion,  
159 litigation strategy, or legal theory of the attorney or the  
160 association, and which was prepared exclusively for civil or  
161 criminal litigation or for adversarial administrative  
162 proceedings, or which was prepared in anticipation of imminent  
163 civil or criminal litigation or imminent adversarial  
164 administrative proceedings until the conclusion of the  
165 litigation or adversarial administrative proceedings.

166 2. Information obtained by an association in connection  
167 with the approval of the lease, sale, or other transfer of a  
168 unit.

169 3. Medical records of unit owners.

170 4. Social security numbers, driver's license numbers,  
171 credit card numbers, e-mail addresses, and other personal  
172 identifying information of any person.

173 Section 3. Paragraph (d) of subsection (2) of section  
174 718.112, Florida Statutes, is amended to read:

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175 718.112 Bylaws.—

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

179 (d) *Unit owner meetings.*—

180 1. There shall be an annual meeting of the unit owners held  
181 at the location provided in the association bylaws and, if the  
182 bylaws are silent as to the location, the meeting shall be held  
183 within 45 miles of the condominium property. However, such  
184 distance requirement does not apply to an association governing  
185 a timeshare condominium. Unless the bylaws provide otherwise, a  
186 vacancy on the board caused by the expiration of a director's  
187 term shall be filled by electing a new board member, and the  
188 election shall be by secret ballot; however, if the number of  
189 vacancies equals or exceeds the number of candidates, no  
190 election is required. The terms of all members of the board  
191 shall expire at the annual meeting and such board members may  
192 stand for reelection unless otherwise permitted by the bylaws.  
193 In the event that the bylaws permit staggered terms of no more  
194 than 2 years, and upon approval of a majority of the total  
195 voting interests, the association board members may serve 2-year  
196 staggered terms. If no person is interested in or demonstrates  
197 an intention to run for the position of a board member whose  
198 term has expired according to the provisions of this  
199 subparagraph, such board member whose term has expired shall be  
200 automatically reappointed to the board of administration and  
201 need not stand for reelection. In a condominium association of  
202 more than 10 units, coowners of a unit may not serve as members  
203 of the board of directors at the same time. Any unit owner

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204 desiring to be a candidate for board membership shall comply  
205 with subparagraph 3. A person who has been suspended or removed  
206 by the division under this chapter, or who is delinquent in the  
207 payment of any fee or assessment as provided in paragraph (n),  
208 is not eligible for board membership. A person who has been  
209 convicted of any felony in this state or in a United States  
210 District or Territorial Court, or who has been convicted of any  
211 offense in another jurisdiction that would be considered a  
212 felony if committed in this state, is not eligible for board  
213 membership unless such felon's civil rights have been restored  
214 for a period of no less than 5 years as of the date on which  
215 such person seeks election to the board. The validity of an  
216 action by the board is not affected if it is later determined  
217 that a member of the board is ineligible for board membership  
218 due to having been convicted of a felony.

219       2. The bylaws shall provide the method of calling meetings  
220 of unit owners, including annual meetings. Written notice, which  
221 notice must include an agenda, shall be mailed, hand delivered,  
222 or electronically transmitted to each unit owner at least 14  
223 days prior to the annual meeting and shall be posted in a  
224 conspicuous place on the condominium property at least 14  
225 continuous days preceding the annual meeting. Upon notice to the  
226 unit owners, the board shall by duly adopted rule designate a  
227 specific location on the condominium property or association  
228 property upon which all notices of unit owner meetings shall be  
229 posted; however, if there is no condominium property or  
230 association property upon which notices can be posted, this  
231 requirement does not apply. In lieu of or in addition to the  
232 physical posting of notice of any meeting of the unit owners on



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233 the condominium property, the association may, by reasonable  
234 rule, adopt a procedure for conspicuously posting and repeatedly  
235 broadcasting the notice and the agenda on a closed-circuit cable  
236 television system serving the condominium association. However,  
237 if broadcast notice is used in lieu of a notice posted  
238 physically on the condominium property, the notice and agenda  
239 must be broadcast at least four times every broadcast hour of  
240 each day that a posted notice is otherwise required under this  
241 section. When broadcast notice is provided, the notice and  
242 agenda must be broadcast in a manner and for a sufficient  
243 continuous length of time so as to allow an average reader to  
244 observe the notice and read and comprehend the entire content of  
245 the notice and the agenda. Unless a unit owner waives in writing  
246 the right to receive notice of the annual meeting, such notice  
247 shall be hand delivered, mailed, or electronically transmitted  
248 to each unit owner. Notice for meetings and notice for all other  
249 purposes shall be mailed to each unit owner at the address last  
250 furnished to the association by the unit owner, or hand  
251 delivered to each unit owner. However, if a unit is owned by  
252 more than one person, the association shall provide notice, for  
253 meetings and all other purposes, to that one address which the  
254 developer initially identifies for that purpose and thereafter  
255 as one or more of the owners of the unit shall so advise the  
256 association in writing, or if no address is given or the owners  
257 of the unit do not agree, to the address provided on the deed of  
258 record. An officer of the association, or the manager or other  
259 person providing notice of the association meeting, shall  
260 provide an affidavit or United States Postal Service certificate  
261 of mailing, to be included in the official records of the

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262 association affirming that the notice was mailed or hand  
263 delivered, in accordance with this provision.

264 3. The members of the board shall be elected by written  
265 ballot or voting machine. Proxies shall in no event be used in  
266 electing the board, either in general elections or elections to  
267 fill vacancies caused by recall, resignation, or otherwise,  
268 unless otherwise provided in this chapter. Not less than 60 days  
269 before a scheduled election, the association shall mail,  
270 deliver, or electronically transmit, whether by separate  
271 association mailing or included in another association mailing,  
272 delivery, or transmission, including regularly published  
273 newsletters, to each unit owner entitled to a vote, a first  
274 notice of the date of the election ~~along with a certification~~  
275 ~~form provided by the division attesting that he or she has read~~  
276 ~~and understands, to the best of his or her ability, the~~  
277 ~~governing documents of the association and the provisions of~~  
278 ~~this chapter and any applicable rules.~~ Any unit owner or other  
279 eligible person desiring to be a candidate for the board must  
280 give written notice to the association not less than 40 days  
281 before a scheduled election. Together with the written notice  
282 and agenda as set forth in subparagraph 2., the association  
283 shall mail, deliver, or electronically transmit a second notice  
284 of the election to all unit owners entitled to vote therein,  
285 together with a ballot which shall list all candidates. Upon  
286 request of a candidate, the association shall include an  
287 information sheet, no larger than 8 1/2 inches by 11 inches,  
288 which must be furnished by the candidate not less than 35 days  
289 before the election, ~~along with the signed certification form~~  
290 ~~provided for in this subparagraph,~~ to be included with the

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291 mailing, delivery, or transmission of the ballot, with the costs  
292 of mailing, delivery, or electronic transmission and copying to  
293 be borne by the association. The association is not liable for  
294 the contents of the information sheets prepared by the  
295 candidates. In order to reduce costs, the association may print  
296 or duplicate the information sheets on both sides of the paper.  
297 The division shall by rule establish voting procedures  
298 consistent with the provisions contained herein, including rules  
299 establishing procedures for giving notice by electronic  
300 transmission and rules providing for the secrecy of ballots.  
301 Elections shall be decided by a plurality of those ballots cast.  
302 There shall be no quorum requirement; however, at least 20  
303 percent of the eligible voters must cast a ballot in order to  
304 have a valid election of members of the board. No unit owner  
305 shall permit any other person to vote his or her ballot, and any  
306 such ballots improperly cast shall be deemed invalid, provided  
307 any unit owner who violates this provision may be fined by the  
308 association in accordance with s. 718.303. A unit owner who  
309 needs assistance in casting the ballot for the reasons stated in  
310 s. 101.051 may obtain assistance in casting the ballot. The  
311 regular election shall occur on the date of the annual meeting.  
312 The provisions of this subparagraph do ~~shall~~ not apply to  
313 timeshare condominium associations. Notwithstanding the  
314 provisions of this subparagraph, an election is not required  
315 unless more candidates file notices of intent to run or are  
316 nominated than board vacancies exist. Within 30 days after being  
317 elected to the board of directors, a director shall provide  
318 written certification to the secretary of the association, using  
319 the form adopted by the division, that he or she has read the

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320 association's declaration of condominium, articles of  
321 incorporation, bylaws, and current written policies, that he or  
322 she will work to uphold such documents and policies to the best  
323 of his or her ability, and that he or she will faithfully  
324 discharge his or her fiduciary responsibility to the  
325 association's members. Failure to timely file the statement  
326 disqualifies the director from serving on the association's  
327 board of directors. The association shall retain a director's  
328 certification for inspection by the members for 7 years after  
329 the date of a director's election. Failure to have such  
330 certification on file does not affect the validity of any  
331 association action.

332 4. Any approval by unit owners called for by this chapter  
333 or the applicable declaration or bylaws, including, but not  
334 limited to, the approval requirement in s. 718.111(8), shall be  
335 made at a duly noticed meeting of unit owners and shall be  
336 subject to all requirements of this chapter or the applicable  
337 condominium documents relating to unit owner decisionmaking,  
338 except that unit owners may take action by written agreement,  
339 without meetings, on matters for which action by written  
340 agreement without meetings is expressly allowed by the  
341 applicable bylaws or declaration or any statute that provides  
342 for such action.

343 5. Unit owners may waive notice of specific meetings if  
344 allowed by the applicable bylaws or declaration or any statute.  
345 If authorized by the bylaws, notice of meetings of the board of  
346 administration, unit owner meetings, except unit owner meetings  
347 called to recall board members under paragraph (j), and  
348 committee meetings may be given by electronic transmission to

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349 unit owners who consent to receive notice by electronic  
350 transmission.

351 6. Unit owners shall have the right to participate in  
352 meetings of unit owners with reference to all designated agenda  
353 items. However, the association may adopt reasonable rules  
354 governing the frequency, duration, and manner of unit owner  
355 participation.

356 7. Any unit owner may tape record or videotape a meeting of  
357 the unit owners subject to reasonable rules adopted by the  
358 division.

359 8. Unless otherwise provided in the bylaws, any vacancy  
360 occurring on the board before the expiration of a term may be  
361 filled by the affirmative vote of the majority of the remaining  
362 directors, even if the remaining directors constitute less than  
363 a quorum, or by the sole remaining director. In the alternative,  
364 a board may hold an election to fill the vacancy, in which case  
365 the election procedures must conform to the requirements of  
366 subparagraph 3. unless the association governs 10 units or less  
367 and has opted out of the statutory election process, in which  
368 case the bylaws of the association control. Unless otherwise  
369 provided in the bylaws, a board member appointed or elected  
370 under this section shall fill the vacancy for the unexpired term  
371 of the seat being filled. Filling vacancies created by recall is  
372 governed by paragraph (j) and rules adopted by the division.

373

374 Notwithstanding subparagraphs (b)2. and (d)3., an association of  
375 10 or fewer units may, by the affirmative vote of a majority of  
376 the total voting interests, provide for different voting and  
377 election procedures in its bylaws, which vote may be by a proxy

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378 specifically delineating the different voting and election  
379 procedures. The different voting and election procedures may  
380 provide for elections to be conducted by limited or general  
381 proxy.

382 Section 4. Paragraph (a) of subsection (5) of section  
383 718.113, Florida Statutes, is amended, present paragraphs (b),  
384 (c), and (d) of that subsection are redesignated as paragraphs  
385 (c), (d), and (e), respectively, and a new paragraph (b) is  
386 added to that subsection, to read:

387 718.113 Maintenance; limitation upon improvement; display  
388 of flag; hurricane shutters; display of religious decorations.-

389 (5) Each board of administration shall adopt hurricane  
390 shutter specifications for each building within each condominium  
391 operated by the association which shall include color, style,  
392 and other factors deemed relevant by the board. All  
393 specifications adopted by the board shall comply with the  
394 applicable building code.

395 (a) The board may, subject to the provisions of s.  
396 718.3026, and the approval of a majority of voting interests of  
397 the condominium, install hurricane shutters or hurricane  
398 protection that complies with or exceeds the applicable building  
399 code, or both, except that a vote of the owners is not required  
400 if the maintenance, repair, and replacement of hurricane  
401 shutters or other forms of hurricane protection are the  
402 responsibility of the association pursuant to the declaration of  
403 condominium. However, where hurricane protection or laminated  
404 glass or window film architecturally designed to function as  
405 hurricane protection which complies with or exceeds the current  
406 applicable building code has been previously installed, the

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407 board may not install hurricane shutters or other hurricane  
408 protection, except for code-compliant impact glass.

409 (b) Code-compliant impact glass may be installed by the  
410 association as hurricane protection if the area where the code-  
411 compliant impact glass is to be installed is an area that is the  
412 responsibility of the association to maintain or repair pursuant  
413 to the declaration of condominium as originally recorded or as  
414 amended in accordance with the procedures in the declaration.

415 Section 5. Paragraphs (b) and (g) of subsection (1),  
416 paragraph (b) of subsection (5), paragraph (b) of subsection  
417 (6), and paragraph (c) of subsection (8) of section 718.116,  
418 Florida Statutes, are amended to read:

419 718.116 Assessments; liability; lien and priority;  
420 interest; collection.-

421 (1)

422 (b) The liability of a first mortgagee or its successor or  
423 assignees who acquire title to a unit by foreclosure or by  
424 recorded deed in lieu of foreclosure for the unpaid assessments  
425 that became due prior to the mortgagee's acquisition of title is  
426 limited to the lesser of:

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

431 2. One percent of the original mortgage debt. The  
432 provisions of this paragraph apply only if the first mortgagee  
433 joined the association as a defendant in the foreclosure action  
434 and the first mortgagee acquires title to the unit within 1 year  
435 following the date on which the foreclosure action is filed,

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436 regardless of the date on which the foreclosure action was  
437 initiated. If the unit is owner-occupied, the 1-year time limit  
438 does not apply. Joinder of the association is not required if,  
439 on the date the complaint is filed, the association was  
440 dissolved or did not maintain an office or agent for service of  
441 process at a location which was known to or reasonably  
442 discoverable by the mortgagee. Notwithstanding any provision to  
443 the contrary, the 1-year period established in this subparagraph  
444 shall automatically be extended for any length of time during  
445 which the first mortgagee is prevented from filing or continuing  
446 a foreclosure due to a bankruptcy petition filed by the owner  
447 under chapter 7 or chapter 13 of the Bankruptcy Code through  
448 which the mortgagee diligently pursues stay relief.

449 (g) For purposes of this subsection, the term "successor or  
450 assignee" as used with respect to a first mortgagee includes  
451 only a subsequent holder of the first mortgage who acquires the  
452 first mortgage before any action to foreclose the first mortgage  
453 is initiated or any recorded deed in lieu of foreclosure is  
454 given to the successor or assignee.

455 (5)

456 (b) To be valid, a claim of lien must state the description  
457 of the condominium parcel, the name of the record owner, the  
458 name and address of the association, the amount due, and the due  
459 dates. It must be executed and acknowledged by an officer or  
460 authorized agent of the association. No such lien shall be  
461 effective longer than 1 year after the claim of lien was  
462 recorded unless, within that time, an action to enforce the lien  
463 is commenced. The 1-year period shall automatically be extended  
464 for any length of time during which the association is prevented



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465 from filing a foreclosure action by an automatic stay resulting  
466 from a bankruptcy petition filed by the parcel owner or any  
467 other person claiming an interest in the parcel. The claim of  
468 lien shall secure all unpaid assessments which are due and which  
469 may accrue subsequent to the recording of the claim of lien and  
470 prior to the entry of a certificate of title, as well as  
471 interest and all reasonable costs and attorney's fees incurred  
472 by the association incident to the collection process. Costs to  
473 the unit owner secured by the association's claim of lien with  
474 regard to collection letters or any other collection efforts by  
475 management companies or licensed managers may not exceed \$50  
476 unless the management company is preparing any letter or  
477 certificate required by this chapter and charging a reasonable  
478 fee related to the preparation of such a letter or certificate.  
479 Upon payment in full, the person making the payment is entitled  
480 to a satisfaction of the lien.

481  
482 After notice of contest of lien has been recorded, the clerk of  
483 the circuit court shall mail a copy of the recorded notice to  
484 the association by certified mail, return receipt requested, at  
485 the address shown in the claim of lien or most recent amendment  
486 to it and shall certify to the service on the face of the  
487 notice. Service is complete upon mailing. After service, the  
488 association has 90 days in which to file an action to enforce  
489 the lien; and, if the action is not filed within the 90-day  
490 period, the lien is void. However, the 90-day period shall be  
491 extended for any length of time that the association is  
492 prevented from filing its action because of an automatic stay  
493 resulting from the filing of a bankruptcy petition by the unit

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494 owner or by any other person claiming an interest in the parcel.

495 (6)

496 (b) No foreclosure judgment may be entered until at least  
497 30 days after the association gives written notice to the unit  
498 owner of its intention to foreclose its lien to collect the  
499 unpaid assessments. If this notice is not given at least 30 days  
500 before the foreclosure action is filed, and if the unpaid  
501 assessments, including those coming due after the claim of lien  
502 is recorded, are paid before the entry of a final judgment of  
503 foreclosure, the association shall not recover attorney's fees  
504 or costs. The notice must be given by delivery of a copy of it  
505 to the unit owner or by certified or registered mail, return  
506 receipt requested, addressed to the unit owner at his or her  
507 last known address; and, upon such mailing, the notice shall be  
508 deemed to have been given, and the court shall proceed with the  
509 foreclosure action and may award attorney's fees and costs as  
510 permitted by law. The notice requirements of this subsection are  
511 satisfied if the unit owner records a notice of contest of lien  
512 as provided in subsection (5). The notice requirements contained  
513 in ~~of~~ this subsection and s. 718.121(4) do not apply if an  
514 action to foreclose a mortgage on the condominium unit is  
515 pending before any court; if the rights of the association would  
516 be affected by such foreclosure; and if actual, constructive, or  
517 substitute service of process has been made on the unit owner.

518 (8) Within 15 days after receiving a written request  
519 therefor from a unit owner or his or her designee, or a unit  
520 mortgagee or his or her designee, the association shall provide  
521 a certificate signed by an officer or agent of the association  
522 stating all assessments and other moneys owed to the association

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523 by the unit owner with respect to the condominium parcel.

524 (c) Notwithstanding any limitation on transfer fees  
525 contained in s. 718.112(2)(i), the association or its authorized  
526 agent may charge a reasonable fee for the preparation of the  
527 certificate. The amount of the fee must be included on the  
528 certificate. The fee may be collected in the same manner as  
529 provided in this section for the collection of unpaid  
530 assessments.

531 Section 6. Section 718.303, Florida Statutes, is amended to  
532 read:

533 718.303 Obligations of owners and occupants; waiver; levy  
534 of finances, suspension of use or voting rights, and other  
535 nonexclusive remedies in law or equity ~~fine against unit~~ by an  
536 association.-

537 (1) Each unit owner, each tenant and other invitee, and  
538 each association shall be governed by, and shall comply with the  
539 provisions of, this chapter, the declaration, the documents  
540 creating the association, and the association bylaws and the  
541 provisions thereof shall be deemed expressly incorporated into  
542 any lease of a unit. Actions for damages or for injunctive  
543 relief, or both, for failure to comply with these provisions may  
544 be brought by the association or by a unit owner against:

545 (a) The association.

546 (b) A unit owner.

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

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

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552 (e) Any tenant leasing a unit, and any other invitee  
553 occupying a unit.

554  
555 The prevailing party in any such action or in any action in  
556 which the purchaser claims a right of voidability based upon  
557 contractual provisions as required in s. 718.503(1)(a) is  
558 entitled to recover reasonable attorney's fees. A unit owner  
559 prevailing in an action between the association and the unit  
560 owner under this section, in addition to recovering his or her  
561 reasonable attorney's fees, may recover additional amounts as  
562 determined by the court to be necessary to reimburse the unit  
563 owner for his or her share of assessments levied by the  
564 association to fund its expenses of the litigation. This relief  
565 does not exclude other remedies provided by law. Actions arising  
566 under this subsection shall not be deemed to be actions for  
567 specific performance.

568 (2) A provision of this chapter may not be waived if the  
569 waiver would adversely affect the rights of a unit owner or the  
570 purpose of the provision, except that unit owners or members of  
571 a board of administration may waive notice of specific meetings  
572 in writing if provided by the bylaws. Any instruction given in  
573 writing by a unit owner or purchaser to an escrow agent may be  
574 relied upon by an escrow agent, whether or not such instruction  
575 and the payment of funds thereunder might constitute a waiver of  
576 any provision of this chapter.

577 (3) If the declaration or bylaws so provide, the  
578 association may suspend, for a reasonable period of time, the  
579 right of a unit owner or a unit's occupant, licensee, or  
580 invitee, to use common elements, common facilities, or any other

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581 association property. This subsection does not apply to limited  
582 common elements intended to be used only by that unit, common  
583 elements that must be used to access the unit, utility services  
584 provided to the unit, parking spaces, or elevators. The  
585 association may also levy reasonable fines against a unit for  
586 the failure of the owner of the unit, or its occupant, licensee,  
587 or invitee, to comply with any provision of the declaration, the  
588 association bylaws, or reasonable rules of the association. A ~~No~~  
589 fine ~~does not will~~ become a lien against a unit. A ~~No~~ fine may  
590 not exceed \$100 per violation. However, a fine may be levied on  
591 the basis of each day of a continuing violation, with a single  
592 notice and opportunity for hearing, except ~~provided~~ that ~~no~~ such  
593 fine ~~shall~~ in the aggregate may not exceed \$1,000. A ~~No~~ fine may  
594 not be levied and a suspension may not be imposed unless the  
595 association first gives ~~except after giving~~ reasonable notice  
596 and opportunity for a hearing to the unit owner and, if  
597 applicable, its occupant, licensee, or invitee. The hearing must  
598 be held before a committee of other unit owners who are neither  
599 board members nor persons residing in a board member's  
600 household. If the committee does not agree with the fine or  
601 suspension, the fine or suspension may not be levied or imposed.  
602 ~~The provisions of this subsection do not apply to unoccupied~~  
603 ~~units.~~

604 (4) The notice and hearing requirements of subsection (3)  
605 do not apply to the imposition of suspensions or fines against  
606 any unit owner or a unit's occupant, licensee, or invitee  
607 because of the failure to pay any amounts due the association.  
608 If such a fine or suspension is imposed, the association must  
609 levy the fine or impose a reasonable suspension at a properly

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610 noticed board meeting and notify the unit owner and, if  
611 applicable, the owner's occupant, licensee, or invitee by mail  
612 or hand delivery after the imposition of such fine or  
613 suspension.

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

618 Section 7. Section 720.3076, Florida Statutes, is created  
619 to read:

620 720.3076 Amendment of governing documents.-

621 (1) (a) For associations no longer controlled by the  
622 developer and turned over to the parcel owners pursuant to s.  
623 720.307, the governing documents may be amended by a vote of  
624 two-thirds of all parcels unless provided otherwise in the  
625 documents as recorded. A governing document may not require that  
626 amendments be approved by more than 80 percent of the parcel  
627 owners.

628 (b) Nonmaterial errors or omissions in the amendment  
629 process do not invalidate an otherwise properly adopted  
630 amendment.

631 (2) An amendment to any governing document is effective  
632 when properly recorded in the public records of the county in  
633 which the declaration is recorded. If an amendment is to the  
634 articles, such amendment becomes effective when properly filed  
635 with the state.

636 (3) (a) The Legislature finds that the requirement of  
637 mortgagee notification of or consent to amendments that do not  
638 adversely affect the priority of the mortgagee's lien rights or

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639 the right to foreclose its lien or otherwise materially  
640 adversely affect the rights and interests of the mortgagee not  
641 otherwise authorized by this chapter are unenforceable in the  
642 courts of this state as a matter of public policy. The  
643 Legislature also finds that such requirements are an  
644 unreasonable, substantial, logistical, and financial burden on  
645 the homeowners of this state and that there exists a compelling  
646 state interest in enabling the members of homeowners'  
647 associations to approve amendments to governing documents  
648 through reasonable means.

649 (b) This subsection is intended to apply retroactively and  
650 to all associations whether created on, before, or after July 1,  
651 2009.

652 Section 8. Paragraph (a) of subsection (1) and paragraph  
653 (c) of subsection (2) of section 720.3085, Florida Statutes, are  
654 amended to read:

655 720.3085 Payment for assessments; lien claims.—

656 (1) When authorized by the governing documents, the  
657 association has a lien on each parcel to secure the payment of  
658 assessments and other amounts provided for by this section.  
659 Except as otherwise set forth in this section, the lien is  
660 effective from and shall relate back to the date on which the  
661 original declaration of the community was recorded. However, as  
662 to first mortgages of record, the lien is effective from and  
663 after recording of a claim of lien in the public records of the  
664 county in which the parcel is located. This subsection does not  
665 bestow upon any lien, mortgage, or certified judgment of record  
666 on July 1, 2008, including the lien for unpaid assessments  
667 created in this section, a priority that, by law, the lien,

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

669 (a) To be valid, a claim of lien must state the description  
670 of the parcel, the name of the record owner, the name and  
671 address of the association, the assessment amount due, and the  
672 due date. The claim of lien shall secure all unpaid assessments  
673 that are due and that may accrue subsequent to the recording of  
674 the claim of lien and before entry of a certificate of title, as  
675 well as interest, late charges, and reasonable costs and  
676 attorney's fees incurred by the association incident to the  
677 collection process. Costs to the unit owner which are secured by  
678 the association's claim of lien with regard to collection  
679 letters or any other collection efforts by management companies  
680 or licensed managers may not exceed \$50 unless the management  
681 company is preparing any letter or certificate required by this  
682 chapter and charging a reasonable fee related to the preparation  
683 of such a letter or certificate. The person making the payment  
684 is entitled to a satisfaction of the lien upon payment in full.

685 (2)

686 (c) Notwithstanding anything to the contrary contained in  
687 this section, the liability of a first mortgagee, or its  
688 successor or assignee as a subsequent holder of the first  
689 mortgage who acquires title to a parcel by foreclosure or by  
690 recorded deed in lieu of foreclosure for the unpaid assessments  
691 that became due before the mortgagee's acquisition of title,  
692 shall be the lesser of:

693 1. The parcel's unpaid common expenses and regular periodic  
694 or special assessments that accrued or came due during the 12  
695 months immediately preceding the acquisition of title and for  
696 which payment in full has not been received by the association;



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697 or

698 2. One percent of the original mortgage debt.

699

700 The limitations on first mortgagee liability provided in this  
701 chapter ~~by this paragraph~~ apply only if the first mortgagee  
702 filed suit against the parcel owner and initially joined the  
703 association as a defendant in the mortgagee foreclosure action,  
704 and the first mortgagee acquires title to the parcel within 1  
705 year following the date on which the foreclosure action is  
706 filed, regardless of the date on which the foreclosure action  
707 was initiated. If the parcel is owner-occupied, the 1-year time  
708 limit does not apply. Joinder of the association is not required  
709 if, on the date the complaint is filed, the association was  
710 dissolved or did not maintain an office or agent for service of  
711 process at a location that was known to or reasonably  
712 discoverable by the mortgagee. Notwithstanding any provision to  
713 the contrary, the 1-year period set forth in this subsection  
714 shall automatically be extended for any length of time during  
715 which the first mortgagee is prevented from filing or continuing  
716 the foreclosure process due to the filing of a bankruptcy  
717 petition by the owner pursuant to chapter 7 or chapter 13 of the  
718 Bankruptcy Code through which the mortgagee diligently pursues  
719 stay relief.

720 Section 9. Subsection (3) of section 720.30851, Florida  
721 Statutes, is amended to read:

722 720.30851 Estoppel certificates.—Within 15 days after the  
723 date on which a request for an estoppel certificate is received  
724 from a parcel owner or mortgagee, or his or her designee, the  
725 association shall provide a certificate signed by an officer or

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726 authorized agent of the association stating all assessments and  
727 other moneys owed to the association by the parcel owner or  
728 mortgagee with respect to the parcel. An association may charge  
729 a fee for the preparation of such certificate, and the amount of  
730 such fee must be stated on the certificate.

731 (3) The authority to charge a fee for the certificate shall  
732 be established by a written resolution adopted by the board or  
733 provided by a written management, bookkeeping, or maintenance  
734 contract and is payable upon the preparation of the certificate.  
735 If the certificate is requested in conjunction with the sale or  
736 mortgage of a parcel but the closing does not occur and no later  
737 than 30 days after the closing date for which the certificate  
738 was sought the preparer receives a written request, accompanied  
739 by reasonable documentation, that the sale did not occur from a  
740 payor that is not the parcel owner, the fee shall be refunded to  
741 that payor within 30 days after receipt of the request. The  
742 refund is the obligation of the parcel owner, and the  
743 association may collect it from that owner in the same manner as  
744 an assessment as provided in s. 720.3085 ~~this section~~.

745 Section 10. Subsection (5) of section 720.303, Florida  
746 Statutes, is amended to read:

747 720.303 Association powers and duties; meetings of board;  
748 official records; budgets; financial reporting; association  
749 funds; recalls.—

750 (5) INSPECTION AND COPYING OF RECORDS.—The official records  
751 shall be maintained within the state and must be open to  
752 inspection and available for photocopying by members or their  
753 authorized agents at reasonable times and places within 10  
754 business days after receipt of a written request for access.

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755 This subsection may be complied with by having a copy of the  
756 official records available for inspection or copying in the  
757 community. If the association has a photocopy machine available  
758 where the records are maintained, it must provide parcel owners  
759 with copies on request during the inspection if the entire  
760 request is limited to no more than 25 pages. An association may  
761 comply with this subsection by having a copy of the official  
762 records of the association available for inspection or copying  
763 on the association property, making such records available to an  
764 owner electronically via the Internet, or by allowing such  
765 records to be viewed in electronic format on a website or  
766 computer screen and printed by the parcel owner. Any record  
767 requested by an owner shall be deemed to have been provided if  
768 the association maintains a website, such records may be  
769 accessed by the requesting owner on that website, and the  
770 website is accessible in a library within the county in which  
771 the condominium is located.

772 (a) The failure of an association to provide access to the  
773 records within 10 business days after receipt of a written  
774 request creates a rebuttable presumption that the association  
775 willfully failed to comply with this subsection.

776 (b) A member who is denied access to official records is  
777 entitled to the actual damages or minimum damages for the  
778 association's willful failure to comply with this subsection.  
779 The minimum damages are to be \$50 per calendar day up to 10  
780 days, the calculation to begin on the 11th business day after  
781 receipt of the written request.

782 (c) The association may adopt reasonable written rules  
783 governing the frequency, time, location, notice, records to be

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784 inspected, and manner of inspections, but may not impose a  
785 requirement that a parcel owner demonstrate any proper purpose  
786 for the inspection, state any reason for the inspection, or  
787 limit a parcel owner's right to inspect records to less than one  
788 8-hour business day per month. The association may impose fees  
789 to cover the costs of providing copies of the official records,  
790 including, without limitation, the costs of copying. The  
791 association may charge up to 50 cents per page for copies made  
792 on the association's photocopier. If the association does not  
793 have a photocopy machine available where the records are kept,  
794 or if the records requested to be copied exceed 25 pages in  
795 length, the association may have copies made by an outside  
796 vendor and may charge the actual cost of copying. The  
797 association shall maintain an adequate number of copies of the  
798 recorded governing documents, to ensure their availability to  
799 members and prospective members. Notwithstanding the provisions  
800 of this paragraph, the following records shall not be accessible  
801 to members or parcel owners:

802 1. Any record protected by the lawyer-client privilege as  
803 described in s. 90.502 and any record protected by the work-  
804 product privilege, including, but not limited to, any record  
805 prepared by an association attorney or prepared at the  
806 attorney's express direction which reflects a mental impression,  
807 conclusion, litigation strategy, or legal theory of the attorney  
808 or the association and was prepared exclusively for civil or  
809 criminal litigation or for adversarial administrative  
810 proceedings or which was prepared in anticipation of imminent  
811 civil or criminal litigation or imminent adversarial  
812 administrative proceedings until the conclusion of the

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813 litigation or adversarial administrative proceedings.

814       2. Information obtained by an association in connection  
815 with the approval of the lease, sale, or other transfer of a  
816 parcel.

817       3. Disciplinary, health, insurance, and personnel records  
818 of the association's employees.

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

820       (d) The association or its authorized agent is not required  
821 to provide a prospective purchaser or lienholder with  
822 information about the residential subdivision or the association  
823 other than information or documents required by this chapter to  
824 be made available or disclosed. The association or its  
825 authorized agent may charge a reasonable fee to the prospective  
826 purchaser or lienholder or the current parcel owner or member  
827 for providing good faith responses to requests for information  
828 by or on behalf of a prospective purchaser or lienholder, other  
829 than that required by law, if the fee does not exceed \$150 plus  
830 the reasonable cost of photocopying and any attorney's fees  
831 incurred by the association in connection with the response.

832       Section 11. This act shall take effect October 1, 2009.