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1 A bill to be entitled
2 An act relating to community associations; amending s.
3 20.165, F.S.; providing certain inspection powers for
4 employees of the Division of Florida Condominiums,
5 Timeshares, and Mobile Homes; amending s. 468.436, F.S.;
6 revising a ground for disciplinary action relating to
7 misconduct or negligence; requiring the Department of
8 Business and Professional Regulation to enter an order
9 permanently revoking the license of a community
10 association manager under certain circumstances; amending
11 s. 718.103, F.S.; revising the definition of the term
12 "developer"; amending s. 718.111, F.S.; providing
13 requirements for association access to a unit, including
14 prior notice; providing an exception for emergencies;
15 providing requirements for the selection of condominium
16 association board meeting times and locations; providing
17 restrictions on the times set for certain meetings;
18 prohibiting certain expenditures and contributions by a
19 condominium association; providing liability; amending s.
20 718.112, F.S.; revising notice requirements for board of
21 administration meetings; revising location requirements
22 for the annual meeting of unit owners; revising terms of
23 board members; revising election notice requirements;
24 providing requirements for the amendment of association
25 bylaws; providing for the removal of certain directors and
26 officers; providing qualifications for service on the
27 board of directors; providing requirements for the
28 borrowing of funds or committing to a line of credit by

29 | the board; amending s. 718.113, F.S.; authorizing the
30 | association to install code-compliant impact glass as
31 | hurricane protection in certain areas; amending s.
32 | 718.116, F.S.; authorizing an association to demand future
33 | regular assessments related to the condominium unit under
34 | specified conditions; providing that the demand is
35 | continuing in nature; requiring that a tenant continue to
36 | pay assessments until the occurrence of specified events;
37 | requiring the delivery of notice of such demand; limiting
38 | the liability of a tenant; providing requirements for a
39 | notice of delinquency; limiting collection fees; amending
40 | s. 718.1265, F.S.; providing conditions under which the
41 | association may use certain emergency powers; amending s.
42 | 718.301, F.S.; revising conditions under which unit owners
43 | other than the developer may elect not less than a
44 | majority of the members of the board of administration of
45 | an association; amending s. 718.303, F.S.; authorizing an
46 | association to suspend, for a reasonable time, the right
47 | of a unit owner or the unit's occupant, licensee, or
48 | invitee to use certain common elements under certain
49 | conditions; excluding certain common elements from such
50 | authorization; prohibiting a fine from being levied or a
51 | suspension from being imposed unless the association meets
52 | certain notice requirements; providing circumstances under
53 | which such notice requirements do not apply; providing
54 | procedures and notice requirements for levying a fine or
55 | imposing a suspension; amending s. 718.501, F.S.; revising
56 | condominium matters over which the Division of Florida

57 | Condominiums, Timeshares, and Mobile Homes has
58 | jurisdiction; revising and providing powers of the
59 | division; requiring the division to create a specified
60 | booklet for association directors; amending s. 718.5012,
61 | F.S.; authorizing the Office of the Condominium Ombudsman
62 | to assist in the resolution of certain disputes; amending
63 | s. 718.50151, F.S.; redesignating the Community
64 | Association Living Study Council as the Community
65 | Association Study Council; revising council membership;
66 | amending s. 719.103, F.S.; revising definitions; changing
67 | references from unit owner to shareholder in statutes
68 | relating to cooperatives; amending s. 719.104, F.S.;
69 | providing requirements for association access to a unit,
70 | including prior notice; providing an exception for
71 | emergencies; providing civil penalties for violations of
72 | accounting records requirements; exempting certain
73 | personal information from unit owner records requests;
74 | providing immunity from liability for certain information
75 | provided by associations to prospective purchasers or
76 | lienholders under certain circumstances; providing
77 | requirements with respect to financial statements and
78 | reports; providing that the operation of the cooperative
79 | shall be by the association; providing that shareholders
80 | shall be members of the association; providing legislative
81 | intent; providing that a director of the association who
82 | abstains from voting on any action taken on any corporate
83 | matter shall be presumed to have taken no position with
84 | regard to the action; providing duties of officers,

85 | directors, and agents of a cooperative association and
86 | liability for monetary damages under certain
87 | circumstances; providing that the association may
88 | contract, sue, or be sued with respect to the exercise or
89 | nonexercise of its powers; providing powers of the
90 | association with respect to title to property and purchase
91 | of units; providing requirements for the selection of
92 | cooperative association board of directors meeting times
93 | and locations; providing restrictions on the times set for
94 | certain meetings; prohibiting certain expenditures and
95 | contributions by a cooperative association; providing
96 | liability; amending s. 719.106, F.S.; requiring certain
97 | items to be placed on the agenda of board meetings;
98 | revising notice requirements for board meetings; providing
99 | requirements for shareholder meetings; providing terms of
100 | office and election requirements for the board of
101 | directors; providing criteria for the amendment of the
102 | bylaws; providing eligibility to vote on certain questions
103 | involving reserve funds; requiring proxy questions
104 | relating to reserves to contain a specified statement;
105 | requiring the bylaws to contain certain provisions;
106 | requiring that directors and officers who are delinquent
107 | in certain payments owed in excess of certain periods of
108 | time be deemed to have abandoned their offices; requiring
109 | that directors and officers charged with certain offenses
110 | involving an association's funds or property be suspended
111 | from office pending resolution of the charge; providing
112 | for the reinstatement of such directors and officers under

113 | certain circumstances; providing qualifications for
114 | directors; providing requirements for the borrowing of
115 | funds or committing to a line of credit by the board;
116 | repealing s. 719.1064, F.S., relating to the failure to
117 | fill vacancies on board of administration and the
118 | appointment of a receiver upon petition of a shareholder;
119 | amending s. 719.107, F.S.; providing that the expense of
120 | installation, replacement, operation, repair, and
121 | maintenance of hurricane shutters or other hurricane
122 | protection shall either constitute a common expense or be
123 | charged individually to the shareholders under certain
124 | conditions; amending s. 719.108, F.S.; providing grounds
125 | for disapproval of the proposed lease of a unit by an
126 | association; providing lien requirements; providing for
127 | the extension of certain liens; providing lien notice and
128 | filing requirements; providing requirements for a notice
129 | of delinquency; providing foreclosure requirements;
130 | providing the association with the power to purchase a
131 | cooperative unit at a foreclosure sale; requiring the
132 | association to provide a certificate of assessment under
133 | certain conditions; providing for the establishment of
134 | fees for the preparation of such certificates; providing
135 | for the refund of certain fees; authorizing the
136 | association to demand payment of future assessments under
137 | specified conditions; providing that the demand is
138 | continuing in nature; requiring that a tenant continue to
139 | pay assessments until the occurrence of specified events;
140 | requiring the delivery of notice of such demand; limiting

141 the liability of a tenant; creating s. 719.113, F.S.;

142 providing that maintenance of common areas is the

143 responsibility of the association; providing that the

144 cooperative documents may include reference that the

145 association provide certain maintenance for the

146 condominium; providing that there shall be no material

147 alteration or substantial additions to the common areas or

148 to real property which is association property; providing

149 for protection of the common areas; allowing shareholders

150 to display a United States flag as well as other specified

151 flags on designated days and patriotic holidays; requiring

152 the board to adopt hurricane shutter specifications;

153 authorizing the board to install certain hurricane

154 protection; prohibiting the board from installing certain

155 hurricane shutters or other hurricane protection under

156 certain circumstances; providing for the maintenance,

157 repair, and replacement of hurricane shutters or other

158 hurricane protection; authorizing the board to operate

159 hurricane shutters without shareholder permission under

160 certain circumstances; prohibiting the board from refusing

161 to approve the installation or replacement of hurricane

162 shutters under certain conditions; requiring that the

163 board inspect certain buildings and issue a report under

164 certain conditions; providing an exception; prohibiting

165 the board from refusing a request for reasonable

166 accommodation for the attachment to a unit of religious

167 objects meeting certain size specifications; authorizing

168 the board to install solar collectors, clotheslines, or

169 other energy-efficient devices upon or within common areas
170 or association property; creating s. 719.117, F.S.;
171 providing legislative findings; providing provisions
172 relating to the termination of the cooperative form of
173 ownership of a property due to economic waste or
174 impossibility or optional termination; providing grounds
175 for termination; providing an exemption; providing that
176 the approval of a plan of termination by certain mortgage
177 lienholders is not required under certain conditions;
178 providing powers and duties of the board relating to the
179 plan of termination; providing requirements following
180 natural disasters; providing reporting requirements;
181 providing requirements for a plan of termination;
182 providing for the allocation of proceeds from the sale of
183 cooperative property; providing powers and duties of a
184 termination trustee; providing notice requirements;
185 providing a procedure for contesting a plan of
186 termination; providing for recovery of attorney's fees and
187 costs; providing rules for the distribution of property
188 and sale proceeds; providing for the association's status
189 following termination; allowing the creation of another
190 cooperative by the trustee; creating s. 719.1224, F.S.;
191 prohibiting strategic lawsuits against public
192 participation; providing legislative findings and intent;
193 prohibiting a governmental entity, business organization,
194 or individual from filing certain lawsuits made upon
195 specified bases against a shareholder; providing rights of
196 a shareholder who has been served with such a lawsuit;

197 providing procedures for the resolution of certain claims;
198 providing for the award of damages and attorney's fees;
199 prohibiting associations from expending association funds
200 in prosecuting such a suit against a shareholder; amending
201 s. 719.1255, F.S.; requiring the division to provide
202 alternative dispute resolution for certain matters;
203 creating s. 719.1265, F.S.; authorizing an association to
204 exercise certain powers in instances involving damage
205 caused by an event for which a state of emergency has been
206 declared; limiting the applicability of such powers;
207 amending s. 719.301, F.S.; providing circumstances under
208 which shareholders other than a developer may elect not
209 less than a majority of the members of the board;
210 requiring a turnover inspection report; requiring that the
211 report contain certain information; creating s. 719.3025,
212 F.S.; requiring written contracts for the operation,
213 maintenance, or management of a cooperative association or
214 cooperative property; providing contract requirements;
215 authorizing the association to procure outside services
216 under certain circumstances; providing that services or
217 obligations not stated on the face of the contract are
218 unenforceable; providing applicability; amending s.
219 719.3026, F.S.; revising a provision authorizing certain
220 associations to opt out of provisions relating to
221 contracts for products and services; removing provisions
222 exempting contracts executed before a specified date from
223 certain competitive bid requirements; providing
224 requirements for any contract or transaction between an

225 association and one or more of its directors or a
226 specified other entity in which one or more of its
227 directors are directors or officers or have a financial
228 interest; amending s. 719.303, F.S.; authorizing an
229 association to suspend, for a reasonable time, the right
230 of a shareholder or a shareholder's occupant, licensee, or
231 invitee to use certain common elements under certain
232 conditions; excluding certain common elements from such
233 authorization; providing that hearings regarding
234 noncompliance with a declaration be held before certain
235 persons; providing an exception to certain notice and
236 hearing requirements; amending s. 719.501, F.S.; providing
237 authority and responsibilities of the division; providing
238 for enforcement actions brought by the division in its own
239 name; providing for the imposition of penalties by the
240 division; requiring that the division issue a subpoena
241 requiring production of certain requested records under
242 certain circumstances; providing for the issuance of
243 notice of a declaratory statement with respect to
244 documents governing a cooperative; deleting requirement
245 that the division adopt certain accounting principles;
246 requiring that the division provide training and
247 educational programs for association board members and
248 shareholders; providing that the division shall include
249 certain training components, may review or approve
250 training and educational programs offered by providers,
251 and shall maintain a list of approved programs and
252 providers; requiring that certain individuals cooperate

253 | with the division in any investigation conducted by the
254 | division; requiring the division to cooperate with similar
255 | agencies in other jurisdictions to establish certain
256 | procedures, standards, and forms; specifying what
257 | constitutes completeness of notice to a developer;
258 | authorizing the division to issue a notice to show cause;
259 | requiring the division to include certain information
260 | relating to cooperatives in a specified annual report
261 | relating to condominiums; requiring an association to pay
262 | any penalty due to the division before having standing to
263 | maintain or defend any action in the courts of this state;
264 | amending s. 719.503, F.S.; providing nondeveloper
265 | shareholder disclosure requirements for the sale of
266 | interest in a cooperative association, including a
267 | governance form; requiring the division to provide the
268 | governance form; providing requirements for the governance
269 | form; amending s. 720.303, F.S.; revising notice
270 | requirements for board meetings; providing requirements
271 | for the borrowing of funds or committing to a line of
272 | credit by the board of directors of a homeowners'
273 | association; providing requirements relating to transfer
274 | fees; prohibiting certain expenditures and contributions
275 | by a homeowners' association; providing liability;
276 | amending s. 720.304, F.S.; revising requirements with
277 | respect to the display of flags by a homeowner; amending
278 | s. 720.306, F.S.; revising instances in which the
279 | governing documents of the association may be amended;
280 | providing circumstances and methods by which the

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281 association bylaws may be amended; creating s. 720.3065,
282 F.S.; providing circumstances for removal of a director or
283 officer of, and providing qualifications for service on,
284 the board of directors of a homeowners' association;
285 creating s. 720.3068, F.S.; providing requirements for the
286 selection of homeowners' association board meeting times
287 and locations; providing restrictions on the times set for
288 certain meetings; amending s. 720.3085, F.S.; revising
289 provisions relating to the effectiveness and priority of
290 homeowners' association liens; providing requirements for
291 a notice of delinquency; authorizing an association to
292 demand future regular assessments related to the parcel
293 under specified conditions; providing that the demand is
294 continuing in nature; requiring that a tenant continue to
295 pay assessments until the occurrence of specified events;
296 requiring the delivery of written notice of such demand;
297 limiting the liability of a tenant; creating s. 720.314,
298 F.S.; providing for parcel owners to file informational
299 complaints regarding homeowners' associations and their
300 officers and directors with the Office of Program Policy
301 Analysis and Government Accountability; providing for an
302 informational complaint form and the format of such form;
303 amending s. 721.16, F.S.; conforming a cross-reference;
304 providing an effective date.

305

306 Be It Enacted by the Legislature of the State of Florida:

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308 Section 1. Subsection (10) is added to section 20.165,
 309 Florida Statutes, to read:

310 20.165 Department of Business and Professional
 311 Regulation.—There is created a Department of Business and
 312 Professional Regulation.

313 (10) All employees authorized by the Division of Florida
 314 Condominiums, Timeshares, and Mobile Homes shall have access to
 315 and shall have the right to examine and inspect the premises,
 316 books, and records of any condominium, cooperative, timeshare,
 317 or mobile home park regulated by the division. Such employees
 318 shall also have access to and shall have the right to examine
 319 and inspect the books and records of any community association
 320 manager or firm employed by any condominium, cooperative,
 321 timeshare, or mobile home park regulated by the division.

322 Section 2. Paragraph (b) of subsection (2) of section
 323 468.436, Florida Statutes, is amended, and subsection (6) is
 324 added to that section, to read:

325 468.436 Disciplinary proceedings.—

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

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

329 2. Violation of any lawful order or rule rendered or
 330 adopted by the department or the council.

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

333 4. Obtaining a license or certification or any other
 334 order, ruling, or authorization by means of fraud,
 335 misrepresentation, or concealment of material facts.

336 5. Committing acts of ~~gross~~ misconduct or ~~gross~~ negligence
 337 in connection with the profession.

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

341 (6) Upon the fifth or later finding that a community
 342 association manager is guilty of any of the grounds set forth in
 343 subsection (2), or upon the third or later finding that a
 344 community association manager is guilty of a specific ground for
 345 which the disciplinary actions set forth in subsection (2) may
 346 be taken, the department's discretion under subsection (4) shall
 347 not apply and the division shall enter an order permanently
 348 revoking the license.

349 Section 3. Subsection (16) of section 718.103, Florida
 350 Statutes, is amended to read:

351 718.103 Definitions.—As used in this chapter, the term:

352 (16) "Developer" means a person who creates a condominium
 353 or offers condominium parcels for sale or lease in the ordinary
 354 course of business, but does not include:

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

358 (b) A cooperative association that ~~which~~ creates a
 359 condominium by conversion of an existing residential cooperative
 360 after control of the association has been transferred to the
 361 unit owners if, following the conversion, the unit owners will
 362 be the same persons who were unit owners of the cooperative and
 363 no units are offered for sale or lease to the public as part of

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364 the plan of conversion; or-

365 (c) A state, county, or municipal entity ~~is not a~~
 366 ~~developer for any purposes under this act~~ when it is acting as a
 367 lessor and not otherwise named as a developer in the declaration
 368 of condominium association.

369 Section 4. Subsection (5) and paragraph (b) of subsection
 370 (12) of section 718.111, Florida Statutes, are amended, and
 371 subsections (15) and (16) are added to that section, to read:

372 718.111 The association.—

373 (5) RIGHT OF ACCESS TO UNITS.—The association has the
 374 irrevocable right of access to each unit during reasonable
 375 hours, when necessary for the maintenance, repair, or
 376 replacement of any common elements or of any portion of a unit
 377 to be maintained by the association pursuant to the declaration
 378 or as necessary to prevent damage to the common elements or to a
 379 unit or units. Except in cases of emergency, the association
 380 must give the unit owner advance written notice of not less than
 381 24 hours of its intent to access the unit and such access must
 382 be by two persons, one of whom must be a member of the board of
 383 administration or a manager or employee of the association and
 384 one of whom must be an authorized representative of the
 385 association. The identity of the authorized representative
 386 seeking access to the unit must be provided to the unit owner
 387 prior to entering the unit.

388 (12) OFFICIAL RECORDS.—

389 (b) The official records of the association shall be
 390 maintained within the state for at least 7 years. The records of
 391 the association shall be made available to a unit owner within

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392 45 miles of the condominium property or within the county in
393 which the condominium property is located within 5 working days
394 after receipt of written request by the board or its designee.
395 However, such distance requirement does not apply to an
396 association governing a timeshare condominium. This paragraph
397 may be complied with by having a copy of the official records of
398 the association available for inspection or copying on the
399 condominium property or association property. ~~or~~ The
400 association may offer the option of making the records of the
401 association available to a unit owner either electronically via
402 the Internet or by allowing the records to be viewed in
403 electronic format on a computer screen and printed upon request.

404 (15) MEETINGS.—Regular meetings of the board of
405 administration shall be held at such time and place as provided
406 in the bylaws until the first regular meeting of the board held
407 on or after October 1, 2010. Thereafter, the location and time
408 for regular meetings of the board shall be determined by a
409 majority vote of the unit owners at the next regular meeting
410 held on or after October 1, 2010. Once the time and place for
411 regular meetings of the board have been selected, neither may be
412 changed unless approved by a majority vote of the unit owners.
413 Regular meetings of the board of administration held on weekdays
414 may be held no earlier than 6 p.m. local time.

415 (16) LIMIT ON EXPENDITURES AND CONTRIBUTIONS.—It shall be
416 unlawful for an association to make any expenditure of
417 association funds or to make any in-kind contribution of
418 association assets that does not relate to the purposes for
419 which the association is organized.

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420 (a) The association shall not make any contribution to a
421 campaign or committee of continuous existence governed by
422 chapter 105 or chapter 106.

423 (b) The association shall not make any contribution to a
424 charitable organization if the association does not receive a
425 direct benefit from the organization.

426 (c) Members of the board of administration shall be
427 jointly and severally liable to reimburse the association for any
428 contribution, expenditure, or in-kind contribution made in
429 violation of this subsection.

430 Section 5. Paragraphs (c), (d), (h), and (o) of subsection
431 (2) of section 718.112, Florida Statutes, are amended, and
432 paragraphs (p) and (q) are added to that subsection, to read:

433 718.112 Bylaws.—

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

437 (c) Board of administration meetings.—Meetings of the
438 board of administration at which a quorum of the members is
439 present shall be open to all unit owners. Any unit owner may
440 tape record or videotape meetings of the board of
441 administration. The right to attend such meetings includes the
442 right to speak at such meetings with reference to all designated
443 agenda items. The division shall adopt reasonable rules
444 governing the tape recording and videotaping of the meeting. The
445 association may adopt written reasonable rules governing the
446 frequency, duration, and manner of unit owner statements.
447 Adequate notice of all meetings, which notice shall specifically

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448 incorporate an identification of agenda items, shall be posted
449 conspicuously on the condominium property at least 48 continuous
450 hours preceding the meeting except in an emergency. If 20
451 percent of the voting interests petition the board to address an
452 item of business, the board shall at its next regular board
453 meeting or at a special meeting of the board, but not later than
454 60 days after the receipt of the petition, place the item on the
455 agenda. Any item not included on the notice may be taken up on
456 an emergency basis by at least a majority plus one of the
457 members of the board. Such emergency action shall be noticed and
458 ratified at the next regular meeting of the board. However,
459 written notice of any meeting at which nonemergency special
460 assessments, or at which amendment to rules regarding unit use,
461 will be considered shall be mailed, delivered, or electronically
462 transmitted to the unit owners and posted conspicuously on the
463 condominium property not less than 14 days prior to the meeting.
464 Evidence of compliance with this 14-day notice shall be made by
465 an affidavit executed by the person providing the notice and
466 filed among the official records of the association. Upon notice
467 to the unit owners, the board shall by duly adopted rule
468 designate a specific location on the condominium property or
469 association property upon which all notices of board meetings
470 shall be posted. If there is no condominium property or
471 association property upon which notices can be posted, notices
472 of board meetings shall be mailed, delivered, or electronically
473 transmitted at least 14 days before the meeting to the owner of
474 each unit. In lieu of or in addition to the physical posting of
475 notice of any meeting of the board of administration on the

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476 condominium property, the association may, by reasonable rule,
477 adopt a procedure for conspicuously posting and repeatedly
478 broadcasting the notice and the agenda on a closed-circuit cable
479 television system serving the condominium association. However,
480 if broadcast notice is used in lieu of a notice posted
481 physically on the condominium property, the notice and agenda
482 must be broadcast at least four times every broadcast hour of
483 each day that a posted notice is otherwise required under this
484 section. When broadcast notice is provided, the notice and
485 agenda must be broadcast in a manner and for a sufficient
486 continuous length of time so as to allow an average reader to
487 observe the notice and read and comprehend the entire content of
488 the notice and the agenda. Notice of any meeting in which
489 regular or special assessments against unit owners are to be
490 considered for any reason shall specifically state that
491 assessments will be considered and the nature of, the actual
492 ~~estimated~~ cost of, and a description of the purposes for such
493 assessments. Meetings of a committee to take final action on
494 behalf of the board or make recommendations to the board
495 regarding the association budget are subject to the provisions
496 of this paragraph. Meetings of a committee that does not take
497 final action on behalf of the board or make recommendations to
498 the board regarding the association budget are subject to the
499 provisions of this section, unless those meetings are exempted
500 from this section by the bylaws of the association.
501 Notwithstanding any other law, the requirement that board
502 meetings and committee meetings be open to the unit owners is
503 inapplicable to meetings between the board or a committee and

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504 the association's attorney, with respect to proposed or pending
505 litigation, when the meeting is held for the purpose of seeking
506 or rendering legal advice.

507 (d) Unit owner meetings.—

508 1. There shall be an annual meeting of the unit owners
509 held at the location provided in the association bylaws and, if
510 the bylaws are silent as to the location, the meeting shall be
511 held within 45 miles of the condominium property or, if
512 facilities are available on the condominium property, the
513 meeting shall be held at such facilities. However, such distance
514 requirement does not apply to an association governing a
515 timeshare condominium. Unless the bylaws provide otherwise, a
516 vacancy on the board caused by the expiration of a director's
517 term shall be filled by electing a new board member, and the
518 election shall be by secret ballot; however, if the number of
519 vacancies equals or exceeds the number of candidates, no
520 election is required. Except in timeshare condominiums, the
521 terms of all members of the board shall expire at the first
522 annual meeting after July 1, 2010, and at each ~~the~~ annual
523 meeting thereafter and such board members may stand for
524 reelection unless otherwise permitted by the bylaws. In the
525 event that the bylaws permit staggered terms of no more than 2
526 years ~~and upon approval of a majority of the total voting~~
527 ~~interests,~~ the association board members may serve 2-year
528 staggered terms. If no person is interested in or demonstrates
529 an intention to run for the position of a board member whose
530 term has expired according to the provisions of this
531 subparagraph, such board member whose term has expired shall be

532 automatically reappointed to the board of administration and
533 need not stand for reelection. ~~In a condominium association of~~
534 ~~more than 10 units, coowners of a unit may not serve as members~~
535 ~~of the board of directors at the same time. Any unit owner~~
536 ~~desiring to be a candidate for board membership shall comply~~
537 ~~with subparagraph 3. A person who has been suspended or removed~~
538 ~~by the division under this chapter, or who is delinquent in the~~
539 ~~payment of any fee or assessment as provided in paragraph (n),~~
540 ~~is not eligible for board membership. A person who has been~~
541 ~~convicted of any felony in this state or in a United States~~
542 ~~District or Territorial Court, or who has been convicted of any~~
543 ~~offense in another jurisdiction that would be considered a~~
544 ~~felony if committed in this state, is not eligible for board~~
545 ~~membership unless such felon's civil rights have been restored~~
546 ~~for a period of no less than 5 years as of the date on which~~
547 ~~such person seeks election to the board. The validity of an~~
548 ~~action by the board is not affected if it is later determined~~
549 ~~that a member of the board is ineligible for board membership~~
550 ~~due to having been convicted of a felony.~~

551 2. The bylaws shall provide the method of calling meetings
552 of unit owners, including annual meetings. Written notice, which
553 notice must include an agenda, shall be mailed, hand delivered,
554 or electronically transmitted to each unit owner at least 14
555 days prior to the annual meeting and shall be posted in a
556 conspicuous place on the condominium property at least 14
557 continuous days preceding the annual meeting. Upon notice to the
558 unit owners, the board shall by duly adopted rule designate a
559 specific location on the condominium property or association

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560 property upon which all notices of unit owner meetings shall be
561 posted; however, if there is no condominium property or
562 association property upon which notices can be posted, this
563 requirement does not apply. In lieu of or in addition to the
564 physical posting of notice of any meeting of the unit owners on
565 the condominium property, the association may, by reasonable
566 rule, adopt a procedure for conspicuously posting and repeatedly
567 broadcasting the notice and the agenda on a closed-circuit cable
568 television system serving the condominium association. However,
569 if broadcast notice is used in lieu of a notice posted
570 physically on the condominium property, the notice and agenda
571 must be broadcast at least four times every broadcast hour of
572 each day that a posted notice is otherwise required under this
573 section. When broadcast notice is provided, the notice and
574 agenda must be broadcast in a manner and for a sufficient
575 continuous length of time so as to allow an average reader to
576 observe the notice and read and comprehend the entire content of
577 the notice and the agenda. Unless a unit owner waives in writing
578 the right to receive notice of the annual meeting, such notice
579 shall be hand delivered, mailed, or electronically transmitted
580 to each unit owner. Notice for meetings and notice for all other
581 purposes shall be mailed to each unit owner at the address last
582 furnished to the association by the unit owner, or hand
583 delivered to each unit owner. However, if a unit is owned by
584 more than one person, the association shall provide notice, for
585 meetings and all other purposes, to that one address which the
586 developer initially identifies for that purpose and thereafter
587 as one or more of the owners of the unit shall so advise the

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588 association in writing, or if no address is given or the owners
589 of the unit do not agree, to the address provided on the deed of
590 record. An officer of the association, or the manager or other
591 person providing notice of the association meeting, shall
592 provide an affidavit or United States Postal Service certificate
593 of mailing, to be included in the official records of the
594 association affirming that the notice was mailed or hand
595 delivered, in accordance with this provision.

596 3. The members of the board shall be elected by written
597 ballot or voting machine. Proxies shall in no event be used in
598 electing the board, either in general elections or elections to
599 fill vacancies caused by recall, resignation, or otherwise,
600 unless otherwise provided in this chapter. Not less than 60 days
601 before a scheduled election, the association shall mail,
602 deliver, or electronically transmit, whether by separate
603 association mailing or included in another association mailing,
604 delivery, or transmission, including regularly published
605 newsletters, to each unit owner entitled to a vote, a first
606 notice of the date of the election ~~along with a certification~~
607 ~~form provided by the division attesting that he or she has read~~
608 ~~and understands, to the best of his or her ability, the~~
609 ~~governing documents of the association and the provisions of~~
610 ~~this chapter and any applicable rules.~~ Any unit owner or other
611 eligible person desiring to be a candidate for the board must
612 give written notice to the association not less than 40 days
613 before a scheduled election. Together with the written notice
614 and agenda as set forth in subparagraph 2., the association
615 shall mail, deliver, or electronically transmit a second notice

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616 of the election to all unit owners entitled to vote therein,
617 together with a ballot which shall list all candidates. Upon
618 request of a candidate, the association shall include an
619 information sheet, no larger than 8 1/2 inches by 11 inches,
620 which must be furnished by the candidate not less than 35 days
621 before the election, ~~along with the signed certification form~~
622 ~~provided for in this subparagraph,~~ to be included with the
623 mailing, delivery, or transmission of the ballot, with the costs
624 of mailing, delivery, or electronic transmission and copying to
625 be borne by the association. The association is not liable for
626 the contents of the information sheets prepared by the
627 candidates. In order to reduce costs, the association may print
628 or duplicate the information sheets on both sides of the paper.
629 The division shall by rule establish voting procedures
630 consistent with the provisions contained herein, including rules
631 establishing procedures for giving notice by electronic
632 transmission and rules providing for the secrecy of ballots.
633 Elections shall be decided by a plurality of those ballots cast.
634 There shall be no quorum requirement; however, at least 20
635 percent of the eligible voters must cast a ballot in order to
636 have a valid election of members of the board. No unit owner
637 shall permit any other person to vote his or her ballot, and any
638 such ballots improperly cast shall be deemed invalid, provided
639 any unit owner who violates this provision may be fined by the
640 association in accordance with s. 718.303. A unit owner who
641 needs assistance in casting the ballot for the reasons stated in
642 s. 101.051 may obtain assistance in casting the ballot. The
643 regular election shall occur on the date of the annual meeting.

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644 The provisions of this subparagraph shall not apply to timeshare
645 condominium associations. Notwithstanding the provisions of this
646 subparagraph, an election is not required unless more candidates
647 file notices of intent to run or are nominated than board
648 vacancies exist.

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

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

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

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672 participation.

673 7. Any unit owner may tape record or videotape a meeting
674 of the unit owners subject to reasonable rules adopted by the
675 division.

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

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

699 (h) Amendment of bylaws.—

700 1. The method by which the bylaws may be amended
 701 consistent with the provisions of this chapter shall be stated.
 702 If the bylaws fail to provide a method of amendment, the bylaws
 703 may be amended if the amendment is approved by the owners of not
 704 less than two-thirds of the voting interests.

705 2. No bylaw shall be revised or amended by reference to
 706 its title or number only. Proposals to amend existing bylaws
 707 shall contain the full text of the bylaws to be amended; new
 708 words shall be inserted in the text underlined, and words to be
 709 deleted shall be lined through with hyphens. However, if the
 710 proposed change is so extensive that this procedure would
 711 hinder, rather than assist, the understanding of the proposed
 712 amendment, it is not necessary to use underlining and hyphens as
 713 indicators of words added or deleted, but, instead, a notation
 714 must be inserted immediately preceding the proposed amendment in
 715 substantially the following language: "Substantial rewording of
 716 bylaw. See bylaw _____ for present text."

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

719 4. If the bylaws provide for amendment by the board of
 720 administration, no bylaw may be amended unless it is heard and
 721 noticed at two consecutive meetings of the board of
 722 administration that are at least 1 week apart.

723 (o) Director or officer offenses.—A director or officer
 724 charged by information or indictment with a felony theft or
 725 embezzlement offense involving the association's funds or
 726 property shall be removed from office, creating a vacancy in the
 727 office to be filled according to law. While such director or

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728 officer has such criminal charge pending in the state or federal
729 court system, he or she may not be appointed or elected to a
730 position as a director or officer. However, should the charges
731 be resolved without a finding of guilt, the director or officer
732 shall be reinstated for the remainder of his or her term of
733 office, if any.

734 (p) Qualification of directors.—In addition to any other
735 requirement for office in statute, a person running for, seeking
736 appointment to, or serving as a director of the board must meet
737 the following qualifications:

738 1. In a condominium association of 10 or more units, only
739 one individual coowner of a unit may serve on the board of
740 administration.

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

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

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

754 5. Within 30 days after being elected or appointed to the
755 board of administration, a director must certify in writing to

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756 the secretary of the association that he or she has read this
757 part and part III and the association's declaration of
758 condominium, articles of incorporation, bylaws, and current
759 written policies. The director shall further certify that he or
760 she will work to uphold such documents and policies to the best
761 of his or her ability and that he or she will faithfully
762 discharge his or her fiduciary responsibility to the
763 association's members. If the division finds that a director has
764 falsely certified that he or she has read the required statutes
765 and documents, the division shall order the director removed
766 from the board and shall order the director to reimburse the
767 division for the cost of prosecution and hearing.

768 6. After turnover of the association pursuant to s.
769 718.301(2), a director must:

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

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

774
775 These qualifications shall operate on a continuing basis, and
776 upon the failure of a director at any time to meet a
777 qualification, the director shall be removed from office and
778 that office shall be deemed vacant. However, in the case of a
779 timeshare condominium association, the bylaws of the association
780 shall govern the terms, expiration of terms, and staggered terms
781 of board members, and the eligibility of coowners to serve on
782 the board of administration shall not be restricted except in
783 the manner provided in the bylaws of the timeshare condominium

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784 association.

785 (q) Borrowing.—The borrowing of funds or committing to a
786 line of credit by the board of administration shall be
787 considered a special assessment, and any meeting of the board of
788 administration to discuss such matters must be noticed as
789 provided in paragraph (c). The board may not borrow funds or
790 enter into a line of credit or borrow funds for any purpose
791 unless the specific use of the funds from the loan or line of
792 credit is set forth in the notice of meeting with the same
793 specificity as required for a special assessment or unless the
794 borrowing or line of credit has received the prior approval of
795 at least two-thirds of the voting interests of the association.

796 Section 6. Paragraph (a) of subsection (5) of section
797 718.113, Florida Statutes, is amended to read:

798 718.113 Maintenance; limitation upon improvement; display
799 of flag; hurricane shutters; display of religious decorations.—

800 (5) Each board of administration shall adopt hurricane
801 shutter specifications for each building within each condominium
802 operated by the association which shall include color, style,
803 and other factors deemed relevant by the board. All
804 specifications adopted by the board shall comply with the
805 applicable building code.

806 (a) The board may, subject to the provisions of s.
807 718.3026, and the approval of a majority of voting interests of
808 the condominium, install hurricane shutters or hurricane
809 protection that complies with or exceeds the applicable building
810 code, or both, except that a vote of the owners is not required
811 if the maintenance, repair, and replacement of hurricane

812 | shutters or other forms of hurricane protection are the
 813 | responsibility of the association pursuant to the declaration of
 814 | condominium. However, where hurricane protection or laminated
 815 | glass or window film architecturally designed to function as
 816 | hurricane protection which complies with or exceeds the current
 817 | applicable building code has been previously installed, the
 818 | board may not install hurricane shutters or other hurricane
 819 | protection. Code-compliant impact glass may be installed by the
 820 | association as hurricane protection if the area in which the
 821 | glass is to be installed is an area that is the responsibility
 822 | of the association. If a unit owner installed code-compliant
 823 | impact glass prior to the association voting to install such
 824 | glass, and such glass and the frame thereof complies with the
 825 | current applicable building codes and is otherwise in good
 826 | repair, the unit owner shall not be required to pay the unit
 827 | owner's pro rata share of the cost of installing code-compliant
 828 | impact glass to the condominium association, notwithstanding s.
 829 | 718.116(9).

830 | Section 7. Subsections (11) and (12) are added to section
 831 | 718.116, Florida Statutes, to read:

832 | 718.116 Assessments; liability; lien and priority;
 833 | interest; collection.—

834 | (11) During the pendency of any foreclosure action of a
 835 | condominium unit, if the unit is occupied by a tenant and the
 836 | unit owner is delinquent in the payment of regular assessments,
 837 | the association may demand that the tenant pay to the
 838 | association the future regular assessments related to the
 839 | condominium unit. The demand shall be continuing in nature, and

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840 upon demand the tenant shall continue to pay the regular
841 assessments to the association until the association releases
842 the tenant or the tenant discontinues tenancy in the unit. The
843 association shall mail written notice to the unit owner of the
844 association's demand that the tenant pay regular assessments to
845 the association. The tenant shall not be liable for increases in
846 the amount of the regular assessments due unless the tenant was
847 reasonably notified of the increase prior to the day that the
848 rent is due. The tenant shall be given a credit against rents
849 due to the unit owner in the amount of assessments paid to the
850 association. The association shall, upon request, provide the
851 tenant with written receipts for payments made. The association
852 may issue notices under s. 83.56 and may sue for eviction under
853 ss. 83.59-83.625 as if the association were a landlord under
854 part II of chapter 83 should the tenant fail to pay an
855 assessment. However, the association shall not otherwise be
856 considered a landlord under chapter 83 and shall specifically
857 not have any duty under s. 83.51. The tenant shall not, by
858 virtue of payment of assessments, have any of the rights of a
859 unit owner to vote in any election or to examine the books and
860 records of the association. A court may supersede the effect of
861 this subsection by appointing a receiver.

862 (12) (a) A notice of delinquency sent to a unit owner shall
863 provide an overall total of assessments claimed and shall
864 specify each assessment or charge that is claimed by the
865 association, listing for each assessment or charge the date of
866 the assessment or charge, the principal balance owed for the
867 assessment or charge, and affiliated late fees or collection

868 charges.

869 (b) Costs to a unit owner secured by the association's
 870 claim of lien with regard to collection efforts by management
 871 companies or licensed managers as to any delinquent installment
 872 of an assessment may not exceed \$50. However, there shall be no
 873 charge for the first notice of a delinquency to the unit owner.

874 Section 8. Subsection (2) of section 718.1265, Florida
 875 Statutes, is amended to read:

876 718.1265 Association emergency powers.—

877 (2) The special powers authorized under subsection (1)
 878 shall be limited to that time reasonably necessary to protect
 879 the health, safety, and welfare of the association and the unit
 880 owners and the unit owners' family members, tenants, guests,
 881 agents, or invitees and shall be reasonably necessary to
 882 mitigate further damage and make emergency repairs.

883 Additionally, unless 20 percent or more of the units are made
 884 uninhabitable by the emergency, the special powers authorized
 885 under subsection (1) may only be exercised during the term of
 886 the Governor's executive order or proclamation declaring the
 887 state of emergency in the locale in which the condominium is
 888 located.

889 Section 9. Subsection (1) of section 718.301, Florida
 890 Statutes, is amended to read:

891 718.301 Transfer of association control; claims of defect
 892 by association.—

893 (1) When unit owners other than the developer own 15
 894 percent or more of the units in a condominium that will be
 895 operated ultimately by an association, the unit owners other

896 | than the developer shall be entitled to elect no less than one-
 897 | third of the members of the board of administration of the
 898 | association. Unit owners other than the developer are entitled
 899 | to elect not less than a majority of the members of the board of
 900 | administration of an association:

901 | (a) Three years after 50 percent of the units that will be
 902 | operated ultimately by the association have been conveyed to
 903 | purchasers;

904 | (b) Three months after 90 percent of the units that will
 905 | be operated ultimately by the association have been conveyed to
 906 | purchasers;

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

911 | (d) When some of the units have been conveyed to
 912 | purchasers and none of the others are being constructed or
 913 | offered for sale by the developer in the ordinary course of
 914 | business;

915 | (e) When the developer files a petition seeking protection
 916 | in bankruptcy;

917 | (f) When a receiver for the developer is appointed by a
 918 | circuit court and is not discharged within 30 days after such
 919 | appointment, unless the court determines within 30 days after
 920 | appointment of the receiver that transfer of control would be
 921 | detrimental to the association or its members; or

922 | (g) Seven years after recordation of the declaration of
 923 | condominium; or, in the case of an association which may

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924 ultimately operate more than one condominium, 7 years after
 925 recordation of the declaration for the first condominium it
 926 operates; or, in the case of an association operating a phase
 927 condominium created pursuant to s. 718.403, 7 years after
 928 recordation of the declaration creating the initial phase,
 929
 930 whichever occurs first. The developer is entitled to elect at
 931 least one member of the board of administration of an
 932 association as long as the developer holds for sale in the
 933 ordinary course of business at least 5 percent, in condominiums
 934 with fewer than 500 units, and 2 percent, in condominiums with
 935 more than 500 units, of the units in a condominium operated by
 936 the association. Following the time the developer relinquishes
 937 control of the association, the developer may exercise the right
 938 to vote any developer-owned units in the same manner as any
 939 other unit owner except for purposes of reacquiring control of
 940 the association or selecting the majority members of the board
 941 of administration.

942 Section 10. Section 718.303, Florida Statutes, is amended
 943 to read:

944 718.303 Obligations of owners and occupants; waiver; levy
 945 of finest, suspension of use or voting rights, and other
 946 nonexclusive remedies in law or equity ~~fine against unit~~ by an
 947 association.—

948 (1) Each unit owner, each tenant and other invitee, and
 949 each association shall be governed by, and shall comply with the
 950 provisions of, this chapter, the declaration, the documents
 951 creating the association, and the association bylaws and the

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952 provisions thereof shall be deemed expressly incorporated into
953 any lease of a unit. Actions for damages or for injunctive
954 relief, or both, for failure to comply with these provisions may
955 be brought by the association or by a unit owner against:

956 (a) The association.

957 (b) A unit owner.

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

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

963 (e) Any tenant leasing a unit, and any other invitee
964 occupying a unit.

965

966 The prevailing party in any such action or in any action in
967 which the purchaser claims a right of voidability based upon
968 contractual provisions as required in s. 718.503(1)(a) is
969 entitled to recover reasonable attorney's fees. A unit owner
970 prevailing in an action between the association and the unit
971 owner under this section, in addition to recovering his or her
972 reasonable attorney's fees, may recover additional amounts as
973 determined by the court to be necessary to reimburse the unit
974 owner for his or her share of assessments levied by the
975 association to fund its expenses of the litigation. This relief
976 does not exclude other remedies provided by law. Actions arising
977 under this subsection shall not be deemed to be actions for
978 specific performance.

979 (2) A provision of this chapter may not be waived if the

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980 waiver would adversely affect the rights of a unit owner or the
 981 purpose of the provision, except that unit owners or members of
 982 a board of administration may waive notice of specific meetings
 983 in writing if provided by the bylaws. Any instruction given in
 984 writing by a unit owner or purchaser to an escrow agent may be
 985 relied upon by an escrow agent, whether or not such instruction
 986 and the payment of funds thereunder might constitute a waiver of
 987 any provision of this chapter.

988 (3) If a unit owner is delinquent for more than 90 days in
 989 the payment of regular or special assessments or the declaration
 990 or bylaws so provide, the association may suspend, for a
 991 reasonable time, the right of a unit owner or a unit's occupant,
 992 licensee, or invitee to use common elements, common facilities,
 993 or any other association property. This subsection does not
 994 apply to limited common elements intended to be used only by
 995 that unit, common elements that must be used to access the unit,
 996 utility services provided to the unit, parking spaces, or
 997 elevators. The association may also levy reasonable fines
 998 ~~against a unit~~ for the failure of the owner of the unit, or its
 999 occupant, licensee, or invitee, to comply with any provision of
 1000 the declaration, the association bylaws, or reasonable rules of
 1001 the association. No fine will become a lien against a unit. A ~~No~~
 1002 fine may not exceed \$100 per violation. However, a fine may be
 1003 levied on the basis of each day of a continuing violation, with
 1004 a single notice and opportunity for hearing, provided that no
 1005 such fine shall in the aggregate exceed \$1,000. A ~~No~~ fine may
 1006 not be levied and a suspension may not be imposed unless the
 1007 association first gives ~~except after giving~~ reasonable notice

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1008 and opportunity for a hearing to the unit owner and, if
 1009 applicable, its occupant, licensee, or invitee. The hearing must
 1010 be held before a committee of other unit owners who are neither
 1011 board members nor persons residing in a board member's
 1012 household. If the committee does not agree with the fine or
 1013 suspension, the fine or suspension may not be levied or imposed.
 1014 ~~The provisions of this subsection do not apply to unoccupied~~
 1015 ~~units.~~

1016 (4) The notice and hearing requirements of subsection (3)
 1017 do not apply to the imposition of suspensions or fines against a
 1018 unit owner or a unit's occupant, licensee, or invitee because of
 1019 the failure to pay any amounts due the association. If such a
 1020 fine or suspension is imposed, the association must levy the
 1021 fine or impose a reasonable suspension at a properly noticed
 1022 board meeting, and after the imposition of such fine or
 1023 suspension, the association must notify the unit owner and, if
 1024 applicable, the unit's occupant, licensee, or invitee by mail or
 1025 hand delivery.

1026 Section 11. Subsection (1) of section 718.501, Florida
 1027 Statutes, is amended, and subsection (3) is added to that
 1028 section, to read:

1029 718.501 Authority, responsibility, and duties of Division
 1030 of Florida Condominiums, Timeshares, and Mobile Homes.—

1031 (1) The Division of Florida Condominiums, Timeshares, and
 1032 Mobile Homes of the Department of Business and Professional
 1033 Regulation, referred to as the "division" in this part, has the
 1034 power to enforce and ensure compliance with the provisions of
 1035 this chapter and rules relating to the development,

1036 construction, sale, lease, ownership, operation, and management
 1037 of residential condominium units. In performing its duties, the
 1038 division has complete jurisdiction to investigate complaints and
 1039 enforce compliance with the provisions of this chapter with
 1040 respect to associations that are still under developer control
 1041 and complaints against developers involving improper turnover or
 1042 failure to turnover, pursuant to s. 718.301. However, after
 1043 turnover has occurred, the division shall only have jurisdiction
 1044 to investigate complaints related to financial issues, failure
 1045 to maintain common elements, elections, and unit owner access to
 1046 association records pursuant to s. 718.111(12).

1047 (a)1. The division may make necessary public or private
 1048 investigations within or outside this state to determine whether
 1049 any person has violated this chapter or any rule or order
 1050 hereunder, to aid in the enforcement of this chapter, or to aid
 1051 in the adoption of rules or forms hereunder.

1052 2. The division may submit any official written report,
 1053 worksheet, or other related paper, or a duly certified copy
 1054 thereof, compiled, prepared, drafted, or otherwise made by and
 1055 duly authenticated by a financial examiner or analyst to be
 1056 admitted as competent evidence in any hearing in which the
 1057 financial examiner or analyst is available for cross-examination
 1058 and attests under oath that such documents were prepared as a
 1059 result of an examination or inspection conducted pursuant to
 1060 this chapter.

1061 (b) The division may require or permit any person to file
 1062 a statement in writing, under oath or otherwise, as the division
 1063 determines, as to the facts and circumstances concerning a

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1064 matter to be investigated.

1065 (c) For the purpose of any investigation under this
1066 chapter, the division director or any officer or employee
1067 designated by the division director may administer oaths or
1068 affirmations, subpoena witnesses and compel their attendance,
1069 take evidence, and require the production of any matter which is
1070 relevant to the investigation, including the existence,
1071 description, nature, custody, condition, and location of any
1072 books, documents, or other tangible things and the identity and
1073 location of persons having knowledge of relevant facts or any
1074 other matter reasonably calculated to lead to the discovery of
1075 material evidence. Upon the failure by a person to obey a
1076 subpoena or to answer questions propounded by the investigating
1077 officer and upon reasonable notice to all persons affected
1078 thereby, the division may apply to the circuit court for an
1079 order compelling compliance.

1080 (d) Notwithstanding any remedies available to unit owners
1081 and associations, if the division has reasonable cause to
1082 believe that a violation of any provision of this chapter or
1083 related rule has occurred, the division may institute
1084 enforcement proceedings in its own name against any developer,
1085 association, officer, or member of the board of administration,
1086 or its assignees or agents, as follows:

1087 1. The division may permit a person whose conduct or
1088 actions may be under investigation to waive formal proceedings
1089 and enter into a consent proceeding whereby orders, rules, or
1090 letters of censure or warning, whether formal or informal, may
1091 be entered against the person.

1092 2. The division may issue an order requiring the
 1093 developer, association, ~~developer-designated~~ officer, or
 1094 ~~developer-designated~~ member of the board of administration,
 1095 ~~developer-designated~~ assignees or agents, community association
 1096 manager, or community association management firm to cease and
 1097 desist from the unlawful practice and take such affirmative
 1098 action as in the judgment of the division will carry out the
 1099 purposes of this chapter. If the division finds that a
 1100 developer, association, officer, or member of the board of
 1101 administration, or its assignees or agents, is violating or is
 1102 about to violate any provision of this chapter, any rule adopted
 1103 or order issued by the division, or any written agreement
 1104 entered into with the division, and presents an immediate danger
 1105 to the public requiring an immediate final order, it may issue
 1106 an emergency cease and desist order reciting with particularity
 1107 the facts underlying such findings. The emergency cease and
 1108 desist order is effective for 90 days. If the division begins
 1109 nonemergency cease and desist proceedings, the emergency cease
 1110 and desist order remains effective until the conclusion of the
 1111 proceedings under ss. 120.569 and 120.57.

1112 3. If a developer fails to pay any restitution determined
 1113 by the division to be owed, plus any accrued interest at the
 1114 highest rate permitted by law, within 30 days after expiration
 1115 of any appellate time period of a final order requiring payment
 1116 of restitution or the conclusion of any appeal thereof,
 1117 whichever is later, the division shall bring an action in
 1118 circuit or county court on behalf of any association, class of
 1119 unit owners, lessees, or purchasers for restitution, declaratory

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1120 relief, injunctive relief, or any other available remedy. The
1121 division may also temporarily revoke its acceptance of the
1122 filing for the developer to which the restitution relates until
1123 payment of restitution is made.

1124 4. The division may petition the court for the appointment
1125 of a receiver or conservator. If appointed, the receiver or
1126 conservator may take action to implement the court order to
1127 ensure the performance of the order and to remedy any breach
1128 thereof. In addition to all other means provided by law for the
1129 enforcement of an injunction or temporary restraining order, the
1130 circuit court may impound or sequester the property of a party
1131 defendant, including books, papers, documents, and related
1132 records, and allow the examination and use of the property by
1133 the division and a court-appointed receiver or conservator.

1134 5. The division may apply to the circuit court for an
1135 order of restitution whereby the defendant in an action brought
1136 pursuant to subparagraph 4. shall be ordered to make restitution
1137 of those sums shown by the division to have been obtained by the
1138 defendant in violation of this chapter. Such restitution shall,
1139 at the option of the court, be payable to the conservator or
1140 receiver appointed pursuant to subparagraph 4. or directly to
1141 the persons whose funds or assets were obtained in violation of
1142 this chapter.

1143 6. The division may impose a civil penalty against a
1144 developer or association, or its assignee or agent, for any
1145 violation of this chapter or a rule adopted under this chapter.
1146 The division may impose a civil penalty individually against any
1147 officer or board member who willfully and knowingly violates a

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1148 provision of this chapter, adopted rule, or a final order of the
1149 division; may order the removal of such individual as an officer
1150 or from the board of administration or as an officer of the
1151 association; and may prohibit such individual from serving as an
1152 officer or on the board of a community association for a period
1153 of time. The term "willfully and knowingly" means that the
1154 division informed the officer or board member that his or her
1155 action or intended action violates this chapter, a rule adopted
1156 under this chapter, or a final order of the division and that
1157 the officer or board member refused to comply with the
1158 requirements of this chapter, a rule adopted under this chapter,
1159 or a final order of the division. The division, prior to
1160 initiating formal agency action under chapter 120, shall afford
1161 the officer or board member an opportunity to voluntarily comply
1162 with this chapter, a rule adopted under this chapter, or a final
1163 order of the division. An officer or board member who complies
1164 within 10 days is not subject to a civil penalty. A penalty may
1165 be imposed on the basis of each day of continuing violation, but
1166 in no event shall the penalty for any offense exceed \$5,000. By
1167 January 1, 1998, the division shall adopt, by rule, penalty
1168 guidelines applicable to possible violations or to categories of
1169 violations of this chapter or rules adopted by the division. The
1170 guidelines must specify a meaningful range of civil penalties
1171 for each such violation of the statute and rules and must be
1172 based upon the harm caused by the violation, the repetition of
1173 the violation, and upon such other factors deemed relevant by
1174 the division. For example, the division may consider whether the
1175 violations were committed by a developer or owner-controlled

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1176 association, the size of the association, and other factors. The
1177 guidelines must designate the possible mitigating or aggravating
1178 circumstances that justify a departure from the range of
1179 penalties provided by the rules. It is the legislative intent
1180 that minor violations be distinguished from those which endanger
1181 the health, safety, or welfare of the condominium residents or
1182 other persons and that such guidelines provide reasonable and
1183 meaningful notice to the public of likely penalties that may be
1184 imposed for proscribed conduct. This subsection does not limit
1185 the ability of the division to informally dispose of
1186 administrative actions or complaints by stipulation, agreed
1187 settlement, or consent order. All amounts collected shall be
1188 deposited with the Chief Financial Officer to the credit of the
1189 Division of Florida Condominiums, Timeshares, and Mobile Homes
1190 Trust Fund. If a developer fails to pay the civil penalty and
1191 the amount deemed to be owed to the association, the division
1192 shall issue an order directing that such developer cease and
1193 desist from further operation until such time as the civil
1194 penalty is paid or may pursue enforcement of the penalty in a
1195 court of competent jurisdiction. If an association fails to pay
1196 the civil penalty, the division shall pursue enforcement in a
1197 court of competent jurisdiction, and the order imposing the
1198 civil penalty or the cease and desist order will not become
1199 effective until 20 days after the date of such order. Any action
1200 commenced by the division shall be brought in the county in
1201 which the division has its executive offices or in the county
1202 where the violation occurred.

1203 7. If a unit owner presents the division with proof that

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1204 the unit owner has requested access to official records in
1205 writing by certified mail, and that after 10 days the unit owner
1206 again made the same request for access to official records in
1207 writing by certified mail, and that more than 10 days has
1208 elapsed since the second request and the association has still
1209 failed or refused to provide access to official records as
1210 required by this chapter, the division shall issue a subpoena
1211 requiring production of the requested records where the records
1212 are kept pursuant to s. 718.112.

1213 8. In addition to subparagraph 6., the division may seek
1214 the imposition of a civil penalty through the circuit court for
1215 any violation for which the division may issue a notice to show
1216 cause under paragraph (r). The civil penalty shall be at least
1217 \$500 but no more than \$5,000 for each violation. The court may
1218 also award to the prevailing party court costs and reasonable
1219 attorney's fees and, if the division prevails, may also award
1220 reasonable costs of investigation.

1221 9. Notwithstanding subparagraph 6., when the division
1222 finds that an officer or director has intentionally falsified
1223 association records with the intent to conceal material facts
1224 from the division, the board, or unit owners, the division shall
1225 prohibit the officer or director from acting as an officer or
1226 director of any condominium or cooperative association for at
1227 least 1 year.

1228 10. When the division finds that any person has derived an
1229 improper personal benefit from a condominium association, the
1230 division shall order the person to pay restitution to the
1231 association and shall order the person to pay to the division

1232 the costs of investigation and prosecution.

1233 (e) The division may prepare and disseminate a prospectus
 1234 and other information to assist prospective owners, purchasers,
 1235 lessees, and developers of residential condominiums in assessing
 1236 the rights, privileges, and duties pertaining thereto.

1237 (f) The division has authority to adopt rules pursuant to
 1238 ss. 120.536(1) and 120.54 to implement and enforce the
 1239 provisions of this chapter.

1240 (g) The division shall establish procedures for providing
 1241 notice to an association and the developer during the period
 1242 where the developer controls the association when the division
 1243 is considering the issuance of a declaratory statement with
 1244 respect to the declaration of condominium or any related
 1245 document governing in such condominium community.

1246 (h) The division shall furnish each association which pays
 1247 the fees required by paragraph (2) (a) a copy of this act,
 1248 subsequent changes to this act on an annual basis, an amended
 1249 version of this act as it becomes available from the Secretary
 1250 of State's office on a biennial basis, and the rules adopted
 1251 thereto on an annual basis.

1252 (i) The division shall annually provide each association
 1253 with a summary of declaratory statements and formal legal
 1254 opinions relating to the operations of condominiums which were
 1255 rendered by the division during the previous year.

1256 (j) The division shall provide training and educational
 1257 programs for condominium association board members and unit
 1258 owners. The training may, in the division's discretion, include
 1259 web-based electronic media, and live training and seminars in

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1260 various locations throughout the state. The division shall have
 1261 the authority to review and approve education and training
 1262 programs for board members and unit owners offered by providers
 1263 and shall maintain a current list of approved programs and
 1264 providers and shall make such list available to board members
 1265 and unit owners in a reasonable and cost-effective manner.

1266 (k) The division shall maintain a toll-free telephone
 1267 number accessible to condominium unit owners.

1268 (l) The division shall develop a program to certify both
 1269 volunteer and paid mediators to provide mediation of condominium
 1270 disputes. The division shall provide, upon request, a list of
 1271 such mediators to any association, unit owner, or other
 1272 participant in arbitration proceedings under s. 718.1255
 1273 requesting a copy of the list. The division shall include on the
 1274 list of volunteer mediators only the names of persons who have
 1275 received at least 20 hours of training in mediation techniques
 1276 or who have mediated at least 20 disputes. In order to become
 1277 initially certified by the division, paid mediators must be
 1278 certified by the Supreme Court to mediate court cases in county
 1279 or circuit courts. However, the division may adopt, by rule,
 1280 additional factors for the certification of paid mediators,
 1281 which factors must be related to experience, education, or
 1282 background. Any person initially certified as a paid mediator by
 1283 the division must, in order to continue to be certified, comply
 1284 with the factors or requirements imposed by rules adopted by the
 1285 division.

1286 (m) When a complaint is made, the division shall conduct
 1287 its inquiry with due regard to the interests of the affected

1288 parties. Within 30 days after receipt of a complaint, the
 1289 division shall acknowledge the complaint in writing and notify
 1290 the complainant whether the complaint is within the jurisdiction
 1291 of the division and whether additional information is needed by
 1292 the division from the complainant. The division shall conduct
 1293 its investigation and shall, within 90 days after receipt of the
 1294 original complaint or of timely requested additional
 1295 information, take action upon the complaint. However, the
 1296 failure to complete the investigation within 90 days does not
 1297 prevent the division from continuing the investigation,
 1298 accepting or considering evidence obtained or received after 90
 1299 days, or taking administrative action if reasonable cause exists
 1300 to believe that a violation of this chapter or a rule of the
 1301 division has occurred. If an investigation is not completed
 1302 within the time limits established in this paragraph, the
 1303 division shall, on a monthly basis, notify the complainant in
 1304 writing of the status of the investigation. When reporting its
 1305 action to the complainant, the division shall inform the
 1306 complainant of any right to a hearing pursuant to ss. 120.569
 1307 and 120.57.

1308 (n) Condominium association directors, officers, and
 1309 employees; condominium developers; community association
 1310 managers; and community association management firms have an
 1311 ongoing duty to reasonably cooperate with the division in any
 1312 investigation pursuant to this section. The division shall refer
 1313 to local law enforcement authorities any person whom the
 1314 division believes has altered, destroyed, concealed, or removed
 1315 any record, document, or thing required to be kept or maintained

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1316 | by this chapter with the purpose to impair its verity or
 1317 | availability in the department's investigation.

1318 | (o) The division may:

1319 | 1. Contract with agencies in this state or other
 1320 | jurisdictions to perform investigative functions; or

1321 | 2. Accept grants-in-aid from any source.

1322 | (p) The division shall cooperate with similar agencies in
 1323 | other jurisdictions to establish uniform filing procedures and
 1324 | forms, public offering statements, advertising standards, and
 1325 | rules and common administrative practices.

1326 | (q) The division shall consider notice to a developer to
 1327 | be complete when it is delivered to the developer's address
 1328 | currently on file with the division.

1329 | (r) In addition to its enforcement authority, the division
 1330 | may issue a notice to show cause, which shall provide for a
 1331 | hearing, upon written request, in accordance with chapter 120.

1332 | (s) The division shall submit to the Governor, the
 1333 | President of the Senate, the Speaker of the House of
 1334 | Representatives, and the chairs of the legislative
 1335 | appropriations committees an annual report that includes, but
 1336 | need not be limited to, the number of training programs provided
 1337 | for condominium association board members and unit owners, the
 1338 | number of complaints received by type, the number and percent of
 1339 | complaints acknowledged in writing within 30 days and the number
 1340 | and percent of investigations acted upon within 90 days in
 1341 | accordance with paragraph (m), and the number of investigations
 1342 | exceeding the 90-day requirement. The annual report shall also
 1343 | include an evaluation of the division's core business processes

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1344 and make recommendations for improvements, including statutory
 1345 changes. The report shall be submitted by September 30 following
 1346 the end of the fiscal year.

1347 (3) The division shall create a booklet of the laws that a
 1348 director must read as required by s. 718.112(2) (p) 5. The booklet
 1349 shall be available for free download from the division's
 1350 website. The division may provide a printed version to directors
 1351 for free or for a cost not to exceed the division's actual cost
 1352 of production and mailing.

1353 Section 12. Subsection (9) of section 718.5012, Florida
 1354 Statutes, is amended to read:

1355 718.5012 Ombudsman; powers and duties.—The ombudsman shall
 1356 have the powers that are necessary to carry out the duties of
 1357 his or her office, including the following specific powers:

1358 (9) To assist with the resolution of disputes between unit
 1359 owners and the association or between unit owners when the
 1360 dispute is not within the jurisdiction of the division to
 1361 resolve or the division has declined to resolve a dispute.

1362 Section 13. Subsection (1) of section 718.50151, Florida
 1363 Statutes, is amended to read:

1364 718.50151 Community Association ~~Living~~ Study Council;
 1365 membership functions.—

1366 (1) There is created the Community Association ~~Living~~
 1367 Study Council. The council shall consist of seven appointed
 1368 members. Two members shall be appointed by the President of the
 1369 Senate, two members shall be appointed by the Speaker of the
 1370 House of Representatives, and three members shall be appointed
 1371 by the Governor. ~~One member that is appointed by the Governor~~

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1372 ~~may represent timeshare condominiums.~~ The council shall be
 1373 created as of October 1 every 5 years, commencing October 1,
 1374 2008, and shall exist for a 6-month term. The director of the
 1375 division shall appoint an ex officio nonvoting member. The
 1376 Legislature intends that the persons appointed represent a
 1377 cross-section of persons experienced ~~interested~~ in community
 1378 association issues. The council shall be located within the
 1379 division for administrative purposes. Members of the council
 1380 shall serve without compensation but are entitled to receive per
 1381 diem and travel expenses pursuant to s. 112.061 while on
 1382 official business.

1383 Section 14. Subsections (11) and (26) of section 719.103,
 1384 Florida Statutes, are amended to read:

1385 719.103 Definitions.—As used in this chapter:

1386 (11) "Conspicuous type" means bold type in capital letters
 1387 no smaller than the largest type, exclusive of headings, on the
 1388 page on which it appears and, in all cases, at least 10-point
 1389 type. When conspicuous type is required, it must be separated on
 1390 all sides from other type and print. Conspicuous type may be
 1391 used in a contract for purchase and sale of a unit, a lease of a
 1392 unit for more than 5 years, or a prospectus or offering circular
 1393 only when required by law.

1394 (26) "Unit owner," ~~or~~ "owner of a unit," or "shareholder"
 1395 means the person holding a share in the cooperative association
 1396 and a lease or other muniment of title or possession of a unit
 1397 that is granted by the association as the owner of the
 1398 cooperative property.

1399 Section 15. Section 719.104, Florida Statutes, is amended

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1400 to read:

1401 719.104 The association Cooperatives; ~~access to units;~~
 1402 ~~records; financial reports; assessments; purchase of leases.-~~

1403 (1) RIGHT OF ACCESS TO UNITS.—The association has the
 1404 irrevocable right of access to each unit from time to time
 1405 during reasonable hours when necessary for the maintenance,
 1406 repair, or replacement of any structural components of the
 1407 building or of any mechanical, electrical, or plumbing elements
 1408 necessary to prevent damage to the building or to another unit.
 1409 Except in cases of emergency, the association must give the
 1410 shareholder advance written notice of not less than 24 hours of
 1411 its intent to access the unit and such access must be by two
 1412 persons, one of whom must be a member of the board of
 1413 administration or a manager or employee of the association and
 1414 one of whom must be an authorized representative of the
 1415 association. The identity of the authorized representative
 1416 seeking access to the unit must be provided to the unit owner
 1417 prior to entering the unit.

1418 (2) OFFICIAL RECORDS.—

1419 (a) From the inception of the association, the association
 1420 shall maintain a copy of each of the following, where
 1421 applicable, which shall constitute the official records of the
 1422 association:

- 1423 1. The plans, permits, warranties, and other items
- 1424 provided by the developer pursuant to s. 719.301(4).
- 1425 2. A photocopy of the cooperative documents.
- 1426 3. A copy of the current rules of the association.
- 1427 4. A book or books containing the minutes of all meetings

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1428 of the association, of the board of directors, and of the
1429 shareholders ~~unit owners~~, which minutes shall be retained for a
1430 period of not less than 7 years.

1431 5. A current roster of all shareholders ~~unit owners~~ and
1432 their mailing addresses, unit identifications, voting
1433 certifications, and, if known, telephone numbers. The
1434 association shall also maintain the electronic mailing addresses
1435 and the numbers designated by shareholders ~~unit owners~~ for
1436 receiving notice sent by electronic transmission of those
1437 shareholders ~~unit owners~~ consenting to receive notice by
1438 electronic transmission. The electronic mailing addresses and
1439 numbers provided by shareholders ~~unit owners~~ to receive notice
1440 by electronic transmission shall be removed from association
1441 records when consent to receive notice by electronic
1442 transmission is revoked. However, the association is not liable
1443 for an erroneous disclosure of the electronic mail address or
1444 the number for receiving electronic transmission of notices.

1445 6. All current insurance policies of the association.

1446 7. A current copy of any management agreement, lease, or
1447 other contract to which the association is a party or under
1448 which the association or the shareholders ~~unit owners~~ have an
1449 obligation or responsibility.

1450 8. Bills of sale or transfer for all property owned by the
1451 association.

1452 9. Accounting records for the association and separate
1453 accounting records for each unit it operates, according to good
1454 accounting practices. Any person who knowingly or intentionally
1455 defaces or destroys accounting records required to be maintained

1456 by this chapter, or who knowingly or intentionally fails to
 1457 create or maintain accounting records required to be maintained
 1458 by this chapter, is personally subject to a civil penalty
 1459 pursuant to s. 719.501(1)(d). All accounting records shall be
 1460 maintained for a period of not less than 7 years. The accounting
 1461 records shall include, but not be limited to:

1462 a. Accurate, itemized, and detailed records of all
 1463 receipts and expenditures.

1464 b. A current account and a monthly, bimonthly, or
 1465 quarterly statement of the account for each unit designating the
 1466 name of the shareholder ~~unit owner~~, the due date and amount of
 1467 each assessment, the amount paid upon the account, and the
 1468 balance due.

1469 c. All audits, reviews, accounting statements, and
 1470 financial reports of the association.

1471 d. All contracts for work to be performed. Bids for work
 1472 to be performed shall also be considered official records and
 1473 shall be maintained ~~for a period of 1 year~~.

1474 10. Ballots, sign-in sheets, voting proxies, and all other
 1475 papers relating to voting by shareholders ~~unit owners~~, which
 1476 shall be maintained for a period of 1 year after the date of the
 1477 election, vote, or meeting to which the document relates.

1478 11. All rental records where the association is acting as
 1479 agent for the rental of units.

1480 12. A copy of the current question and answer sheet as
 1481 described in s. 719.504.

1482 13. All other records of the association not specifically
 1483 included in the foregoing which are related to the operation of

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1484 the association.

1485 (b) The official records of the association shall be
1486 maintained within the state for at least 7 years. The records of
1487 the association shall be made available to a shareholder ~~unit~~
1488 ~~owner~~ within 5 working days after receipt of written request by
1489 the board or its designee. This paragraph may be complied with
1490 by having a copy of the official records available for
1491 inspection or copying on the cooperative property.

1492 (c) The official records of the association shall be open
1493 to inspection by any association member or the authorized
1494 representative of such member at all reasonable times. Failure
1495 to permit inspection of the association records as provided
1496 herein entitles any person prevailing in an enforcement action
1497 to recover reasonable attorney's fees from the person in control
1498 of the records who, directly or indirectly, knowingly denies
1499 access to the records for inspection. The right to inspect the
1500 records includes the right to make or obtain copies, at the
1501 reasonable expense, if any, of the association member. The
1502 association may adopt reasonable rules regarding the frequency,
1503 time, location, notice, and manner of record inspections and
1504 copying. The failure of an association to provide the records
1505 within 10 working days after receipt of a written request
1506 creates a rebuttable presumption that the association willfully
1507 failed to comply with this paragraph. A shareholder ~~unit~~ ~~owner~~
1508 who is denied access to official records is entitled to the
1509 actual damages or minimum damages for the association's willful
1510 failure to comply with this paragraph. The minimum damages shall
1511 be \$50 per calendar day up to 10 days, the calculation to begin

1512 on the 11th day after receipt of the written request. Any person
 1513 who knowingly or intentionally defaces or destroys records that
 1514 are required by this chapter, or knowingly or intentionally
 1515 fails to create or maintain records that are required by this
 1516 chapter, is personally subject to a civil penalty pursuant to s.
 1517 719.501(1)(d). The association shall maintain an adequate number
 1518 of copies of the cooperative documents ~~declaration~~, articles of
 1519 incorporation, bylaws, and rules, and all amendments to each of
 1520 the foregoing, as well as the question and answer sheet provided
 1521 for in s. 719.504, on the cooperative property to ensure their
 1522 availability to shareholders ~~unit owners~~ and prospective
 1523 purchasers, and may charge its actual costs for preparing and
 1524 furnishing these documents to those requesting the same.

1525 Notwithstanding the provisions of this paragraph, the following
 1526 records shall not be accessible to shareholders ~~unit owners~~:

1527 1. A record that was prepared by an association attorney
 1528 or prepared at the attorney's express direction; that reflects a
 1529 mental impression, conclusion, litigation strategy, or legal
 1530 theory of the attorney or the association; or that was prepared
 1531 exclusively for civil or criminal litigation or for adversarial
 1532 administrative proceedings or in anticipation of imminent civil
 1533 or criminal litigation or imminent adversarial administrative
 1534 proceedings, until the conclusion of the litigation or
 1535 adversarial administrative proceedings.

1536 2. Information obtained by an association in connection
 1537 with the approval of the lease, sale, or other transfer of a
 1538 unit.

1539 3. Medical records of shareholders ~~unit owners~~.

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1540 4. Social security numbers, driver's license numbers,
1541 credit card numbers, and other personal identifying information
1542 of any person.

1543 (d) The association or its authorized agent shall not be
1544 required to provide a prospective purchaser or lienholder with
1545 information about the cooperative or association other than the
1546 information or documents required by this chapter to be made
1547 available or disclosed. The association or its authorized agent
1548 shall be entitled to charge a reasonable fee to the prospective
1549 purchaser, lienholder, or the current shareholder ~~unit owner~~ for
1550 its time in providing good faith responses to requests for
1551 information by or on behalf of a prospective purchaser or
1552 lienholder, other than that required by law, provided that such
1553 fee shall not exceed \$150 plus the reasonable cost of
1554 photocopying and any attorney's fees incurred by the association
1555 in connection with the association's response. An association
1556 and its authorized agent are not liable for providing such
1557 information in good faith pursuant to a written request if the
1558 person providing the information includes a written statement in
1559 substantially the following form: "The responses herein are made
1560 in good faith and to the best of my ability as to their
1561 accuracy."

1562 (3) INSURANCE.—The association shall use its best efforts
1563 to obtain and maintain adequate insurance to protect the
1564 association property. The association may also obtain and
1565 maintain liability insurance for directors and officers,
1566 insurance for the benefit of association employees, and flood
1567 insurance. A copy of each policy of insurance in effect shall be

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1568 made available for inspection by unit owners at reasonable
1569 times.

1570 (a) Windstorm insurance coverage for a group of no fewer
1571 than three communities created and operating under chapter 718,
1572 this chapter, chapter 720, or chapter 721 may be obtained and
1573 maintained for the communities if the insurance coverage is
1574 sufficient to cover an amount equal to the probable maximum loss
1575 for the communities for a 250-year windstorm event. Such
1576 probable maximum loss must be determined through the use of a
1577 competent model that has been accepted by the Florida Commission
1578 on Hurricane Loss Projection Methodology. Such insurance
1579 coverage is deemed adequate windstorm insurance for the purposes
1580 of this section.

1581 (b) An association or group of associations may self-
1582 insure against claims against the association, the association
1583 property, and the cooperative property required to be insured by
1584 an association, upon compliance with the applicable provisions
1585 of ss. 624.460-624.488, which shall be considered adequate
1586 insurance for purposes of this section.

1587 (4) FINANCIAL REPORTING REPORT.—Within 90 days after the
1588 end of the fiscal year, or annually by a date provided in the
1589 bylaws, the association shall prepare and complete, or by
1590 contract have prepared and completed, a financial report for the
1591 preceding fiscal year. Within 21 days after the final financial
1592 report is completed by the association or received from the
1593 third party, but not later than 120 days after the end of the
1594 fiscal year or other date as provided in the bylaws, the
1595 association shall mail to each shareholder at the address last

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1596 furnished to the association by the shareholder, or hand deliver
1597 to each shareholder, a copy of the financial report or a notice
1598 that a copy of the financial report will be mailed or hand
1599 delivered to the shareholder, without charge, upon receipt of a
1600 written request from the shareholder. The division shall adopt
1601 rules setting forth uniform accounting principles and standards
1602 to be used by all associations. The rules shall include, but not
1603 be limited to, uniform accounting principles and standards for
1604 stating the disclosure of at least a summary of the reserves,
1605 including information as to whether such reserves are being
1606 funded at a level sufficient to prevent the need for a special
1607 assessment and, if not, the amount of assessments necessary to
1608 bring the reserves up to the level necessary to avoid a special
1609 assessment. The person preparing the financial reports shall be
1610 entitled to rely on an inspection report prepared for or
1611 provided to the association to meet the fiscal and fiduciary
1612 standards of this chapter. In adopting such rules, the division
1613 shall consider the number of members and annual revenues of an
1614 association. Financial reports shall be prepared as follows:
1615 (a) An association that meets the criteria of this
1616 paragraph shall prepare or cause to be prepared a complete set
1617 of financial statements in accordance with generally accepted
1618 accounting principles. The financial statements shall be based
1619 upon the association's total annual revenues, as follows:
1620 1. An association with total annual revenues of \$100,000
1621 or more, but less than \$200,000, shall prepare compiled
1622 financial statements.
1623 2. An association with total annual revenues of at least

1624 \$200,000, but less than \$400,000, shall prepare reviewed
 1625 financial statements.

1626 3. An association with total annual revenues of \$400,000
 1627 or more shall prepare audited financial statements.

1628 (b)1. An association with total annual revenues of less
 1629 than \$100,000 shall prepare a report of cash receipts and
 1630 expenditures.

1631 2. An association which operates fewer than 50 units,
 1632 regardless of the association's annual revenues, shall prepare a
 1633 report of cash receipts and expenditures in lieu of financial
 1634 statements required by paragraph (a).

1635 3. A report of cash receipts and disbursements must
 1636 disclose the amount of receipts by accounts and receipt
 1637 classifications and the amount of expenses by accounts and
 1638 expense classifications, including, but not limited to, the
 1639 following, as applicable: costs for security, professional and
 1640 management fees and expenses, taxes, costs for recreation
 1641 facilities, expenses for refuse collection and utility services,
 1642 expenses for lawn care, costs for building maintenance and
 1643 repair, insurance costs, administration and salary expenses, and
 1644 reserves accumulated and expended for capital expenditures,
 1645 deferred maintenance, and any other category for which the
 1646 association maintains reserves.

1647 (c) An association may prepare or cause to be prepared,
 1648 without a meeting of or approval by the shareholders:

1649 1. Compiled, reviewed, or audited financial statements, if
 1650 the association is required to prepare a report of cash receipts
 1651 and expenditures;

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1652 2. Reviewed or audited financial statements, if the
1653 association is required to prepare compiled financial
1654 statements; or

1655 3. Audited financial statements, if the association is
1656 required to prepare reviewed financial statements.

1657 (d) If approved by a majority of the voting interests
1658 present at a properly called meeting of the association, an
1659 association may prepare or cause to be prepared:

1660 1. A report of cash receipts and expenditures in lieu of a
1661 compiled, reviewed, or audited financial statement;

1662 2. A report of cash receipts and expenditures or a
1663 compiled financial statement in lieu of a reviewed or audited
1664 financial statement; or

1665 3. A report of cash receipts and expenditures, a compiled
1666 financial statement, or a reviewed financial statement in lieu
1667 of an audited financial statement.

1668
1669 Such meeting and approval must occur prior to the end of the
1670 fiscal year and is effective only for the fiscal year in which
1671 the vote is taken, except that the approval also may be
1672 effective for the following fiscal year. With respect to an
1673 association to which the developer has not turned over control
1674 of the association, all shareholders, including the developer,
1675 may vote on issues related to the preparation of financial
1676 reports for the first 2 fiscal years of the association's
1677 operation, beginning with the fiscal year in which the
1678 cooperative documents are recorded. Thereafter, all shareholders
1679 except the developer may vote on such issues until control is

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1680 turned over to the association by the developer. Any audit or
1681 review prepared under this section shall be paid for by the
1682 developer if done prior to turnover of control of the
1683 association. An association may not waive the financial
1684 reporting requirements of this subsection for more than 3
1685 consecutive years.

1686 ~~(a) Within 60 days following the end of the fiscal or~~
1687 ~~calendar year or annually on such date as is otherwise provided~~
1688 ~~in the bylaws of the association, the board of administration of~~
1689 ~~the association shall mail or furnish by personal delivery to~~
1690 ~~each unit owner a complete financial report of actual receipts~~
1691 ~~and expenditures for the previous 12 months, or a complete set~~
1692 ~~of financial statements for the preceding fiscal year prepared~~
1693 ~~in accordance with generally accepted accounting procedures. The~~
1694 ~~report shall show the amounts of receipts by accounts and~~
1695 ~~receipt classifications and shall show the amounts of expenses~~
1696 ~~by accounts and expense classifications including, if~~
1697 ~~applicable, but not limited to, the following:~~

- 1698 ~~1. Costs for security;~~
- 1699 ~~2. Professional and management fees and expenses;~~
- 1700 ~~3. Taxes;~~
- 1701 ~~4. Costs for recreation facilities;~~
- 1702 ~~5. Expenses for refuse collection and utility services;~~
- 1703 ~~6. Expenses for lawn care;~~
- 1704 ~~7. Costs for building maintenance and repair;~~
- 1705 ~~8. Insurance costs;~~
- 1706 ~~9. Administrative and salary expenses; and~~
- 1707 ~~10. Reserves for capital expenditures, deferred~~

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1708 ~~maintenance, and any other category for which the association~~
1709 ~~maintains a reserve account or accounts.~~

1710 ~~(b) The division shall adopt rules that may require that~~
1711 ~~the association deliver to the unit owners, in lieu of the~~
1712 ~~financial report required by this section, a complete set of~~
1713 ~~financial statements for the preceding fiscal year. The~~
1714 ~~financial statements shall be delivered within 90 days following~~
1715 ~~the end of the previous fiscal year or annually on such other~~
1716 ~~date as provided in the bylaws. The rules of the division may~~
1717 ~~require that the financial statements be compiled, reviewed, or~~
1718 ~~audited, and the rules shall take into consideration the~~
1719 ~~criteria set forth in s. 719.501(1)(j). The requirement to have~~
1720 ~~the financial statements compiled, reviewed, or audited does not~~
1721 ~~apply to associations if a majority of the voting interests of~~
1722 ~~the association present at a duly called meeting of the~~
1723 ~~association have determined for a fiscal year to waive this~~
1724 ~~requirement. In an association in which turnover of control by~~
1725 ~~the developer has not occurred, the developer may vote to waive~~
1726 ~~the audit requirement for the first 2 years of the operation of~~
1727 ~~the association, after which time waiver of an applicable audit~~
1728 ~~requirement shall be by a majority of voting interests other~~
1729 ~~than the developer. The meeting shall be held prior to the end~~
1730 ~~of the fiscal year, and the waiver shall be effective for only~~
1731 ~~one fiscal year. This subsection does not apply to a cooperative~~
1732 ~~that consists of 50 or fewer units.~~

1733 (5) ASSESSMENTS.—The association has the power to make and
1734 collect assessments and to lease, maintain, repair, and replace
1735 the common areas. However, the association may not charge a use

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1736 fee against a shareholder ~~the unit owner~~ for the use of common
 1737 areas unless otherwise provided for in the cooperative documents
 1738 or by a majority vote of the association or unless the charges
 1739 relate to expenses incurred by a shareholder ~~an owner~~ having
 1740 exclusive use of common areas.

1741 (6) PURCHASE OF LEASES.—The association has the power to
 1742 purchase any land or recreation lease upon the approval of such
 1743 voting interest as is required by the cooperative documents. If
 1744 the cooperative documents make no provision for acquisition of
 1745 the land or recreational lease, the vote required is that
 1746 required to amend the cooperative documents to permit the
 1747 acquisition.

1748 (7) COMMINGLING.—All funds shall be maintained separately
 1749 in the association's name. Reserve and operating funds of the
 1750 association shall not be commingled unless combined for
 1751 investment purposes. This subsection is not meant to prohibit
 1752 prudent investment of association funds even if combined with
 1753 operating or other reserve funds of the same association, but
 1754 such funds must be accounted for separately, and the combined
 1755 account balance may not, at any time, be less than the amount
 1756 identified as reserve funds in the combined account. No manager
 1757 or business entity required to be licensed or registered under
 1758 s. 468.432, or an agent, employee, officer, or director of a
 1759 cooperative association may commingle any association funds with
 1760 his or her own funds or with the funds of any other cooperative
 1761 association or community association as defined in s. 468.431.

1762 (8) CORPORATE ENTITY.—

1763 (a) The operation of the cooperative shall be by the

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1764 association, which must be a Florida corporation not for profit.
1765 The shareholders shall be members of the association. The
1766 officers and directors of the association have a fiduciary
1767 relationship to the shareholders ~~unit owners~~. It is the intent
1768 of the Legislature that nothing in this paragraph shall be
1769 construed as providing for or removing a requirement of a
1770 fiduciary relationship between any manager employed by the
1771 association and the shareholders. An officer, director, or
1772 manager may not solicit, offer to accept, or accept any thing or
1773 service of value for which consideration has not been provided
1774 for his or her own benefit or that of his or her immediate
1775 family, from any person providing or proposing to provide goods
1776 or services to the association. Any such officer, director, or
1777 manager who knowingly solicits, offers to accept, or accepts any
1778 thing or service of value is subject to a civil penalty pursuant
1779 to s. 719.501(1)(d). However, this paragraph does not prohibit
1780 an officer, director, or manager from accepting services or
1781 items received in connection with trade fairs or education
1782 programs.

1783 (b) A director of the association who is present at a
1784 meeting of its board at which action on any corporate matter is
1785 taken is presumed to have assented to the action taken unless
1786 the director votes against such action or abstains from voting
1787 ~~in respect thereto because of an asserted conflict of interest.~~
1788 A director of the association who abstains from voting on any
1789 action taken on any corporate matter shall be presumed to have
1790 taken no position with regard to the action. Directors may not
1791 vote by proxy or by secret ballot at board meetings, except that

1792 officers may be elected by secret ballot. A vote or abstention
 1793 for each member present shall be recorded in the minutes.

1794 (c) A shareholder ~~unit owner~~ does not have any authority
 1795 to act for the association by reason of being a shareholder ~~unit~~
 1796 ~~owner~~.

1797 (d) As required by s. 617.0830, an officer, director, or
 1798 agent shall discharge his or her duties in good faith, with the
 1799 care an ordinarily prudent person in a like position would
 1800 exercise under similar circumstances, and in a manner he or she
 1801 reasonably believes to be in the interests of the association.
 1802 An officer, director, or agent shall be liable for monetary
 1803 damages as provided in s. 617.0834 if the officer, director, or
 1804 agent breached or failed to perform his or her duties and the
 1805 breach of, or failure to perform, those duties constitutes a
 1806 violation of criminal law as provided in s. 617.0834;
 1807 constitutes a transaction from which the officer or director
 1808 derived an improper personal benefit, either directly or
 1809 indirectly; or constitutes recklessness or an act or omission
 1810 that was in bad faith, with malicious purpose, or in a manner
 1811 exhibiting wanton and willful disregard of human rights, safety,
 1812 or property.

1813 (9) EASEMENTS.—Unless prohibited by the cooperative
 1814 documents, the board of administration has the authority,
 1815 without the joinder of any shareholder ~~unit owner~~, to grant,
 1816 modify, or move any easement, if the easement constitutes part
 1817 of or crosses the common areas or association property. This
 1818 subsection does not authorize the board of administration to
 1819 modify, move, or vacate any easement created in whole or in part

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1820 for the use or benefit of anyone other than the shareholders
 1821 ~~unit owners~~, or crossing the property of anyone other than the
 1822 shareholders ~~unit owners~~, without the consent or approval of
 1823 those other persons having the use or benefit of the easement,
 1824 as required by law or by the instrument creating the easement.

1825 (10) POWERS AND DUTIES.—The powers and duties of the
 1826 association include those set forth in this section and, except
 1827 as expressly limited or restricted in this chapter, those set
 1828 forth in the articles of incorporation and bylaws and chapters
 1829 607 and 617, as applicable.

1830 (11) NOTIFICATION OF DIVISION.—When the board of directors
 1831 intends to dissolve or merge the cooperative association, the
 1832 board shall so notify the division before taking any action to
 1833 dissolve or merge the cooperative association.

1834 (12) POWER TO MANAGE COOPERATIVE PROPERTY AND TO CONTRACT,
 1835 SUE, BE SUED, AND BORROW MONEY.—

1836 (a) The association may contract, sue, or be sued with
 1837 respect to the exercise or nonexercise of its powers. For these
 1838 purposes, the powers of the association include, but are not
 1839 limited to, the maintenance, management, and operation of the
 1840 cooperative property.

1841 (b) After control of the association is obtained by
 1842 shareholders other than the developer, the association may
 1843 institute, maintain, settle, or appeal actions or hearings in
 1844 its name on behalf of all shareholders concerning matters of
 1845 common interest to most or all shareholders, including, but not
 1846 limited to, the common areas; the roof and structural components
 1847 of a building or other improvements; mechanical, electrical, and

1848 plumbing elements serving an improvement or a building;
 1849 representations of the developer pertaining to any existing or
 1850 proposed commonly used facilities; and protests of ad valorem
 1851 taxes on commonly used facilities and units; and the association
 1852 may defend actions in eminent domain or bring inverse
 1853 condemnation actions.

1854 (c) If the association has the authority to maintain a
 1855 class action, the association may be joined in an action as
 1856 representative of that class with reference to litigation and
 1857 disputes involving the matters for which the association could
 1858 bring a class action. Nothing in this paragraph limits any
 1859 statutory or common-law right of any individual shareholder or
 1860 class of shareholders to bring any action without participation
 1861 by the association which may otherwise be available.

1862 (13) TITLE TO PROPERTY.—

1863 (a) The association has the power to acquire title to
 1864 property or otherwise hold, convey, lease, and mortgage
 1865 association property for the use and benefit of its
 1866 shareholders. The power to acquire personal property shall be
 1867 exercised by the board of directors. Except as otherwise
 1868 provided in subsections (6) and (14), an association may not
 1869 acquire, convey, lease, or mortgage association real property
 1870 except in the manner provided in the cooperative documents, and
 1871 if the cooperative documents do not specify the procedure, then
 1872 approval of 75 percent of the total voting interests shall be
 1873 required.

1874 (b) Subject to the provisions of s. 719.106(1)(m), the
 1875 association, through its board, has the limited power to convey

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1876 a portion of the common areas to a condemning authority for the
1877 purposes of providing utility easements, right-of-way expansion,
1878 or other public purposes, whether negotiated or as a result of
1879 eminent domain proceedings.

1880 (14) PURCHASE OF UNITS.—The association has the power,
1881 unless prohibited by the cooperative documents, to purchase
1882 units in the cooperative and to acquire and hold, lease,
1883 mortgage, and convey the units. There shall be no limitation on
1884 the association's right to purchase a unit at a foreclosure sale
1885 resulting from the association's foreclosure of its lien for
1886 unpaid assessments or to take title by deed in lieu of
1887 foreclosure.

1888 (15) MEETINGS.—Regular meetings of the board of directors
1889 shall be held at such time and place as provided in the bylaws
1890 until the first regular meeting of the board held on or after
1891 October 1, 2010. Thereafter, the location and time for regular
1892 meetings of the board shall be determined by a majority vote of
1893 the shareholders at the next regular meeting held on or after
1894 October 1, 2010. Once the time and place for regular meetings of
1895 the board have been selected, neither may be changed unless
1896 approved by a majority vote of the shareholders. Regular
1897 meetings of the board of directors held on weekdays may be held
1898 no earlier than 6 p.m. local time.

1899 (16) LIMIT ON EXPENDITURES AND CONTRIBUTIONS.—It shall be
1900 unlawful for an association to make any expenditure of
1901 association funds or to make any in-kind contribution of
1902 association assets that does not relate to the purposes for
1903 which the association is organized.

1904 (a) The association shall not make any contribution to a
 1905 campaign or committee of continuous existence governed by
 1906 chapter 105 or chapter 106.

1907 (b) The association shall not make any contribution to a
 1908 charitable organization if the association does not receive a
 1909 direct benefit from the organization.

1910 (c) Members of the board of administration shall be
 1911 jointly and severally liable to reimburse the association for any
 1912 contribution, expenditure, or in-kind contribution made in
 1913 violation of this subsection.

1914 Section 16. Section 719.106, Florida Statutes, is amended
 1915 to read:

1916 719.106 Bylaws; cooperative ownership.—

1917 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
 1918 documents shall provide for the following, and if they do not,
 1919 they shall be deemed to include the following:

1920 (a) Administration.—

1921 1. The form of administration of the association shall be
 1922 described, indicating the titles of the officers and board of
 1923 administration and specifying the powers, duties, manner of
 1924 selection and removal, and compensation, if any, of officers and
 1925 board members. In the absence of such a provision, the board of
 1926 administration shall be composed of five members, except in the
 1927 case of cooperatives having five or fewer units, in which case
 1928 in not-for-profit corporations, the board shall consist of not
 1929 fewer than three members. In the absence of provisions to the
 1930 contrary, the board of administration shall have a president, a
 1931 secretary, and a treasurer, who shall perform the duties of

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1932 those offices customarily performed by officers of corporations.
1933 Unless prohibited in the bylaws, the board of administration may
1934 appoint other officers and grant them those duties it deems
1935 appropriate. Unless otherwise provided in the bylaws, the
1936 officers shall serve without compensation and at the pleasure of
1937 the board. Unless otherwise provided in the bylaws, the members
1938 of the board shall serve without compensation.

1939 2. When a shareholder ~~unit-owner~~ files a written inquiry
1940 by certified mail with the board of administration, the board
1941 shall respond in writing to the shareholder ~~unit-owner~~ within 30
1942 days of receipt of the inquiry. The board's response shall
1943 either give a substantive response to the inquirer, notify the
1944 inquirer that a legal opinion has been requested, or notify the
1945 inquirer that advice has been requested from the division. If
1946 the board requests advice from the division, the board shall,
1947 within 10 days of its receipt of the advice, provide in writing
1948 a substantive response to the inquirer. If a legal opinion is
1949 requested, the board shall, within 60 days after the receipt of
1950 the inquiry, provide in writing a substantive response to the
1951 inquirer. The failure to provide a substantive response to the
1952 inquirer as provided herein precludes the board from recovering
1953 attorney's fees and costs in any subsequent litigation,
1954 administrative proceeding, or arbitration arising out of the
1955 inquiry. The association may, through its board of
1956 administration, adopt reasonable rules and regulations regarding
1957 the frequency and manner of responding to the shareholders' ~~unit~~
1958 ~~owners'~~ inquiries, one of which may be that the association is
1959 obligated to respond to only one written inquiry per unit in any

1960 given 30-day period. In such case, any additional inquiry or
 1961 inquiries must be responded to in the subsequent 30-day period,
 1962 or periods, as applicable.

1963 (b) Quorum; voting requirements; proxies.—

1964 1. Unless otherwise provided in the bylaws, the percentage
 1965 of voting interests required to constitute a quorum at a meeting
 1966 of the members shall be a majority of voting interests, and
 1967 decisions shall be made by owners of a majority of the voting
 1968 interests. Unless otherwise provided in this chapter, or in the
 1969 articles of incorporation, bylaws, or other cooperative
 1970 documents, and except as provided in subparagraph (d)1.,
 1971 decisions shall be made by owners of a majority of the voting
 1972 interests represented at a meeting at which a quorum is present.

1973 2. Except as specifically otherwise provided herein, after
 1974 January 1, 1992, shareholders ~~unit owners~~ may not vote by
 1975 general proxy, but may vote by limited proxies substantially
 1976 conforming to a limited proxy form adopted by the division.
 1977 Limited proxies and general proxies may be used to establish a
 1978 quorum. Limited proxies shall be used for votes taken to waive
 1979 or reduce reserves in accordance with subparagraph (j)2., for
 1980 votes taken to waive the financial reporting requirements of s.
 1981 719.104(4) ~~(b)~~, for votes taken to amend the articles of
 1982 incorporation or bylaws pursuant to this section, and for any
 1983 other matter for which this chapter requires or permits a vote
 1984 of the shareholders ~~unit owners~~. Except as provided in paragraph
 1985 (d), after January 1, 1992, no proxy, limited or general, shall
 1986 be used in the election of board members. General proxies may be
 1987 used for other matters for which limited proxies are not

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1988 required, and may also be used in voting for nonsubstantive
 1989 changes to items for which a limited proxy is required and
 1990 given. Notwithstanding the provisions of this section,
 1991 shareholders ~~unit owners~~ may vote in person at shareholder ~~unit~~
 1992 ~~owner~~ meetings. Nothing contained herein shall limit the use of
 1993 general proxies or require the use of limited proxies or require
 1994 the use of limited proxies for any agenda item or election at
 1995 any meeting of a timeshare cooperative.

1996 3. Any proxy given shall be effective only for the
 1997 specific meeting for which originally given and any lawfully
 1998 adjourned meetings thereof. In no event shall any proxy be valid
 1999 for a period longer than 90 days after the date of the first
 2000 meeting for which it was given. Every proxy shall be revocable
 2001 at any time at the pleasure of the shareholder ~~unit owner~~
 2002 executing it.

2003 4. A member of the board of administration or a committee
 2004 may submit in writing his or her agreement or disagreement with
 2005 any action taken at a meeting that the member did not attend.
 2006 This agreement or disagreement may not be used as a vote for or
 2007 against the action taken and may not be used for the purposes of
 2008 creating a quorum.

2009 5. When some or all of the board or committee members meet
 2010 by telephone conference, those board or committee members
 2011 attending by telephone conference may be counted toward
 2012 obtaining a quorum and may vote by telephone. A telephone
 2013 speaker shall be utilized so that the conversation of those
 2014 board or committee members attending by telephone may be heard
 2015 by the board or committee members attending in person, as well

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2016 as by shareholders ~~unit owners~~ present at a meeting.

2017 (c) Board of administration meetings.—Meetings of the
2018 board of administration at which a quorum of the members is
2019 present shall be open to all shareholders ~~unit owners~~. Any
2020 shareholder ~~unit owner~~ may tape record or videotape meetings of
2021 the board of administration. The right to attend such meetings
2022 includes the right to speak at such meetings with reference to
2023 all designated agenda items. The division shall adopt reasonable
2024 rules governing the tape recording and videotaping of the
2025 meeting. The association may adopt reasonable written rules
2026 governing the frequency, duration, and manner of shareholder
2027 ~~unit owner~~ statements. Adequate notice of all meetings shall be
2028 posted in a conspicuous place upon the cooperative property at
2029 least 48 continuous hours preceding the meeting, except in an
2030 emergency. If 20 percent of the voting interests petition the
2031 board to address an item of business, the board shall at its
2032 next regular board meeting or at a special meeting of the board,
2033 but not later than 60 days after the receipt of the petition,
2034 place the item on the agenda. Any item not included on the
2035 notice may be taken up on an emergency basis by at least a
2036 majority plus one of the members of the board. Such emergency
2037 action shall be noticed and ratified at the next regular meeting
2038 of the board. However, written notice of any meeting at which
2039 nonemergency special assessments, or at which amendment to rules
2040 regarding unit use, will be considered shall be mailed,
2041 delivered, or electronically transmitted to the shareholders
2042 ~~unit owners~~ and posted conspicuously on the cooperative property
2043 not less than 14 days prior to the meeting. Evidence of

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2044 compliance with this 14-day notice shall be made by an affidavit
 2045 executed by the person providing the notice and filed among the
 2046 official records of the association. Upon notice to the
 2047 shareholders ~~unit owners~~, the board shall by duly adopted rule
 2048 designate a specific location on the cooperative property upon
 2049 which all notices of board meetings shall be posted. In lieu of
 2050 or in addition to the physical posting of notice of any meeting
 2051 of the board of administration on the cooperative property, the
 2052 association may, by reasonable rule, adopt a procedure for
 2053 conspicuously posting and repeatedly broadcasting the notice and
 2054 the agenda on a closed-circuit cable television system serving
 2055 the cooperative association. However, if broadcast notice is
 2056 used in lieu of a notice posted physically on the cooperative
 2057 property, the notice and agenda must be broadcast at least four
 2058 times every broadcast hour of each day that a posted notice is
 2059 otherwise required under this section. When broadcast notice is
 2060 provided, the notice and agenda must be broadcast in a manner
 2061 and for a sufficient continuous length of time so as to allow an
 2062 average reader to observe the notice and read and comprehend the
 2063 entire content of the notice and the agenda. Notice of any
 2064 meeting in which regular or special assessments against
 2065 shareholders ~~unit owners~~ are to be considered for any reason
 2066 shall specifically state ~~contain a statement~~ that assessments
 2067 will be considered and the nature of, the actual cost of, and a
 2068 description of the purposes for ~~any~~ such assessments. Meetings
 2069 of a committee to take final action on behalf of the board or to
 2070 make recommendations to the board regarding the association
 2071 budget are subject to the provisions of this paragraph. Meetings

2072 of a committee that does not take final action on behalf of the
 2073 board or make recommendations to the board regarding the
 2074 association budget are subject to the provisions of this
 2075 section, unless those meetings are exempted from this section by
 2076 the bylaws of the association. Notwithstanding any other law to
 2077 the contrary, the requirement that board meetings and committee
 2078 meetings be open to the shareholders ~~unit owners~~ is inapplicable
 2079 to meetings between the board or a committee and the
 2080 association's attorney, with respect to proposed or pending
 2081 litigation, when the meeting is held for the purpose of seeking
 2082 or rendering legal advice.

2083 (d) Shareholder meetings.—There shall be an annual meeting
 2084 of the shareholders held at the location provided in the
 2085 association bylaws and, if the bylaws are silent as to the
 2086 location, the meeting shall be held within 45 miles of the
 2087 cooperative property. However, such distance requirement does
 2088 not apply to an association governing a timeshare cooperative.
 2089 All members of the board of administration shall be elected at
 2090 the first annual meeting after July 1, 2010, and annually
 2091 thereafter, except that if ~~unless~~ the bylaws provide for
 2092 staggered election terms of no more than 2 years, the
 2093 association board members may serve 2-year staggered terms. If
 2094 no person is interested in or demonstrates an intention to run
 2095 for the position of a board member whose term has expired, the
 2096 board member whose term has expired shall be automatically
 2097 reappointed to the board of administration and need not stand
 2098 for reelection or for their election at another meeting. Any
 2099 shareholder ~~unit owner~~ desiring to be a candidate for board

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2100 membership must ~~shall~~ comply with subparagraph 1. The bylaws
2101 shall provide the method for calling meetings, including annual
2102 meetings. Written notice, which notice shall incorporate an
2103 identification of agenda items, shall be given to each
2104 shareholder ~~unit-owner~~ at least 14 days prior to the annual
2105 meeting and shall be posted in a conspicuous place on the
2106 cooperative property at least 14 continuous days preceding the
2107 annual meeting. Upon notice to the shareholders ~~unit-owners~~, the
2108 board shall by duly adopted rule designate a specific location
2109 on the cooperative property upon which all notice of shareholder
2110 ~~unit-owner~~ meetings shall be posted. In lieu of or in addition
2111 to the physical posting of notice of any meeting of the
2112 shareholders on the cooperative property, the association may,
2113 by reasonable rule, adopt a procedure for conspicuously posting
2114 and repeatedly broadcasting the notice and the agenda on a
2115 closed-circuit cable television system serving the cooperative
2116 association. However, if broadcast notice is used in lieu of a
2117 notice posted physically on the cooperative property, the notice
2118 and agenda must be broadcast at least four times every broadcast
2119 hour of each day that a posted notice is otherwise required
2120 under this section. When broadcast notice is provided, the
2121 notice and agenda must be broadcast in a manner and for a
2122 sufficient continuous length of time so as to allow an average
2123 reader to observe the notice and read and comprehend the entire
2124 content of the notice and the agenda. Unless a shareholder ~~unit-~~
2125 ~~owner~~ waives in writing the right to receive notice of the
2126 annual meeting, the notice of the annual meeting shall be sent
2127 by mail, hand delivered, or electronically transmitted to each

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2128 shareholder ~~unit-owner~~. An officer of the association shall
2129 provide an affidavit or United States Postal Service certificate
2130 of mailing, to be included in the official records of the
2131 association, affirming that notices of the association meeting
2132 were mailed, hand delivered, or electronically transmitted, in
2133 accordance with this provision, to each shareholder ~~unit-owner~~
2134 at the address last furnished to the association.

2135 1. After January 1, 1992, the board of administration
2136 shall be elected by written ballot or voting machine. Proxies
2137 shall in no event be used in electing the board of
2138 administration, either in general elections or elections to fill
2139 vacancies caused by recall, resignation, or otherwise unless
2140 otherwise provided in this chapter. Not less than 60 days before
2141 a scheduled election, the association shall mail, deliver, or
2142 transmit, whether by separate association mailing, delivery, or
2143 electronic transmission or included in another association
2144 mailing, delivery, or electronic transmission, including
2145 regularly published newsletters, to each shareholder ~~unit-owner~~
2146 entitled to vote, a first notice of the date of the election.
2147 Any shareholder ~~unit-owner~~ or other eligible person desiring to
2148 be a candidate for the board of administration shall give
2149 written notice to the association not less than 40 days before a
2150 scheduled election. Together with the written notice and agenda
2151 as set forth in this section, the association shall mail,
2152 deliver, or electronically transmit a second notice of election
2153 to all shareholders ~~unit-owners~~ entitled to vote therein,
2154 together with a ballot which shall list all candidates. Upon
2155 request of a candidate, the association shall include an

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2156 information sheet, no larger than 8 1/2 inches by 11 inches,
 2157 which must be furnished by the candidate not less than 35 days
 2158 prior to the election, to be included with the mailing,
 2159 delivery, or electronic transmission of the ballot, with the
 2160 costs of mailing, delivery, or transmission and copying to be
 2161 borne by the association. The association has no liability for
 2162 the contents of the information sheets provided by the
 2163 candidates. In order to reduce costs, the association may print
 2164 or duplicate the information sheets on both sides of the paper.
 2165 The division shall by rule establish voting procedures
 2166 consistent with the provisions contained herein, including rules
 2167 establishing procedures for giving notice by electronic
 2168 transmission and rules providing for the secrecy of ballots.
 2169 Elections shall be decided by a plurality of those ballots cast.
 2170 There shall be no quorum requirement. However, at least 20
 2171 percent of the eligible voters must cast a ballot in order to
 2172 have a valid election of members of the board of administration.
 2173 No shareholder ~~unit owner~~ shall permit any other person to vote
 2174 his or her ballot, and any such ballots improperly cast shall be
 2175 deemed invalid. A shareholder ~~unit owner~~ who needs assistance in
 2176 casting the ballot for the reasons stated in s. 101.051 may
 2177 obtain assistance in casting the ballot. Any shareholder ~~unit~~
 2178 ~~owner~~ violating this provision may be fined by the association
 2179 in accordance with s. 719.303. The regular election shall occur
 2180 on the date of the annual meeting. The provisions of this
 2181 subparagraph shall not apply to timeshare cooperatives.
 2182 Notwithstanding the provisions of this subparagraph, an election
 2183 and balloting are not required unless more candidates file a

2184 notice of intent to run or are nominated than vacancies exist on
 2185 the board.

2186 2. Any approval by shareholders ~~unit-owners~~ called for by
 2187 this chapter, or the applicable cooperative documents, shall be
 2188 made at a duly noticed meeting of shareholders ~~unit-owners~~ and
 2189 shall be subject to all requirements of this chapter or the
 2190 applicable cooperative documents relating to shareholder ~~unit~~
 2191 ~~owner~~ decisionmaking, except that shareholders ~~unit-owners~~ may
 2192 take action by written agreement, without meetings, on matters
 2193 for which action by written agreement without meetings is
 2194 expressly allowed by the applicable cooperative documents or any
 2195 Florida statute which provides for the shareholder ~~unit-owner~~
 2196 action.

2197 3. Shareholders ~~Unit-owners~~ may waive notice of specific
 2198 meetings if allowed by the applicable cooperative documents or
 2199 any Florida statute. If authorized by the bylaws, notice of
 2200 meetings of the board of administration, shareholder meetings,
 2201 except shareholder meetings called to recall board members under
 2202 paragraph (f), and committee meetings may be given by electronic
 2203 transmission to shareholders ~~unit-owners~~ who consent to receive
 2204 notice by electronic transmission.

2205 4. Shareholders ~~Unit-owners~~ shall have the right to
 2206 participate in meetings of shareholders ~~unit-owners~~ with
 2207 reference to all designated agenda items. However, the
 2208 association may adopt reasonable rules governing the frequency,
 2209 duration, and manner of shareholder ~~unit-owner~~ participation.

2210 5. Any shareholder ~~unit-owner~~ may tape record or videotape
 2211 meetings of the shareholders ~~unit-owners~~ subject to reasonable

2212 rules adopted by the division.

2213

2214 Notwithstanding subparagraphs (b)2. and (d)1., an association of
 2215 10 or fewer units may, by the affirmative vote of a majority of
 2216 the total voting interests, provide for a different voting and
 2217 election procedure in its bylaws, which vote may be by a proxy
 2218 specifically delineating the different voting and election
 2219 procedures. The different voting and election procedures may
 2220 provide for elections to be conducted by limited or general
 2221 proxy.

2222 (e) Budget procedures.—

2223 1. The board of administration shall mail, hand deliver,
 2224 or electronically transmit to each shareholder ~~unit owner~~ at the
 2225 address last furnished to the association, a meeting notice and
 2226 copies of the proposed annual budget of common expenses to the
 2227 shareholders ~~unit owners~~ not less than 14 days prior to the
 2228 meeting at which the budget will be considered. Evidence of
 2229 compliance with this 14-day notice must be made by an affidavit
 2230 executed by an officer of the association or the manager or
 2231 other person providing notice of the meeting and filed among the
 2232 official records of the association. The meeting must be open to
 2233 the shareholders ~~unit owners~~.

2234 2. If an adopted budget requires assessment against the
 2235 shareholders ~~unit owners~~ in any fiscal or calendar year which
 2236 exceeds 115 percent of the assessments for the preceding year,
 2237 the board upon written application of 10 percent of the voting
 2238 interests to the board, shall call a special meeting of the
 2239 shareholders ~~unit owners~~ within 30 days, upon not less than 10

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2240 days' written notice to each shareholder ~~unit owner~~. At the
 2241 special meeting, shareholders ~~unit owners~~ shall consider and
 2242 enact a budget. Unless the bylaws require a larger vote, the
 2243 adoption of the budget requires a vote of not less than a
 2244 majority of all the voting interests.

2245 3. The board of administration may, in any event, propose
 2246 a budget to the shareholders ~~unit owners~~ at a meeting of members
 2247 or by writing, and if the budget or proposed budget is approved
 2248 by the shareholders ~~unit owners~~ at the meeting or by a majority
 2249 of all voting interests in writing, the budget is adopted. If a
 2250 meeting of the shareholders ~~unit owners~~ has been called and a
 2251 quorum is not attained or a substitute budget is not adopted by
 2252 the shareholders ~~unit owners~~, the budget adopted by the board of
 2253 directors goes into effect as scheduled.

2254 4. In determining whether assessments exceed 115 percent
 2255 of similar assessments for prior years, any authorized
 2256 provisions for reasonable reserves for repair or replacement of
 2257 cooperative property, anticipated expenses by the association
 2258 which are not anticipated to be incurred on a regular or annual
 2259 basis, or assessments for betterments to the cooperative
 2260 property must be excluded from computation. However, as long as
 2261 the developer is in control of the board of administration, the
 2262 board may not impose an assessment for any year greater than 115
 2263 percent of the prior fiscal or calendar year's assessment
 2264 without approval of a majority of all voting interests.

2265 (f) Recall of board members.—Subject to the provisions of
 2266 s. 719.301, any member of the board of administration may be
 2267 recalled and removed from office with or without cause by the

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2268 | vote or agreement in writing by a majority of all the voting
2269 | interests. A special meeting of the voting interests to recall
2270 | any member of the board of administration may be called by 10
2271 | percent of the shareholders ~~unit-owners~~ giving notice of the
2272 | meeting as required for a meeting of shareholders ~~unit-owners~~,
2273 | and the notice shall state the purpose of the meeting.

2274 | Electronic transmission may not be used as a method of giving
2275 | notice of a meeting called in whole or in part for this purpose.

2276 | 1. If the recall is approved by a majority of all voting
2277 | interests by a vote at a meeting, the recall shall be effective
2278 | as provided herein. The board shall duly notice and hold a board
2279 | meeting within 5 full business days of the adjournment of the
2280 | shareholder ~~unit-owner~~ meeting to recall one or more board
2281 | members. At the meeting, the board shall either certify the
2282 | recall, in which case such member or members shall be recalled
2283 | effective immediately and shall turn over to the board within 5
2284 | full business days any and all records and property of the
2285 | association in their possession, or shall proceed as set forth
2286 | in subparagraph 3.

2287 | 2. If the proposed recall is by an agreement in writing by
2288 | a majority of all voting interests, the agreement in writing or
2289 | a copy thereof shall be served on the association by certified
2290 | mail or by personal service in the manner authorized by chapter
2291 | 48 and the Florida Rules of Civil Procedure. The board of
2292 | administration shall duly notice and hold a meeting of the board
2293 | within 5 full business days after receipt of the agreement in
2294 | writing. At the meeting, the board shall either certify the
2295 | written agreement to recall members of the board, in which case

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2296 such members shall be recalled effective immediately and shall
2297 turn over to the board, within 5 full business days, any and all
2298 records and property of the association in their possession, or
2299 proceed as described in subparagraph 3.

2300 3. If the board determines not to certify the written
2301 agreement to recall members of the board, or does not certify
2302 the recall by a vote at a meeting, the board shall, within 5
2303 full business days after the board meeting, file with the
2304 division a petition for binding arbitration pursuant to the
2305 procedures of s. 719.1255. For purposes of this paragraph, the
2306 shareholders ~~unit owners~~ who voted at the meeting or who
2307 executed the agreement in writing shall constitute one party
2308 under the petition for arbitration. If the arbitrator certifies
2309 the recall as to any member of the board, the recall shall be
2310 effective upon mailing of the final order of arbitration to the
2311 association. If the association fails to comply with the order
2312 of the arbitrator, the division may take action pursuant to s.
2313 719.501. Any member so recalled shall deliver to the board any
2314 and all records and property of the association in the member's
2315 possession within 5 full business days of the effective date of
2316 the recall.

2317 4. If the board fails to duly notice and hold a board
2318 meeting within 5 full business days of service of an agreement
2319 in writing or within 5 full business days of the adjournment of
2320 the shareholder ~~unit owner~~ recall meeting, the recall shall be
2321 deemed effective and the board members so recalled shall
2322 immediately turn over to the board any and all records and
2323 property of the association.

2324 5. If a vacancy occurs on the board as a result of a
 2325 recall or removal and less than a majority of the board members
 2326 are removed, the vacancy may be filled by the affirmative vote
 2327 of a majority of the remaining directors, notwithstanding any
 2328 provision to the contrary contained in this chapter. If
 2329 vacancies occur on the board as a result of a recall and a
 2330 majority or more of the board members are removed, the vacancies
 2331 shall be filled in accordance with procedural rules to be
 2332 adopted by the division, which rules need not be consistent with
 2333 this chapter. The rules must provide procedures governing the
 2334 conduct of the recall election as well as the operation of the
 2335 association during the period after a recall but prior to the
 2336 recall election.

2337 (g) Common expenses.—The manner of collecting from the
 2338 shareholders ~~unit-owners~~ their shares of the common expenses
 2339 shall be stated. Assessments shall be made against shareholders
 2340 ~~unit-owners~~ not less frequently than quarterly, in an amount no
 2341 less than is required to provide funds in advance for payment of
 2342 all of the anticipated current operating expense and for all of
 2343 the unpaid operating expense previously incurred. Nothing in
 2344 this paragraph shall preclude the right of an association to
 2345 accelerate assessments of a shareholder ~~an owner~~ delinquent in
 2346 payment of common expenses in actions taken pursuant to s.
 2347 719.104 (5) ~~(4)~~.

2348 (h) Amendment of bylaws.—

2349 1. The method by which the bylaws may be amended
 2350 consistent with the provisions of this chapter shall be stated.
 2351 If the bylaws fail to provide a method of amendment, the bylaws

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2352 may be amended if the amendment is approved by shareholders
2353 ~~owners~~ of not less than two-thirds of the voting interests.

2354 2. No bylaw shall be revised or amended by reference to
2355 its title or number only. Proposals to amend existing bylaws
2356 shall contain the full text of the bylaws to be amended; new
2357 words shall be inserted in the text underlined, and words to be
2358 deleted shall be lined through with hyphens. However, if the
2359 proposed change is so extensive that this procedure would
2360 hinder, rather than assist, the understanding of the proposed
2361 amendment, it is not necessary to use underlining and hyphens as
2362 indicators of words added or deleted, but, instead, a notation
2363 must be inserted immediately preceding the proposed amendment in
2364 substantially the following language: "Substantial rewording of
2365 bylaw. See bylaw _____ for present text."

2366 3. Nonmaterial errors or omissions in the bylaw process
2367 shall not invalidate an otherwise properly promulgated
2368 amendment.

2369 4. If the bylaws provide for amendment by the board of
2370 directors, no bylaw may be amended unless it is heard and
2371 noticed at two consecutive meetings of the board of directors
2372 that are at least 1 week apart.

2373 (i) Transfer fees.—No charge may be made by the
2374 association or any body thereof in connection with the sale,
2375 mortgage, lease, sublease, or other transfer of a unit unless
2376 the association is required to approve such transfer and a fee
2377 for such approval is provided for in the cooperative documents.
2378 Any such fee may be preset, but in no event shall it exceed \$100
2379 per applicant other than husband/wife or parent/dependent child,

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2380 | which are considered one applicant. However, if the lease or
 2381 | sublease is a renewal of a lease or sublease with the same
 2382 | lessee or sublessee, no charge shall be made. Nothing in this
 2383 | paragraph shall be construed to prohibit an association from
 2384 | requiring as a condition to permitting the letting or renting of
 2385 | a unit, when the association has such authority in the
 2386 | documents, the depositing into an escrow account maintained by
 2387 | the association a security deposit in an amount not to exceed
 2388 | the equivalent of 1 month's rent. The security deposit shall
 2389 | protect against damages to the common areas or cooperative
 2390 | property. Within 15 days after a tenant vacates the premises,
 2391 | the association shall refund the full security deposit or give
 2392 | written notice to the tenant of any claim made against the
 2393 | security. Disputes under this paragraph shall be handled in the
 2394 | same fashion as disputes concerning security deposits under s.
 2395 | 83.49.

2396 | (j) Annual budget.—

2397 | 1. The proposed annual budget of estimated revenues and
 2398 | ~~common~~ expenses shall be detailed and shall show the amounts
 2399 | budgeted by accounts and expense classifications, including, if
 2400 | applicable, but not limited to, those expenses listed in s.
 2401 | 719.504(20).

2402 | 2. In addition to annual operating expenses, the budget
 2403 | shall include reserve accounts for capital expenditures and
 2404 | deferred maintenance. These accounts shall include, but not be
 2405 | limited to, roof replacement, building painting, and pavement
 2406 | resurfacing, regardless of the amount of deferred maintenance
 2407 | expense or replacement cost, and for any other items for which

2408 the deferred maintenance expense or replacement cost exceeds
 2409 \$10,000. The amount to be reserved shall be computed by means of
 2410 a formula which is based upon estimated remaining useful life
 2411 and estimated replacement cost or deferred maintenance expense
 2412 of each reserve item. The association may adjust replacement
 2413 reserve assessments annually to take into account any changes in
 2414 estimates or extension of the useful life of a reserve item
 2415 caused by deferred maintenance. This paragraph shall not apply
 2416 to any budget in which the members of an association have, at a
 2417 duly called meeting of the association, determined for a fiscal
 2418 year to provide no reserves or reserves less adequate than
 2419 required by this subsection. However, prior to turnover of
 2420 control of an association by a developer to shareholders ~~unit~~
 2421 ~~owners~~ other than a developer pursuant to s. 719.301, the
 2422 developer may vote to waive the reserves or reduce the funding
 2423 of reserves for the first 2 years of the operation of the
 2424 association after which time reserves may only be waived or
 2425 reduced upon the vote of a majority of all nondeveloper voting
 2426 interests voting in person or by limited proxy at a duly called
 2427 meeting of the association. If a meeting of the shareholders
 2428 ~~unit owners~~ has been called to determine to provide no reserves,
 2429 or reserves less adequate than required, and such result is not
 2430 attained or a quorum is not attained, the reserves as included
 2431 in the budget shall go into effect.

2432 3. Reserve funds and any interest accruing thereon shall
 2433 remain in the reserve account or accounts, and shall be used
 2434 only for authorized reserve expenditures unless their use for
 2435 other purposes is approved in advance by a vote of the majority

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2436 of the voting interests, voting in person or by limited proxy at
2437 a duly called meeting of the association. Prior to turnover of
2438 control of an association by a developer to shareholders ~~unit~~
2439 ~~owners~~ other than the developer under s. 719.301, the developer
2440 may not vote to use reserves for purposes other than that for
2441 which they were intended without the approval of a majority of
2442 all nondeveloper voting interests, voting in person or by
2443 limited proxy at a duly called meeting of the association.

2444 4. The only voting interests which are eligible to vote on
2445 questions that involve waiving or reducing the funding of
2446 reserves, or using existing reserve funds for purposes other
2447 than purposes for which the reserves were intended, are the
2448 voting interests of the units subject to assessment to fund the
2449 reserves in question. Proxy questions relating to waiving or
2450 reducing the funding of reserves or using existing reserve funds
2451 for purposes other than purposes for which the reserves were
2452 intended shall contain the following statement in capitalized,
2453 bold letters in a font size larger than any other used on the
2454 face of the proxy ballot: WAIVING OF RESERVES, IN WHOLE OR IN
2455 PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY
2456 RESULT IN SHAREHOLDER LIABILITY FOR PAYMENT OF UNANTICIPATED
2457 SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

2458 (k) Insurance or fidelity bonds.—The association shall
2459 obtain and maintain adequate insurance or fidelity bonding of
2460 all persons who control or disburse funds of the association.
2461 The insurance policy or fidelity bond must cover the maximum
2462 funds that will be in the custody of the association or its
2463 management agent at any one time. As used in this paragraph, the

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2464 term "persons who control or disburse funds of the association"
2465 includes, but is not limited to, those individuals authorized to
2466 sign checks, and the president, secretary, and treasurer of the
2467 association. The association shall bear the cost of bonding and
2468 insurance.

2469 (l) Arbitration.—There shall be a provision for mandatory
2470 nonbinding arbitration of internal disputes arising from the
2471 operation of the cooperative in accordance with s. 719.1255.

2472 (m) Common areas; limited power to convey.—

2473 1. The bylaws shall include a provision granting the
2474 association a limited power to convey a portion of the common
2475 areas to a condemning authority for the purpose of providing
2476 utility easements, right-of-way expansion, or other public
2477 purposes, whether negotiated or as a result of eminent domain
2478 proceedings.

2479 2. In any case in which the bylaws are silent as to the
2480 association's power to convey common areas as described in
2481 subparagraph 1., the bylaws shall be deemed to include the
2482 provision described in subparagraph 1.

2483 (n) Director or officer delinquencies.—A director or
2484 officer more than 90 days delinquent in the payment of regular
2485 assessments shall be deemed to have abandoned his or her office,
2486 creating a vacancy in the office to be filled according to law.

2487 (o) Director or officer offenses.—A director or officer
2488 charged by information or indictment with a felony theft or
2489 embezzlement offense involving the association's funds or
2490 property shall be removed from office, creating a vacancy in the
2491 office to be filled according to law. While such director or

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2492 officer has such criminal charge pending in the state or federal
2493 court system, he or she may not be appointed or elected to a
2494 position as a director or officer. However, should the charges
2495 be resolved without a finding of guilt, the director or officer
2496 shall be reinstated for the remainder of his or her term of
2497 office, if any.

2498 (p) Qualifications of directors.—In addition to any other
2499 requirement for office in statute, a person running for, seeking
2500 appointment to, or serving as a director of the board must meet
2501 the following qualifications:

2502 1. In a cooperative association of 10 or more units, only
2503 one individual coowner of a unit may serve on the board of
2504 administration.

2505 2. No person may serve as a director of any cooperative
2506 association in the state if restricted from serving by action of
2507 the division pursuant to s. 719.501.

2508 3. A person who has been convicted of any felony in this
2509 state or in a United States District or Territorial Court, or
2510 who has been convicted of any offense in another jurisdiction
2511 that would be considered a felony if committed in this state, is
2512 not eligible for board membership unless such felon's civil
2513 rights have been restored for a period of no less than 5 years
2514 as of the date on which such person seeks election to the board.

2515 4. A director more than 90 days delinquent in the payment
2516 of regular assessments shall be deemed to have abandoned his or
2517 her office.

2518 5. Within 30 days after being elected or appointed to the
2519 board of directors, a director shall certify in writing to the

2520 secretary of the association that he or she has read this part
 2521 and part III and the association's cooperative documents,
 2522 bylaws, and current written policies. The director shall further
 2523 certify that he or she will work to uphold such documents and
 2524 policies to the best of his or her ability and that he or she
 2525 will faithfully discharge his or her fiduciary responsibility to
 2526 the association's members. If the division finds that a director
 2527 has falsely certified that he or she has read the required
 2528 statutes and documents, the division shall order the director
 2529 removed the board and shall order the director to reimburse the
 2530 division for the cost of prosecution and hearing.

2531 6. After turnover of the association pursuant to s.
 2532 719.301(4), a director must:

2533 a. If the unit is owned by an individual or individuals,
 2534 be one of those individuals.

2535 b. If the unit is owned by a trust, be an individual
 2536 qualified pursuant to s. 617.0802.

2537
 2538 These qualifications shall operate on a continuing basis, and
 2539 upon the failure of a director at any time to meet a
 2540 qualification, the director shall be removed from office and
 2541 that office shall be deemed vacant.

2542 (q) Borrowing.—The borrowing of funds or committing to a
 2543 line of credit by the board of administration shall be
 2544 considered a special assessment, and any meeting of the board of
 2545 administration to discuss such matters must be noticed as
 2546 provided in paragraph (c). The board may not borrow funds or
 2547 enter into a line of credit or borrow funds for any purpose

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2548 | unless the specific use of the funds from the loan or line of
 2549 | credit is set forth in the notice of meeting with the same
 2550 | specificity as required for a special assessment or unless the
 2551 | borrowing or line of credit has received the prior approval of
 2552 | at least two-thirds of the voting interests of the association.

2553 | (2) OPTIONAL PROVISIONS.—The bylaws may provide for the
 2554 | following:

2555 | (a) Administrative rules.—A method of adopting and of
 2556 | amending administrative rules and regulations governing the
 2557 | details of the operation and use of the common areas.

2558 | (b) Use and maintenance restrictions.—Restrictions on, and
 2559 | requirements for, the use, maintenance, and appearance of the
 2560 | units and the use of the common areas, not inconsistent with the
 2561 | cooperative documents, designed to prevent unreasonable
 2562 | interference with the use of the units and common areas.

2563 | (c) Notice of meetings.—Provisions for giving notice by
 2564 | electronic transmissions in a manner authorized by law of
 2565 | meetings of the board of directors and committees and of annual
 2566 | and special meetings of the members.

2567 | (d) Other matters.—Other provisions not inconsistent with
 2568 | this chapter or with the cooperative documents as may be
 2569 | desired.

2570 | Section 17. Section 719.1064, Florida Statutes, is
 2571 | repealed.

2572 | Section 18. Paragraphs (b) and (c) of subsection (1) and
 2573 | subsection (2) of section 719.107, Florida Statutes, are
 2574 | amended, and subsection (3) is added to that section, to read:

2575 | 719.107 Common expenses; assessment.—

2576 (1)
 2577 (b) If so provided in the bylaws, the cost of a master
 2578 antenna television system or duly franchised cable television
 2579 service obtained pursuant to a bulk contract shall be deemed a
 2580 common expense, and if not obtained pursuant to a bulk contract,
 2581 such cost shall be considered common expense if it is designated
 2582 as such in a written contract between the board of
 2583 administration and the company providing the master television
 2584 antenna system or the cable television service. The contract
 2585 shall be for a term of not less than 2 years.

2586 1. Any contract made by the board after April 2, 1992, for
 2587 a community antenna system or duly franchised cable television
 2588 service may be canceled by a majority of the voting interests
 2589 present at the next regular or special meeting of the
 2590 association. Any member may make a motion to cancel the
 2591 contract, but if no motion is made or if such motion fails to
 2592 obtain the required majority at the next regular or special
 2593 meeting, whichever is sooner, following the making of the
 2594 contract, then such contract shall be deemed ratified for the
 2595 term therein expressed.

2596 2. Any such contract shall provide, and shall be deemed to
 2597 provide if not expressly set forth, that any hearing impaired or
 2598 legally blind shareholder ~~unit owner~~ who does not occupy the
 2599 unit with a nonhearing impaired or sighted person may
 2600 discontinue the service without incurring disconnect fees,
 2601 penalties, or subsequent service charges, and as to such units,
 2602 the shareholders ~~owners~~ shall not be required to pay any common
 2603 expenses charge related to such service. If less than all

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2604 members of an association share the expenses of cable
 2605 television, the expense shall be shared equally by all
 2606 participating shareholders ~~unit-owners~~. The association may use
 2607 the provisions of s. 719.108 to enforce payment of the shares of
 2608 such costs by the shareholders ~~unit-owners~~ receiving cable
 2609 television.

2610 (c) If any unpaid share of common expenses or assessments
 2611 is extinguished by foreclosure of a superior lien or by a deed
 2612 in lieu of foreclosure thereof, the unpaid share of common
 2613 expenses or assessments are common expenses collectible from all
 2614 the shareholders ~~unit-owners~~ in the cooperative in which the
 2615 unit is located.

2616 (2) Funds for the payment of common expenses shall be
 2617 collected by assessments against shareholders ~~unit-owners~~ in the
 2618 proportions or percentages of sharing common expenses provided
 2619 in the cooperative documents.

2620 (3) The expense of installation, replacement, operation,
 2621 repair, and maintenance of hurricane shutters or other hurricane
 2622 protection by the board pursuant to s. 719.113(5) shall
 2623 constitute a common expense as defined in this section and shall
 2624 be collected as provided in this section if the association is
 2625 responsible for the maintenance, repair, and replacement of the
 2626 hurricane shutters or other hurricane protection pursuant to the
 2627 cooperative documents. However, if the maintenance, repair, and
 2628 replacement of the hurricane shutters or other hurricane
 2629 protection is the responsibility of the shareholders pursuant to
 2630 the cooperative documents, the cost of the installation of the
 2631 hurricane shutters or other hurricane protection shall not be a

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2632 common expense, but shall be charged individually to the
 2633 shareholders based on the cost of installation of the hurricane
 2634 shutters or other hurricane protection appurtenant to the unit.
 2635 Notwithstanding the provisions of s. 719.108(8), and regardless
 2636 of whether or not the cooperative documents require the
 2637 association or shareholders to maintain, repair, or replace
 2638 hurricane shutters or other hurricane protection, a shareholder
 2639 who has previously installed hurricane shutters in accordance
 2640 with s. 719.113(5), other hurricane protection, or laminated
 2641 glass architecturally designed to function as hurricane
 2642 protection, which hurricane shutters or other hurricane
 2643 protection or laminated glass complies with the current
 2644 applicable building code, shall receive a credit equal to the
 2645 pro rata portion of the assessed installation cost assigned to
 2646 each unit. However, such shareholder shall remain responsible
 2647 for the pro rata share of expenses for hurricane shutters or
 2648 other hurricane protection installed on common areas by the
 2649 board pursuant to s. 719.113(5) and shall remain responsible for
 2650 a pro rata share of the expense of the replacement, operation,
 2651 repair, and maintenance of such shutters or other hurricane
 2652 protection.

2653 Section 19. Section 719.108, Florida Statutes, is amended
 2654 to read:

2655 719.108 Rents and assessments; liability; lien and
 2656 priority; interest; collection; cooperative ownership.—

2657 (1) A shareholder ~~unit owner~~, regardless of how title is
 2658 acquired, including, without limitation, a purchaser at a
 2659 judicial sale, shall be liable for all rents and assessments

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2660 coming due while the shareholder ~~unit owner~~ is in exclusive
 2661 possession of a unit. ~~In a voluntary transfer,~~ The shareholder
 2662 ~~unit owner~~ in exclusive possession shall be jointly and
 2663 severally liable with the previous shareholder ~~unit owner~~ for
 2664 all unpaid rents and assessments against the previous
 2665 shareholder ~~unit owner~~ for his or her share of the common
 2666 expenses up to the time of the transfer, without prejudice to
 2667 the rights of the shareholder ~~unit owner~~ in exclusive possession
 2668 to recover from a ~~the~~ previous shareholder ~~unit owner~~ the
 2669 amounts paid by the shareholder ~~unit owner~~ in exclusive
 2670 possession therefor.

2671 (2) The liability for rents and assessments may not be
 2672 avoided by waiver of the use or enjoyment of any common areas or
 2673 by abandonment of the unit for which the rents and assessments
 2674 are made.

2675 (3) Rents and assessments, and installments on them, not
 2676 paid when due bear interest at the rate provided in the
 2677 cooperative documents from the date due until paid. This rate
 2678 may not exceed the rate allowed by law, and, if no rate is
 2679 provided in the cooperative documents, then interest shall
 2680 accrue at 18 percent per annum. Also, if the cooperative
 2681 documents or bylaws so provide, the association may charge an
 2682 administrative late fee in addition to such interest, in an
 2683 amount not to exceed the greater of \$25 or 5 percent of each
 2684 installment of the assessment for each delinquent installment
 2685 that the payment is late. Any payment received by an association
 2686 shall be applied first to any interest accrued by the
 2687 association, then to any administrative late fee, then to any

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2688 costs and reasonable attorney's fees incurred in collection, and
 2689 then to the delinquent assessment. The foregoing shall be
 2690 applicable notwithstanding any restrictive endorsement,
 2691 designation, or instruction placed on or accompanying a payment.
 2692 A late fee is not subject to chapter 687 or s. 719.303(3).

2693 (4) If the association is authorized by the cooperative
 2694 documents or bylaws to approve or disapprove a proposed lease of
 2695 a unit, the grounds for disapproval may include, but are not
 2696 limited to, a shareholder being delinquent in the payment of an
 2697 assessment at the time approval is sought.

2698 (5) (a) ~~(4)~~ The association has ~~shall have~~ a lien on each
 2699 cooperative parcel to secure the payment of ~~for~~ any unpaid rents
 2700 and assessments, plus interest, against the shareholder who owns
 2701 ~~unit owner of~~ the cooperative parcel. If authorized by the
 2702 cooperative documents, the ~~said~~ lien shall also secure
 2703 reasonable attorney's fees incurred by the association incident
 2704 to the collection of the rents and assessments or enforcement of
 2705 such lien. The lien is effective from and shall relate back to
 2706 ~~and after~~ the recording of the cooperative documents ~~a claim of~~
 2707 ~~lien in the public records in the county in which the~~
 2708 ~~cooperative parcel is located which states the description of~~
 2709 ~~the cooperative parcel, the name of the unit owner, the amount~~
 2710 ~~due, and the due dates.~~

2711 (b) To be valid, a claim of lien must state the
 2712 description of the cooperative parcel, the name of the record
 2713 owner, the name and address of the association, the amount due,
 2714 and the due dates. The claim of lien must be executed and
 2715 acknowledged by an officer or authorized agent of the

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2716 association. The lien shall expire if a claim of lien is not
2717 filed within 1 year after the date the assessment was due, and
2718 no such lien shall continue for a longer period than 1 year
2719 after the claim of lien has been recorded unless, within that
2720 time, an action to enforce the lien is commenced in a court of
2721 competent jurisdiction. The 1-year period shall automatically be
2722 extended for any length of time during which the association is
2723 prevented from filing a foreclosure action by an automatic stay
2724 resulting from a bankruptcy petition filed by the shareholder or
2725 any other person claiming an interest in the parcel. The claim
2726 of lien shall secure all unpaid assessments which are due and
2727 which may accrue subsequent to the recording of the claim of
2728 lien and prior to the entry of a certificate of title, as well
2729 as interest and all reasonable costs and attorney's fees
2730 incurred by the association incident to the collection process.
2731 A notice of delinquency sent to a shareholder shall provide an
2732 overall total of assessments claimed by the association and
2733 shall specify for each assessment or charge the date of the
2734 assessment or charge, the principal balance owed for the
2735 assessment or charge, and affiliated late fees or collection
2736 charges. Costs to a shareholder secured by the association's
2737 claim of lien with regard to collection efforts by management
2738 companies or licensed managers as to any delinquent installment
2739 of an assessment may not exceed \$50. However, there shall be no
2740 charge for the first notice of a delinquency to the shareholder.
2741 Upon payment in full, the person making the payment is entitled
2742 to a satisfaction of the lien. ~~No lien may be filed by the~~
2743 ~~association against a cooperative parcel until 30 days after the~~

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2744 ~~date on which a notice of intent to file a lien has been served~~
 2745 ~~on the unit owner of the cooperative parcel by certified mail or~~
 2746 ~~by personal service in the manner authorized by chapter 48 and~~
 2747 ~~the Florida Rules of Civil Procedure.~~

2748 (c) By recording a notice in substantially the following
 2749 form, a shareholder or the shareholder's agent or attorney may
 2750 require the association to enforce a recorded claim of lien
 2751 against his or her cooperative parcel:

2753 NOTICE OF CONTEST OF LIEN

2755 TO: (Name and address of association) You are notified
 2756 that the undersigned contests the claim of lien filed by you on
 2757 , (year) , and recorded in Official Records Book
 2758 at Page , of the public records of County, Florida,
 2759 and that the time within which you may file suit to enforce your
 2760 lien is limited to 90 days after the date of service of this
 2761 notice. Executed this day of , (year) .

2763 Signed: (Shareholder or Attorney)

2765 After notice of contest of lien has been recorded, the clerk of
 2766 the circuit court shall mail a copy of the recorded notice to
 2767 the association by certified mail, return receipt requested, at
 2768 the address shown in the claim of lien or most recent amendment
 2769 to the claim of lien and shall certify to the service on the
 2770 face of the notice. Service is complete upon mailing. After
 2771 service, the association has 90 days in which to file an action

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2772 to enforce the lien; and, if the action is not filed within the
 2773 90-day period, the lien is void. However, the 90-day period
 2774 shall be extended for any length of time that the association is
 2775 prevented from filing its action because of an automatic stay
 2776 resulting from the filing of a bankruptcy petition by the
 2777 shareholder or by any other person claiming an interest in the
 2778 parcel.

2779 (6) (a) ~~(5)~~ Liens for rents and assessments may be
 2780 foreclosed by suit brought in the name of the association, in
 2781 like manner as a foreclosure of a mortgage on real property. In
 2782 any foreclosure, the shareholder ~~unit owner~~ shall pay a
 2783 reasonable rental for the cooperative parcel, if so provided in
 2784 the cooperative documents, and the plaintiff in the foreclosure
 2785 is entitled to the appointment of a receiver to collect the
 2786 rent. The association has the power, unless prohibited by the
 2787 cooperative documents, to bid on the cooperative parcel at the
 2788 foreclosure sale and to acquire and hold, lease, mortgage, or
 2789 convey it. Suit to recover a money judgment for unpaid rents and
 2790 assessments may be maintained without waiving the lien securing
 2791 them.

2792 (b) A foreclosure judgment may not be entered until at
 2793 least 30 days after the association gives written notice to the
 2794 shareholder of its intention to foreclose its lien to collect
 2795 the unpaid rents and assessments. If this notice is not given at
 2796 least 30 days before the foreclosure action is filed and if the
 2797 unpaid rents and assessments, including those coming due after
 2798 the claim of lien is recorded, are paid before the entry of a
 2799 final judgment of foreclosure, the association may not recover

2800 attorney's fees or costs. The notice must be given by delivery
 2801 of a copy of it to the shareholder or by certified or registered
 2802 mail, return receipt requested, addressed to the shareholder at
 2803 his or her last known address; and, upon such mailing, the
 2804 notice shall be deemed to have been given, and the court shall
 2805 proceed with the foreclosure action and may award attorney's
 2806 fees and costs as permitted by law. The notice requirements of
 2807 this paragraph are satisfied if the shareholder records a notice
 2808 of contest of lien as provided in subsection (5). The notice
 2809 requirements of this paragraph do not apply if an action to
 2810 foreclose a mortgage on the cooperative unit is pending before
 2811 any court; if the rights of the association would be affected by
 2812 such foreclosure; and if actual, constructive, or substitute
 2813 service of process has been made on the shareholder.

2814 (c) If the shareholder remains in possession of the unit
 2815 after a foreclosure judgment has been entered, the court, in its
 2816 discretion, may require the shareholder to pay a reasonable
 2817 rental for the unit. If the unit is rented or leased during the
 2818 pendency of the foreclosure action, the association is entitled
 2819 to the appointment of a receiver to collect the rent. The
 2820 expenses of the receiver shall be paid by the party that does
 2821 not prevail in the foreclosure action.

2822 (d) The association has the power to purchase the
 2823 cooperative unit at the foreclosure sale and to hold, lease,
 2824 mortgage, or convey it.

2825 (7) Within 15 days after receiving a written request
 2826 therefor from a shareholder or his or her designee, or a unit
 2827 mortgagee or his or her designee, the association shall provide

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2828 a certificate signed by an officer or agent of the association
2829 stating all assessments and other moneys owed to the association
2830 by the shareholder with respect to the cooperative parcel.

2831 (a) Any person other than the shareholder who relies upon
2832 such certificate shall be protected thereby.

2833 (b) A summary proceeding pursuant to s. 51.011 may be
2834 brought to compel compliance with this subsection, and in any
2835 such action the prevailing party is entitled to recover
2836 reasonable attorney's fees.

2837 (c) Notwithstanding any limitation on transfer fees
2838 contained in s. 719.106(1)(i), the association or its authorized
2839 agent may charge a reasonable fee for the preparation of the
2840 certificate. The amount of the fee must be included on the
2841 certificate.

2842 (d) The authority to charge a fee for the certificate
2843 shall be established by a written resolution adopted by the
2844 board or provided by a written management, bookkeeping, or
2845 maintenance contract and is payable upon the preparation of the
2846 certificate. If the certificate is requested in conjunction with
2847 the sale or mortgage of a unit but the closing does not occur
2848 and no later than 30 days after the closing date for which the
2849 certificate was sought the preparer receives a written request,
2850 accompanied by reasonable documentation, that the sale did not
2851 occur from a payor that is not the shareholder, the fee shall be
2852 refunded to that payor within 30 days after receipt of the
2853 request. The refund is the obligation of the shareholder, and
2854 the association may collect the refund from that shareholder in
2855 the same manner as an assessment as provided in this section.

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2856 ~~(6) Within 15 days after request by a unit owner or~~
2857 ~~mortgagee, the association shall provide a certificate stating~~
2858 ~~all assessments and other moneys owed to the association by the~~
2859 ~~unit owner with respect to the cooperative parcel. Any person~~
2860 ~~other than the unit owner who relies upon such certificate shall~~
2861 ~~be protected thereby. Notwithstanding any limitation on transfer~~
2862 ~~fees contained in s. 719.106(1)(i), the association or its~~
2863 ~~authorized agent may charge a reasonable fee for the preparation~~
2864 ~~of the certificate.~~

2865 ~~(7) The remedies provided in this section do not exclude~~
2866 ~~other remedies provided by the cooperative documents and~~
2867 ~~permitted by law.~~

2868 (8) (a) No shareholder ~~unit owner~~ may be excused from the
2869 payment of his or her share of the rents or assessments of a
2870 cooperative unless all shareholders ~~unit owners~~ are likewise
2871 proportionately excused from payment, except as ~~provided in~~
2872 ~~subsection (6) and in the following cases:~~

2873 1. If the cooperative documents so provide, a developer or
2874 other person owning cooperative units offered for sale may be
2875 excused from the payment of the share of the common expenses,
2876 assessments, and rents related to those units for a stated
2877 period of time. The period must terminate no later than the
2878 first day of the fourth calendar month following the month in
2879 which the right of exclusive possession is first granted to a
2880 shareholder ~~unit owner~~. However, the developer must pay the
2881 portion of common expenses incurred during that period which
2882 exceed the amount assessed against other shareholders ~~unit~~
2883 ~~owners.~~

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2884 2. A developer, or other person with an ownership interest
2885 in cooperative units or having an obligation to pay common
2886 expenses, may be excused from the payment of his or her share of
2887 the common expenses which would have been assessed against those
2888 units during the period of time that he or she shall have
2889 guaranteed to each purchaser in the purchase contract or in the
2890 cooperative documents, or by agreement between the developer and
2891 a majority of the shareholders ~~unit owners~~ other than the
2892 developer, that the assessment for common expenses of the
2893 cooperative imposed upon the shareholders ~~unit owners~~ would not
2894 increase over a stated dollar amount and shall have obligated
2895 himself or herself to pay any amount of common expenses incurred
2896 during that period and not produced by the assessments at the
2897 guaranteed level receivable from other shareholders ~~unit owners~~.

2898 (b) If the purchase contract, cooperative documents, or
2899 agreement between the developer and a majority of shareholders
2900 ~~unit owners~~ other than the developer provides for the developer
2901 or another person to be excused from the payment of assessments
2902 pursuant to paragraph (a), no funds receivable from shareholders
2903 ~~unit owners~~ payable to the association or collected by the
2904 developer on behalf of the association, other than regular
2905 periodic assessments for common expenses as provided in the
2906 cooperative documents and disclosed in the estimated operating
2907 budget pursuant to s. 719.503(1)(b)6. or s. 719.504(20)(b), may
2908 be used for payment of common expenses prior to the expiration
2909 of the period during which the developer or other person is so
2910 excused. This restriction applies to funds including, but not
2911 limited to, capital contributions or startup funds collected

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2912 from shareholders ~~unit purchasers~~ at closing.

2913 (9) The specific purposes of any special assessment,
 2914 including any contingent special assessment levied in
 2915 conjunction with the purchase of an insurance policy authorized
 2916 by s. 719.104(3), approved in accordance with the cooperative
 2917 documents shall be set forth in a written notice of such
 2918 assessment sent or delivered to each shareholder ~~unit owner~~. The
 2919 funds collected pursuant to a special assessment shall be used
 2920 only for the specific purpose or purposes set forth in such
 2921 notice or returned to the shareholders ~~unit owners~~. However,
 2922 upon completion of such specific purposes, any excess funds
 2923 shall be considered common surplus and may, at the discretion of
 2924 the board, either be returned to the shareholders ~~unit owners~~ or
 2925 applied as a credit toward future assessments.

2926 (10) During the pendency of any foreclosure action of a
 2927 cooperative unit, if the unit is occupied by a tenant and the
 2928 shareholder is delinquent in the payment of regular assessments,
 2929 the association may demand that the tenant pay to the
 2930 association the future regular assessments related to the
 2931 cooperative unit. The demand shall be continuing in nature, and
 2932 upon demand the tenant shall continue to pay the regular
 2933 assessments to the association until the association releases
 2934 the tenant or the tenant discontinues tenancy in the unit. The
 2935 association shall mail written notice to the shareholder of the
 2936 association's demand that the tenant pay regular assessments to
 2937 the association. The tenant shall not be liable for increases in
 2938 the amount of the regular assessment due unless the tenant was
 2939 reasonably notified of the increase prior to the day that the

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2940 rent is due. The tenant shall be given a credit against rents
 2941 due to the shareholder in the amount of assessments paid to the
 2942 association. The association shall, upon request, provide the
 2943 tenant with written receipts for payments made. The association
 2944 may issue notices under s. 83.56 and may sue for eviction under
 2945 ss. 83.59-83.625 as if the association were a landlord under
 2946 part II of chapter 83 should the tenant fail to pay an
 2947 assessment. However, the association shall not otherwise be
 2948 considered a landlord under chapter 83 and shall specifically
 2949 not have any duty under s. 83.51. The tenant shall not, by
 2950 virtue of payment of assessments, have any of the rights of a
 2951 shareholder to vote in any election or to examine the books and
 2952 records of the association. A court may supersede the effect of
 2953 this subsection by appointing a receiver.

2954 Section 20. Section 719.113, Florida Statutes, is created
 2955 to read:

2956 719.113 Maintenance; limitation upon improvement; display
 2957 of flag; hurricane shutters; display of religious decorations.-

2958 (1) Maintenance of the common areas is the responsibility
 2959 of the association. The cooperative documents may provide that
 2960 certain limited common areas shall be maintained by those
 2961 entitled to use the limited common areas or that the association
 2962 shall provide the maintenance, either as a common expense or
 2963 with the cost shared only by those entitled to use the limited
 2964 common areas. If the maintenance is to be provided by the
 2965 association at the expense of only those entitled to use the
 2966 limited common areas, the cooperative documents shall describe
 2967 in detail the method of apportioning such costs among those

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2968 entitled to use the limited common areas. The association may
 2969 use the provisions of s. 719.108 to enforce payment of the
 2970 shares of such costs by the shareholders entitled to use the
 2971 limited common areas.

2972 (2) Except as otherwise provided in this section, there
 2973 shall be no material alteration or substantial additions to the
 2974 common areas, except in a manner provided in the cooperative
 2975 documents as originally recorded or as amended under the
 2976 procedures provided therein. If the cooperative documents as
 2977 originally recorded or as amended under the procedures provided
 2978 therein do not specify the procedure for approval of material
 2979 alterations or substantial additions, 75 percent of the total
 2980 voting interests of the association must approve the alterations
 2981 or additions. This subsection is intended to clarify existing
 2982 law and applies to associations existing on July 1, 2010.

2983 (3) A shareholder shall not do anything within his or her
 2984 unit or on the common areas which would adversely affect the
 2985 safety or soundness of the common areas or any portion of the
 2986 association property or cooperative property which is to be
 2987 maintained by the association.

2988 (4) Any shareholder may display within the boundaries of
 2989 the shareholder's unit one portable, removable United States
 2990 flag in a respectful way and, on Armed Forces Day, Memorial Day,
 2991 Flag Day, Independence Day, and Veterans' Day, may display in a
 2992 respectful way portable, removable official flags, not larger
 2993 than 4 1/2 feet by 6 feet, that represent the United States
 2994 Army, Navy, Air Force, Marine Corps, or Coast Guard, regardless
 2995 of any rule or requirement in the cooperative documents dealing

2996 with flags or decorations.

2997 (5) Each board of directors shall adopt hurricane shutter
 2998 specifications for each building within each cooperative which
 2999 shall include color, style, and other factors deemed relevant by
 3000 the board. All specifications adopted by the board shall comply
 3001 with the applicable building code.

3002 (a) The board may, subject to the provisions of s.
 3003 719.3026 and the approval of a majority of voting interests of
 3004 the cooperative, install hurricane shutters or hurricane
 3005 protection that complies with or exceeds the applicable building
 3006 code, or both, except that a vote of the shareholders is not
 3007 required if the maintenance, repair, and replacement of
 3008 hurricane shutters or other forms of hurricane protection are
 3009 the responsibility of the association pursuant to the
 3010 cooperative documents. However, when hurricane protection or
 3011 laminated glass or window film architecturally designed to
 3012 function as hurricane protection which complies with or exceeds
 3013 the current applicable building code has been previously
 3014 installed, the board may not install hurricane shutters or other
 3015 hurricane protection. Code-compliant impact glass may be
 3016 installed by the association as hurricane protection if the area
 3017 in which the glass is to be installed is an area that is the
 3018 responsibility of the association. Notwithstanding s.
 3019 719.107(3), if a shareholder installed code-compliant impact
 3020 glass prior to the association voting to install such glass, and
 3021 such glass and the frame thereof comply with the current
 3022 applicable building codes and are otherwise in good repair, the
 3023 shareholder shall not be required to pay the shareholder's pro

3024 rata share of the cost of installing code-compliant impact glass
 3025 in the cooperative association.

3026 (b) The association shall be responsible for the
 3027 maintenance, repair, and replacement of the hurricane shutters
 3028 or other hurricane protection authorized by this subsection if
 3029 such hurricane shutters or other hurricane protection is the
 3030 responsibility of the association pursuant to the cooperative
 3031 documents. If the hurricane shutters or other hurricane
 3032 protection authorized by this subsection are the responsibility
 3033 of the shareholders pursuant to the cooperative documents, the
 3034 responsibility for the maintenance, repair, and replacement of
 3035 such items shall be the responsibility of the shareholder.

3036 (c) The board may operate hurricane shutters installed
 3037 pursuant to this subsection without permission of the
 3038 shareholders only when such operation is necessary to preserve
 3039 and protect the cooperative property and association property.
 3040 The installation, replacement, operation, repair, and
 3041 maintenance of such shutters in accordance with the procedures
 3042 set forth in this subsection shall not be deemed a material
 3043 alteration to the common elements or association property within
 3044 the meaning of this section.

3045 (d) Notwithstanding any provision to the contrary in the
 3046 cooperative documents, if approval is required by the documents,
 3047 a board may not refuse to approve the installation or
 3048 replacement of hurricane shutters by a shareholder conforming to
 3049 the specifications adopted by the board.

3050 (6) As to any cooperative building greater than three
 3051 stories in height, at least every 5 years, and within 5 years if

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3052 not available for inspection on July 1, 2010, the board shall
3053 have the cooperative building inspected to provide a report
3054 under seal of an architect or engineer authorized to practice in
3055 this state attesting to required maintenance, useful life, and
3056 replacement costs of the common areas. However, if approved by a
3057 majority of the voting interests present at a properly called
3058 meeting of the association, an association may waive this
3059 requirement. Such meeting and approval must occur prior to the
3060 end of the 5-year period and is effective only for that 5-year
3061 period.

3062 (7) An association may not refuse the request of a
3063 shareholder for a reasonable accommodation for the attachment on
3064 the mantel or frame of the door of the shareholder of a
3065 religious object not to exceed 3 inches wide, 6 inches high, and
3066 1.5 inches deep.

3067 (8) Notwithstanding the provisions of this section or the
3068 governing documents of a cooperative association, the board of
3069 directors may, without any requirement for approval of the
3070 shareholders, install upon or within the common areas or
3071 association property solar collectors, clotheslines, or other
3072 energy-efficient devices based on renewable resources for the
3073 benefit of the shareholders.

3074 Section 21. Section 719.117, Florida Statutes, is created
3075 to read:

3076 719.117 Termination of cooperative.—

3077 (1) LEGISLATIVE FINDINGS.—The Legislature finds that
3078 cooperatives are created as authorized by statute. In
3079 circumstances that may create economic waste, areas of

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3080 disrepair, or obsolescence of a cooperative property for its
 3081 intended use and thereby lower property tax values, the
 3082 Legislature further finds that it is the public policy of this
 3083 state to provide by statute a method to preserve the value of
 3084 the property interests and the rights of alienation thereof that
 3085 shareholders have in the cooperative property before and after
 3086 termination. The Legislature further finds that it is contrary
 3087 to the public policy of this state to require the continued
 3088 operation of a cooperative when to do so constitutes economic
 3089 waste or when the ability to do so is made impossible by law or
 3090 regulation. This section applies to all cooperatives in this
 3091 state in existence on or after July 1, 2010.

3092 (2) TERMINATION BECAUSE OF ECONOMIC WASTE OR
 3093 IMPOSSIBILITY.—

3094 (a) Notwithstanding any provision to the contrary in the
 3095 cooperative documents, the cooperative form of ownership of a
 3096 property may be terminated by a plan of termination approved by
 3097 the lesser of the lowest percentage of voting interests
 3098 necessary to amend the articles of incorporation when:

3099 1. The total estimated cost of repairs necessary to
 3100 restore the improvements to their former condition or bring them
 3101 into compliance with applicable laws or regulations exceeds the
 3102 combined fair market value of all units in the cooperative after
 3103 completion of the repairs; or

3104 2. It becomes impossible to operate or reconstruct a
 3105 cooperative in its prior physical configuration because of land
 3106 use laws or regulations.

3107 (b) Notwithstanding paragraph (a), a cooperative in which

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3108 75 percent or more of the units are timeshare units may be
3109 terminated only pursuant to a plan of termination approved by 80
3110 percent of the total voting interests of the association and the
3111 holders of 80 percent of the original principal amount of
3112 outstanding recorded mortgage liens of timeshare estates in the
3113 cooperative, unless the cooperative documents provide for a
3114 lower voting percentage.

3115 (3) OPTIONAL TERMINATION.—Except as provided in subsection
3116 (2) or unless the cooperative documents provide for a lower
3117 percentage, the cooperative form of ownership of the property
3118 may be terminated pursuant to a plan of termination approved by
3119 at least 80 percent of the total voting interests of the
3120 cooperative if not more than 10 percent of the total voting
3121 interests of the cooperative have rejected the plan of
3122 termination by negative vote or by providing written objections
3123 thereto. This subsection does not apply to cooperatives in which
3124 75 percent or more of the units are timeshare units.

3125 (4) EXEMPTION.—A plan of termination is not an amendment
3126 subject to s. 719.1055(1).

3127 (5) MORTGAGE LIENHOLDERS.—Notwithstanding any provision to
3128 the contrary in the cooperative documents or this chapter,
3129 approval of a plan of termination by the holder of a recorded
3130 mortgage lien affecting a cooperative parcel in which fewer than
3131 75 percent of the units are timeshare units is not required
3132 unless the plan of termination will result in less than the full
3133 satisfaction of the mortgage lien affecting the cooperative
3134 parcel. If such approval is required and not given, a holder of
3135 a recorded mortgage lien who objects to the plan of termination

3136 may contest the plan as provided in subsection (16). At the time
 3137 of sale, the lien shall be transferred to the proportionate
 3138 share of the proceeds assigned to the cooperative parcel in the
 3139 plan of termination or as subsequently modified by the court.

3140 (6) POWERS IN CONNECTION WITH TERMINATION.—The approval of
 3141 the plan of termination does not terminate the association. The
 3142 association shall continue in existence following approval of
 3143 the plan of termination with all powers and duties it had before
 3144 approval of the plan. Notwithstanding any provision to the
 3145 contrary in the cooperative documents or bylaws, after approval
 3146 of the plan the board shall:

3147 (a) Employ directors, agents, attorneys, and other
 3148 professionals to liquidate or conclude its affairs.

3149 (b) Conduct the affairs of the association as necessary
 3150 for the liquidation or termination.

3151 (c) Carry out contracts and collect, pay, and settle debts
 3152 and claims for and against the association.

3153 (d) Defend suits brought against the association.

3154 (e) Sue in the name of the association for all sums due or
 3155 owed to the association or to recover any of its property.

3156 (f) Perform any act necessary to maintain, repair, or
 3157 demolish unsafe or uninhabitable improvements or other
 3158 cooperative property in compliance with applicable codes.

3159 (g) Sell at public or private sale or exchange, convey, or
 3160 otherwise dispose of assets of the association for an amount
 3161 deemed to be in the best interests of the association, and
 3162 execute bills of sale and deeds of conveyance in the name of the
 3163 association.

3164 (h) Collect and receive rents, profits, accounts
 3165 receivable, income, maintenance fees, special assessments, or
 3166 insurance proceeds for the association.

3167 (i) Contract and do anything in the name of the
 3168 association which is proper or convenient to terminate the
 3169 affairs of the association.

3170 (7) NATURAL DISASTERS.—

3171 (a) If, after a natural disaster, the identity of the
 3172 directors or their right to hold office is in doubt, if they are
 3173 deceased or unable to act, if they fail or refuse to act, or if
 3174 they cannot be located, any interested person may petition the
 3175 circuit court to determine the identity of the directors or, if
 3176 found to be in the best interests of the shareholders, to
 3177 appoint a receiver to conclude the affairs of the association
 3178 after a hearing following notice to such persons as the court
 3179 directs. Lienholders shall be given notice of the petition and
 3180 have the right to propose persons for the consideration by the
 3181 court as receiver. If a receiver is appointed, the court shall
 3182 direct the receiver to provide to all shareholders written
 3183 notice of his or her appointment as receiver. Such notice shall
 3184 be mailed or delivered within 10 days after the appointment.
 3185 Notice by mail to a shareholder shall be sent to the address
 3186 used by the county property appraiser for notice to the
 3187 shareholder.

3188 (b) The receiver shall have all powers given to the board
 3189 pursuant to the cooperative documents, bylaws, and subsection
 3190 (6) and any other powers that are necessary to conclude the
 3191 affairs of the association and are set forth in the order of

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3192 appointment. The appointment of the receiver is subject to the
3193 bonding requirements of such order. The order shall also provide
3194 for the payment of a reasonable fee to the receiver from the
3195 sources identified in the order, which may include rents,
3196 profits, incomes, maintenance fees, or special assessments
3197 collected from the cooperative property.

3198 (8) REPORTS AND REPLACEMENT OF RECEIVER.—

3199 (a) The association, receiver, or termination trustee
3200 shall prepare reports each quarter following the approval of the
3201 plan of termination setting forth the status and progress of the
3202 termination, the costs and fees incurred, the date the
3203 termination is expected to be completed, and the current
3204 financial condition of the association, receivership, or
3205 trusteeship and provide copies of the report by regular mail to
3206 the shareholders and lienors at the mailing address provided to
3207 the association by the shareholders and the lienors.

3208 (b) The shareholders of an association in termination may
3209 recall or remove members of the board of administration with or
3210 without cause at any time as provided in s. 718.106(1)(f).

3211 (c) The lienors of an association in termination
3212 representing at least 50 percent of the outstanding amount of
3213 liens may petition the court for the appointment of a
3214 termination trustee, which shall be granted upon good cause
3215 shown.

3216 (9) PLAN OF TERMINATION.—The plan of termination must be a
3217 written document executed in the same manner as a deed by
3218 shareholders having the requisite percentage of voting interests
3219 to approve the plan and by the termination trustee. A copy of

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3220 the proposed plan of termination shall be given to all
 3221 shareholders, in the same manner as provided for notice of an
 3222 annual meeting, at least 14 days prior to the meeting at which
 3223 the plan of termination is to be voted upon or prior to or
 3224 simultaneously with the distribution of the solicitation seeking
 3225 execution of the plan of termination or written consent to or
 3226 joinder in the plan. A shareholder may document assent to the
 3227 plan by executing the plan or by consent to or joinder in the
 3228 plan in the manner of a deed. A plan of termination and the
 3229 consents or joinders of shareholders and, if required, consents
 3230 or joinders of mortgagees must be recorded in the public records
 3231 of each county in which any portion of the cooperative is
 3232 located. The plan is effective only upon recordation or at a
 3233 later date specified in the plan.

3234 (10) PLAN OF TERMINATION; REQUIRED PROVISIONS.—The plan of
 3235 termination must specify:

3236 (a) The name, address, and powers of the termination
 3237 trustee.

3238 (b) A date after which the plan of termination is void if
 3239 it has not been recorded.

3240 (c) The interests of the respective shareholders in the
 3241 association property, common surplus, and other assets of the
 3242 association, which shall be the same as the respective interests
 3243 of the shareholders in the common areas immediately before the
 3244 termination, unless otherwise provided in the cooperative
 3245 documents.

3246 (d) The interests of the respective shareholders in any
 3247 proceeds from the sale of the cooperative property. The plan of

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3248 termination may apportion those proceeds pursuant to any method
 3249 prescribed in subsection (12). If, pursuant to the plan of
 3250 termination, cooperative property or real property owned by the
 3251 association is to be sold following termination, the plan must
 3252 provide for the sale and may establish any minimum sale terms.

3253 (e) Any interests of the respective shareholders in
 3254 insurance proceeds or condemnation proceeds that are not used
 3255 for repair or reconstruction at the time of termination. Unless
 3256 the cooperative documents expressly address the distribution of
 3257 insurance proceeds or condemnation proceeds, the plan of
 3258 termination may apportion those proceeds pursuant to any method
 3259 prescribed in subsection (12).

3260 (11) PLAN OF TERMINATION; OPTIONAL PROVISIONS; CONDITIONAL
 3261 TERMINATION.—

3262 (a) The plan of termination may provide that each
 3263 shareholder retains the exclusive right of possession to the
 3264 portion of the real estate that formerly constituted the unit,
 3265 in which case the plan must specify the conditions of
 3266 possession.

3267 (b) In a conditional termination, the plan must specify
 3268 the conditions for termination. A conditional plan does not vest
 3269 title in the termination trustee until the plan and a
 3270 certificate executed by the association with the formalities of
 3271 a deed, confirming that the conditions in the conditional plan
 3272 have been satisfied or waived by the requisite percentage of the
 3273 voting interests, have been recorded.

3274 (12) ALLOCATION OF PROCEEDS OF SALE OF COOPERATIVE
 3275 PROPERTY.—

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3276 (a) Unless the cooperative documents expressly provide for
3277 the allocation of the proceeds of sale of cooperative property,
3278 the plan of termination must first apportion the proceeds
3279 between the aggregate value of all units and the value of the
3280 common areas, based on their respective fair market values
3281 immediately before the termination, as determined by one or more
3282 independent appraisers selected by the association or
3283 termination trustee.

3284 (b) The portion of proceeds allocated to the units shall
3285 be further apportioned among the individual units. The
3286 apportionment is deemed fair and reasonable if it is so
3287 determined by the shareholders, who may approve the plan of
3288 termination by any of the following methods:

3289 1. The respective values of the units based on the fair
3290 market values of the units immediately before the termination,
3291 as determined by one or more independent appraisers selected by
3292 the association or termination trustee;

3293 2. The respective values of the units based on the most
3294 recent market value of the units before the termination, as
3295 provided in the county property appraiser's records; or

3296 3. The respective interests of the units in the common
3297 elements specified in the cooperative documents immediately
3298 before the termination.

3299 (c) The methods of apportionment in paragraph (b) do not
3300 prohibit any other method of apportioning the proceeds of sale
3301 allocated to the units agreed upon in the plan of termination.
3302 The portion of the proceeds allocated to the common elements
3303 shall be apportioned among the units based upon their respective

3304 interests in the common areas as provided in the cooperative
 3305 documents.

3306 (d) Liens that encumber a unit shall be transferred to the
 3307 proceeds of sale of the cooperative property and the proceeds of
 3308 sale or other distribution of association property, common
 3309 surplus, or other association assets attributable to such unit
 3310 in their same priority. The proceeds of any sale of cooperative
 3311 property pursuant to a plan of termination may not be deemed to
 3312 be common surplus or association property.

3313 (13) TERMINATION TRUSTEE.—The association shall serve as
 3314 termination trustee unless another person is appointed in the
 3315 plan of termination. If the association is unable or unwilling
 3316 or fails to act as trustee, any shareholder may petition the
 3317 court to appoint a trustee. Upon the date of the recording or at
 3318 a later date specified in the plan, title to the cooperative
 3319 property vests in the trustee. Unless prohibited by the plan,
 3320 the termination trustee shall be vested with the powers given to
 3321 the board pursuant to the cooperative documents, bylaws, and
 3322 subsection (6). If the association is not the termination
 3323 trustee, the trustee's powers shall be coextensive with those of
 3324 the association to the extent not prohibited in the plan of
 3325 termination or the order of appointment. If the association is
 3326 not the termination trustee, the association shall transfer any
 3327 association property to the trustee. If the association is
 3328 dissolved, the trustee shall also have such other powers
 3329 necessary to conclude the affairs of the association.

3330 (14) TITLE VESTED IN TERMINATION TRUSTEE.—If termination
 3331 is pursuant to a plan of termination under subsection (2) or

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3332 subsection (3), the shareholders' rights and title as tenants in
3333 common in undivided interests in the cooperative property vest
3334 in the termination trustee when the plan is recorded or at a
3335 later date specified in the plan. The shareholders thereafter
3336 become the beneficiaries of the proceeds realized from the plan
3337 of termination. The termination trustee may deal with the
3338 cooperative property or any interest therein if the plan confers
3339 on the trustee the authority to protect, conserve, manage, sell,
3340 or dispose of the cooperative property. The trustee, on behalf
3341 of the shareholders, may contract for the sale of real property,
3342 but the contract is not binding on the shareholders until the
3343 plan is approved pursuant to subsection (2) or subsection (3).

3344 (15) NOTICE.—

3345 (a) Within 30 days after a plan of termination has been
3346 recorded, the termination trustee shall deliver by certified
3347 mail, return receipt requested, notice to all shareholders,
3348 lienors of the cooperative property, and lienors of all units at
3349 their last known addresses that a plan of termination has been
3350 recorded. The notice must include the book and page number of
3351 the public records in which the plan was recorded, notice that a
3352 copy of the plan shall be furnished upon written request, and
3353 notice that the shareholder or lienor has the right to contest
3354 the fairness of the plan.

3355 (b) The trustee, within 90 days after the effective date
3356 of the plan, shall provide to the division a certified copy of
3357 the recorded plan, the date the plan was recorded, and the
3358 county, book, and page number of the public records in which the
3359 plan is recorded.

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3360 (16) RIGHT TO CONTEST.—A shareholder or lienor may contest
3361 a plan of termination by initiating a summary procedure pursuant
3362 to s. 51.011 within 90 days after the date the plan is recorded.
3363 A shareholder or lienor who does not contest the plan within the
3364 90-day period is barred from asserting or prosecuting a claim
3365 against the association, the termination trustee, any
3366 shareholder, or any successor in interest to the cooperative
3367 property. In an action contesting a plan of termination, the
3368 person contesting the plan has the burden of pleading and
3369 proving that the apportionment of the proceeds from the sale
3370 among the shareholders was not fair and reasonable. The
3371 apportionment of sale proceeds is presumed fair and reasonable
3372 if it was determined pursuant to the methods prescribed in
3373 subsection (12). The court shall determine the rights and
3374 interests of the parties and order the plan of termination to be
3375 implemented if it is fair and reasonable. If the court
3376 determines that the plan of termination is not fair and
3377 reasonable, the court may void the plan or may modify the plan
3378 to apportion the proceeds in a fair and reasonable manner
3379 pursuant to this section based upon the proceedings and order
3380 the modified plan of termination to be implemented. In such
3381 action, the prevailing party shall recover reasonable attorney's
3382 fees and costs.

3383 (17) DISTRIBUTION.—

3384 (a) Following termination of the cooperative, the
3385 cooperative property, association property, common surplus, and
3386 other assets of the association shall be held by the termination
3387 trustee, as trustee for shareholders and holders of liens on the

3388 units, in their order of priority.

3389 (b) Not less than 30 days before the first distribution,
 3390 the termination trustee shall deliver by certified mail, return
 3391 receipt requested, a notice of the estimated distribution to all
 3392 shareholders, lienors of the cooperative property, and lienors
 3393 of each unit at their last known addresses stating a good faith
 3394 estimate of the amount of the distributions to each class and
 3395 the procedures and deadline for notifying the termination
 3396 trustee of any objections to the amount. The deadline must be at
 3397 least 15 days after the date the notice was mailed. The notice
 3398 may be sent with or after the notice required by subsection
 3399 (15). If a shareholder or lienor files a timely objection with
 3400 the termination trustee, the trustee need not distribute the
 3401 funds and property allocated to the respective shareholder or
 3402 lienor until the trustee has had a reasonable time to determine
 3403 the validity of the adverse claim. In the alternative, the
 3404 trustee may interplead the shareholder, the lienor, and any
 3405 other person claiming an interest in the unit and deposit the
 3406 funds allocated to the unit in the court registry, at which time
 3407 the cooperative property, association property, common surplus,
 3408 and other assets of the association are free of all claims and
 3409 liens of the parties to the suit. In an interpleader action, the
 3410 trustee and prevailing party may recover reasonable attorney's
 3411 fees and costs.

3412 (c) The proceeds from any sale of cooperative property or
 3413 association property and any remaining cooperative property or
 3414 association property, common surplus, and other assets shall be
 3415 distributed in the following priority:

- 3416 1. To pay the reasonable termination trustee's fees and
 3417 costs and accounting fees and costs.
- 3418 2. To lienholders of liens recorded prior to the recording
 3419 of the cooperative documents.
- 3420 3. To purchase-money lienholders on units to the extent
 3421 necessary to satisfy their liens; however, the distribution may
 3422 not exceed a shareholder's share of the proceeds.
- 3423 4. To creditors of the association, as their interests
 3424 appear.
- 3425 5. To shareholders, the proceeds of any sale of
 3426 cooperative property subject to satisfaction of liens on each
 3427 unit in their order of priority, in shares specified in the plan
 3428 of termination, unless objected to by a shareholder or lienor as
 3429 provided in paragraph (b).
- 3430 6. To shareholders, the remaining cooperative property,
 3431 subject to satisfaction of liens on each unit in their order of
 3432 priority, in shares specified in the plan of termination, unless
 3433 objected to by a shareholder or lienor as provided in paragraph
 3434 (b).
- 3435 7. To shareholders, the proceeds of any sale of
 3436 association property, the remaining association property, common
 3437 surplus, and other assets of the association, subject to
 3438 satisfaction of liens on each unit in their order of priority,
 3439 in shares specified in the plan of termination, unless objected
 3440 to by a shareholder or lienor as provided in paragraph (b).
- 3441 (d) After determining that all known debts and liabilities
 3442 of an association in the process of termination have been paid
 3443 or adequately provided for, the termination trustee shall

3444 distribute the remaining assets pursuant to the plan of
 3445 termination. If the termination is by court proceeding or
 3446 subject to court supervision, the distribution may not be made
 3447 until any period for the presentation of claims ordered by the
 3448 court has elapsed.

3449 (e) Assets held by an association upon a valid condition
 3450 requiring return, transfer, or conveyance, which condition has
 3451 occurred or will occur, shall be returned, transferred, or
 3452 conveyed in accordance with the condition. The remaining
 3453 association assets shall be distributed pursuant to paragraph
 3454 (c).

3455 (f) Distribution may be made in money, property, or
 3456 securities and in installments or as a lump sum, if it can be
 3457 done fairly and ratably and in conformity with the plan of
 3458 termination. Distribution shall be made as soon as is reasonably
 3459 consistent with the beneficial liquidation of the assets.

3460 (18) ASSOCIATION STATUS.—The termination of a cooperative
 3461 does not change the corporate status of the association that
 3462 operated the cooperative property. The association continues to
 3463 exist to conclude its affairs, prosecute and defend actions by
 3464 or against it, collect and discharge obligations, dispose of and
 3465 convey its property, and collect and divide its assets, but not
 3466 to act except as necessary to conclude its affairs.

3467 (19) CREATION OF ANOTHER COOPERATIVE.—The termination of a
 3468 cooperative does not bar the creation by the termination trustee
 3469 of another cooperative affecting any portion of the same
 3470 property.

3471 Section 22. Section 719.1224, Florida Statutes, is created

3472 to read:

3473 719.1224 Prohibition against SLAPP suits.-

3474 (1) It is the intent of the Legislature to protect the

3475 right of cooperative shareholders to exercise their rights to

3476 instruct their representatives and petition for redress of

3477 grievances before the various governmental entities of this

3478 state as protected by the First Amendment to the United States

3479 Constitution and s. 5, Art. I of the State Constitution. The

3480 Legislature recognizes that strategic lawsuits against public

3481 participation, or "SLAPP suits," as they are typically referred

3482 to, have occurred when association members are sued by

3483 individuals, business entities, or governmental entities arising

3484 out of a cooperative shareholder's appearance and presentation

3485 before a governmental entity on matters related to the

3486 cooperative association. However, it is the public policy of

3487 this state that governmental entities, business organizations,

3488 and individuals not engage in SLAPP suits because such actions

3489 are inconsistent with the right of cooperative shareholders to

3490 participate in the state's institutions of government.

3491 Therefore, the Legislature finds and declares that prohibiting

3492 such lawsuits by governmental entities, business entities, and

3493 individuals against cooperative shareholders who address matters

3494 concerning their cooperative association will preserve this

3495 fundamental state policy, preserve the constitutional rights of

3496 cooperative shareholders, and ensure the continuation of

3497 representative government in this state. It is the intent of the

3498 Legislature that such lawsuits be expeditiously disposed of by

3499 the courts. As used in this subsection, the term "governmental

3500 entity" means the state, including the executive, legislative,
 3501 and judicial branches of government; the independent
 3502 establishments of the state, counties, municipalities,
 3503 districts, authorities, boards, or commissions; or any agencies
 3504 of these branches that are subject to chapter 286.

3505 (2) A governmental entity, business organization, or
 3506 individual in this state may not file or cause to be filed
 3507 through its employees or agents any lawsuit, cause of action,
 3508 claim, cross-claim, or counterclaim against a cooperative
 3509 shareholder without merit and solely because such cooperative
 3510 shareholder has exercised the right to instruct his or her
 3511 representatives or the right to petition for redress of
 3512 grievances before the various governmental entities of this
 3513 state, as protected by the First Amendment to the United States
 3514 Constitution and s. 5, Art. I of the State Constitution.

3515 (3) A cooperative shareholder sued by a governmental
 3516 entity, business organization, or individual in violation of
 3517 this section has a right to an expeditious resolution of a claim
 3518 that the suit is in violation of this section. A cooperative
 3519 shareholder may petition the court for an order dismissing the
 3520 action or granting final judgment in favor of that cooperative
 3521 shareholder. The petitioner may file a motion for summary
 3522 judgment, together with supplemental affidavits, seeking a
 3523 determination that the lawsuit brought by the governmental
 3524 entity, business organization, or individual is in violation of
 3525 this section. The governmental entity, business organization, or
 3526 individual shall thereafter file a response and any supplemental
 3527 affidavits. As soon as practicable, the court shall set a

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3528 hearing on the petitioner's motion, which shall be held at the
 3529 earliest possible time after the filing of the response of the
 3530 governmental entity, business organization, or individual. The
 3531 court may award the cooperative shareholder sued by the
 3532 governmental entity, business organization, or individual actual
 3533 damages arising from the violation of this section by the
 3534 governmental entity, individual, or business organization. A
 3535 court may treble the damages awarded to a prevailing cooperative
 3536 shareholder and shall state the basis for the treble damages
 3537 award in its judgment. The court shall award the prevailing
 3538 party reasonable attorney's fees and costs incurred in
 3539 connection with a claim that an action was filed in violation of
 3540 this section.

3541 (4) Cooperative associations may not expend association
 3542 funds in prosecuting a SLAPP suit against a cooperative
 3543 shareholder.

3544 Section 23. Section 719.1255, Florida Statutes, is amended
 3545 to read:

3546 719.1255 Alternative resolution of disputes.—The Division
 3547 of Florida Condominiums, Timeshares, and Mobile Homes of the
 3548 Department of Business and Professional Regulation shall provide
 3549 for alternative dispute resolution of matters related to
 3550 cooperative associations and shareholders in a manner like that
 3551 provided to condominium associations and unit owners in
 3552 accordance with s. 718.1255.

3553 Section 24. Section 719.1265, Florida Statutes, is created
 3554 to read:

3555 719.1265 Association emergency powers.—

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3556 (1) To the extent allowed by law and unless specifically
3557 prohibited by the cooperative documents or the bylaws of an
3558 association, and consistent with the provisions of s. 617.0830,
3559 the board of directors, in response to damage caused by an event
3560 for which a state of emergency is declared pursuant to s. 252.36
3561 in the locale in which the cooperative is located, may, but is
3562 not required to, exercise the following powers:

3563 (a) Conduct board meetings and shareholder meetings with
3564 notice given as is practicable. Such notice may be given in any
3565 practicable manner, including publication, radio, United States
3566 mail, the Internet, public service announcements, and
3567 conspicuous posting on the cooperative property or any other
3568 means the board deems reasonable under the circumstances. Notice
3569 of board decisions may be communicated as provided in this
3570 paragraph.

3571 (b) Cancel and reschedule any association meeting.

3572 (c) Name as assistant officers persons who are not
3573 directors, which assistant officers shall have the same
3574 authority as the executive officers for whom they are named as
3575 assistants during the state of emergency to accommodate the
3576 incapacity or unavailability of any officer of the association.

3577 (d) Relocate the association's principal office or
3578 designate alternative principal offices.

3579 (e) Enter into agreements with local counties and
3580 municipalities to assist those counties and municipalities with
3581 debris removal.

3582 (f) Implement a disaster plan before or immediately
3583 following the event for which a state of emergency is declared,

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3584 which may include, but is not limited to, shutting down or off
 3585 elevators; electricity; water, sewer, or security systems; or
 3586 air conditioners.

3587 (g) Based upon the advice of emergency management
 3588 officials or licensed professionals retained by the board,
 3589 determine any portion of the cooperative property unavailable
 3590 for entry or occupancy by shareholders, family members, tenants,
 3591 guests, agents, or invitees to protect the health, safety, or
 3592 welfare of such persons.

3593 (h) Require the evacuation of the cooperative property in
 3594 the event of a mandatory evacuation order in the locale in which
 3595 the cooperative is located. Should any shareholder or other
 3596 occupant of a cooperative fail or refuse to evacuate the
 3597 cooperative property when the board has required evacuation, the
 3598 association shall be immune from liability or injury to persons
 3599 or property arising from such failure or refusal.

3600 (i) Based upon the advice of emergency management
 3601 officials or licensed professionals retained by the board,
 3602 determine whether the cooperative property can be safely
 3603 inhabited or occupied. However, such determination is not
 3604 conclusive as to any determination of habitability pursuant to
 3605 the cooperative documents.

3606 (j) Mitigate further damage, including taking action to
 3607 contract for the removal of debris and to prevent or mitigate
 3608 the spread of fungus, including, but not limited to, mold or
 3609 mildew, by removing and disposing of wet drywall, insulation,
 3610 carpet, cabinetry, or other fixtures on or within the
 3611 cooperative property, even if the shareholder is obligated by

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3612 the cooperative documents or law to insure or replace those
 3613 fixtures and to remove personal property from a unit.

3614 (k) Contract, on behalf of any shareholder or
 3615 shareholders, for items or services for which the shareholder or
 3616 shareholders are otherwise individually responsible, but which
 3617 are necessary to prevent further damage to the cooperative
 3618 property. In such event, the shareholder or shareholders on
 3619 whose behalf the board has contracted are responsible for
 3620 reimbursing the association for the actual costs of the items or
 3621 services, and the association may use its lien authority
 3622 provided by s. 719.108 to enforce collection of the charges.
 3623 Without limitation, such items or services may include the
 3624 drying of units, the boarding of broken windows or doors, and
 3625 the replacement of damaged air conditioners or air handlers to
 3626 provide climate control in the units or other portions of the
 3627 property.

3628 (l) Regardless of any provision to the contrary and even
 3629 if such authority does not specifically appear in the
 3630 cooperative documents or bylaws of the association, levy special
 3631 assessments without a vote of the shareholders.

3632 (m) Without shareholders' approval, borrow money and
 3633 pledge association assets as collateral to fund emergency
 3634 repairs and carry out the duties of the association when
 3635 operating funds are insufficient. This paragraph does not limit
 3636 the general authority of the association to borrow money,
 3637 subject to such restrictions as are contained in the cooperative
 3638 documents or bylaws of the association.

3639 (2) The special powers authorized under subsection (1)

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3640 shall be limited to the time reasonably necessary to protect the
3641 health, safety, and welfare of the association and the
3642 shareholders and the shareholders' family members, tenants,
3643 guests, agents, or invitees and the time reasonably necessary to
3644 mitigate further damage and make emergency repairs.
3645 Additionally, unless 20 percent or more of the units are made
3646 uninhabitable by the emergency, the special powers authorized
3647 under subsection (1) may only be exercised during the term of
3648 the Governor's executive order or proclamation declaring the
3649 state of emergency in the locale in which the cooperative
3650 property is located.

3651 Section 25. Subsections (1) and (4) of section 719.301,
3652 Florida Statutes, are amended to read:

3653 719.301 Transfer of association control.—

3654 (1) When shareholders ~~unit-owners~~ other than the developer
3655 own 15 percent or more of the units in a cooperative that will
3656 be operated ultimately by an association, the shareholders ~~unit~~
3657 ~~owners~~ other than the developer shall be entitled to elect not
3658 less than one-third of the members of the board of
3659 administration of the association. Shareholders ~~Unit-owners~~
3660 other than the developer are entitled to elect not less than a
3661 majority of the members of the board of administration of an
3662 association:

3663 (a) Three years after 50 percent of the units that will be
3664 operated ultimately by the association have been conveyed to
3665 purchasers;

3666 (b) Three months after 90 percent of the units that will
3667 be operated ultimately by the association have been conveyed to

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3668 purchasers;

3669 (c) When all the units that will be operated ultimately by
 3670 the association have been completed, some have been conveyed to
 3671 purchasers, and none of the others are being offered for sale by
 3672 the developer in the ordinary course of business;

3673 (d) When some of the units have been conveyed to
 3674 purchasers and none of the others are being constructed or
 3675 offered for sale by the developer in the ordinary course of
 3676 business; ~~or~~

3677 (e) When the developer files a petition seeking protection
 3678 in bankruptcy;

3679 (f) When a receiver for the developer is appointed by a
 3680 circuit court and is not discharged within 30 days after such
 3681 appointment; or

3682 (g) ~~(e)~~ Seven years after creation of the cooperative
 3683 association,

3684
 3685 whichever occurs first. The developer is entitled to elect at
 3686 least one member of the board of administration of an
 3687 association as long as the developer holds for sale in the
 3688 ordinary course of business at least 5 percent in cooperatives
 3689 with fewer than 500 units and 2 percent in cooperatives with 500
 3690 or more units in a cooperative operated by the association.
 3691 After the developer relinquishes control of the association, the
 3692 developer may exercise the right to vote any developer-owned
 3693 units in the same manner as any other shareholder ~~unit owner~~
 3694 except for purposes of reacquiring control of the association or
 3695 selecting the majority of the members of the board.

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3696 (4) When shareholders ~~unit-owners~~ other than the developer
3697 elect a majority of the members of the board of administration
3698 of an association, the developer shall relinquish control of the
3699 association, and the shareholders ~~unit-owners~~ shall accept
3700 control. Simultaneously, or for the purpose of paragraph (c) not
3701 more than 90 days thereafter, the developer shall deliver to the
3702 association, at the developer's expense, all property of the
3703 shareholders ~~unit-owners~~ and of the association held or
3704 controlled by the developer, including, but not limited to, the
3705 following items, if applicable, as to each cooperative operated
3706 by the association:

3707 (a)1. The original or a photocopy of the recorded
3708 cooperative documents and all amendments thereto. If a photocopy
3709 is provided, it shall be certified by affidavit of the
3710 developer, or an officer or agent of the developer, as being a
3711 complete copy of the actual recorded cooperative documents.

3712 2. A certified copy of the association's articles of
3713 incorporation, or if it is not incorporated, then copies of the
3714 documents creating the association.

3715 3. A copy of the bylaws.

3716 4. The minute books, including all minutes, and other
3717 books and records of the association, if any.

3718 5. Any house rules and regulations which have been
3719 promulgated.

3720 (b) Resignations of officers and members of the board of
3721 administration who are required to resign because the developer
3722 is required to relinquish control of the association.

3723 (c) The financial records, including financial statements

3724 of the association, and source documents since the incorporation
 3725 of the association through the date of turnover. The records
 3726 shall be audited for the period of the incorporation of the
 3727 association or for the period covered by the last audit, if an
 3728 audit has been performed for each fiscal year since
 3729 incorporation, by an independent certified public accountant.
 3730 All financial statements shall be prepared in accordance with
 3731 generally accepted accounting standards and shall be audited in
 3732 accordance with generally accepted auditing standards as
 3733 prescribed by the Board of Accountancy. The accountant
 3734 performing the review shall examine to the extent necessary
 3735 supporting documents and records, including the cash
 3736 disbursements and related paid invoices to determine if
 3737 expenditures were for association purposes and the billings,
 3738 cash receipts, and related records to determine that the
 3739 developer was charged and paid the proper amounts of
 3740 assessments.

3741 (d) Association funds or control thereof.

3742 (e) All tangible personal property that is property of the
 3743 association, represented by the developer to be part of the
 3744 common areas or ostensibly part of the common areas, and an
 3745 inventory of that property.

3746 (f) A copy of the plans and specifications utilized in the
 3747 construction or remodeling of improvements and the supplying of
 3748 equipment to the cooperative and in the construction and
 3749 installation of all mechanical components serving the
 3750 improvements and the site, with a certificate in affidavit form
 3751 of the developer, the developer's agent, or an architect or

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3752 engineer authorized to practice in this state that such plans
 3753 and specifications represent, to the best of their knowledge and
 3754 belief, the actual plans and specifications utilized in the
 3755 construction and improvement of the cooperative property and for
 3756 the construction and installation of the mechanical components
 3757 serving the improvements. If the cooperative property has been
 3758 organized as a cooperative more than 3 years after the
 3759 completion of construction or remodeling of the improvements,
 3760 the requirements of this paragraph shall not apply.

3761 (g) A list of the names and addresses, of which the
 3762 developer had knowledge at any time in the development of the
 3763 cooperative, of all contractors, subcontractors, and suppliers
 3764 utilized in the construction or remodeling of the improvements
 3765 and in the landscaping.

3766 (h) Insurance policies.

3767 (i) Copies of any certificates of occupancy which may have
 3768 been issued for the cooperative property.

3769 (j) Any other permits issued by governmental bodies
 3770 applicable to the cooperative property in force or issued within
 3771 1 year prior to the date the shareholders ~~unit owners~~ other than
 3772 the developer take control of the association.

3773 (k) All written warranties of the contractor,
 3774 subcontractors, suppliers, and manufacturers, if any, that are
 3775 still effective.

3776 (l) A roster of shareholders ~~unit owners~~ and their
 3777 addresses and telephone numbers, if known, as shown on the
 3778 developer's records.

3779 (m) Leases of the common areas and other leases to which

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3780 the association is a party.

3781 (n) Employment contracts or service contracts in which the
 3782 association is one of the contracting parties or service
 3783 contracts in which the association or the shareholders ~~unit~~
 3784 ~~owners~~ have an obligation or responsibility, directly or
 3785 indirectly, to pay some or all of the fee or charge of the
 3786 person or persons performing the service.

3787 (o) All other contracts to which the association is a
 3788 party.

3789 (p) A turnover inspection report included in the official
 3790 records, under seal of an architect or engineer authorized to
 3791 practice in this state, attesting to required maintenance,
 3792 useful life, and replacement costs of the following applicable
 3793 common areas:

- 3794 1. Roof.
- 3795 2. Structure.
- 3796 3. Fireproofing and fire protection systems.
- 3797 4. Elevators.
- 3798 5. Heating and cooling systems.
- 3799 6. Plumbing.
- 3800 7. Electrical systems.
- 3801 8. Swimming pool or spa and equipment.
- 3802 9. Seawalls.
- 3803 10. Pavement and parking areas.
- 3804 11. Drainage systems.
- 3805 12. Painting.
- 3806 13. Irrigation systems.

3807 Section 26. Section 719.3025, Florida Statutes, is created

3808 to read:

3809 719.3025 Agreements for operation, maintenance, or

3810 management of cooperatives; specific requirements.-

3811 (1) A written contract between a party contracting to

3812 provide maintenance or management services and an association

3813 which contract provides for operation, maintenance, or

3814 management of a cooperative association or property serving the

3815 shareholders of a cooperative is not valid or enforceable unless

3816 the contract:

3817 (a) Specifies the services, obligations, and

3818 responsibilities of the party contracting to provide maintenance

3819 or management services to the shareholders.

3820 (b) Specifies those costs incurred in the performance of

3821 those services, obligations, or responsibilities which are to be

3822 reimbursed by the association to the party contracting to

3823 provide maintenance or management services.

3824 (c) Provides an indication of how often each service,

3825 obligation, or responsibility is to be performed, whether stated

3826 for each service, obligation, or responsibility or in categories

3827 thereof.

3828 (d) Specifies a minimum number of personnel to be employed

3829 by the party contracting to provide maintenance or management

3830 services for the purpose of providing service to the

3831 association.

3832 (e) Discloses any financial or ownership interest which

3833 the developer, if the developer is in control of the

3834 association, holds with regard to the party contracting to

3835 provide maintenance or management services.

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3836 (f) Discloses any financial or ownership interest a board
 3837 member or any party providing maintenance or management services
 3838 to the association holds with the contracting party.

3839 (2) In any case in which the party contracting to provide
 3840 maintenance or management services fails to provide such
 3841 services in accordance with the contract, the association is
 3842 authorized to procure such services from some other party and is
 3843 entitled to collect any fees or charges paid for services
 3844 performed by another party from the party contracting to provide
 3845 maintenance or management services.

3846 (3) Any services or obligations not stated on the face of
 3847 the contract are unenforceable.

3848 (4) Notwithstanding the fact that certain vendors contract
 3849 with associations to maintain equipment or property which is
 3850 made available to serve shareholders, it is the intent of the
 3851 Legislature that this section applies to contracts for
 3852 maintenance or management services for which the association
 3853 pays compensation. This section does not apply to contracts for
 3854 services or property made available for the convenience of
 3855 shareholders by lessees or licensees of the association, such as
 3856 coin-operated laundry, food, soft drink, or telephone vendors;
 3857 cable television operators; retail store operators; businesses;
 3858 restaurants; or similar vendors.

3859 Section 27. Section 719.3026, Florida Statutes, is amended
 3860 to read:

3861 719.3026 Contracts for products and services; in writing;
 3862 bids; exceptions.—Associations with 10 or fewer ~~less than 100~~
 3863 units may opt out of the provisions of this section if two-

3864 thirds of the shareholders ~~unit-owners~~ vote to do so, which opt-
 3865 out may be accomplished by a proxy specifically setting forth
 3866 the exception from this section.

3867 (1) All contracts as further described herein or any
 3868 contract that is not to be fully performed within 1 year after
 3869 the making thereof, for the purchase, lease, or renting of
 3870 materials or equipment to be used by the association in
 3871 accomplishing its purposes under this chapter, and all contracts
 3872 for the provision of services, shall be in writing. If a
 3873 contract for the purchase, lease, or renting of materials or
 3874 equipment, or for the provision of services, requires payment by
 3875 the association in an amount which in the aggregate exceeds 5
 3876 percent of the association's budget, including reserves, the
 3877 association shall obtain competitive bids for the materials,
 3878 equipment, or services. Nothing contained herein shall be
 3879 construed to require the association to accept the lowest bid.

3880 (2) (a) ~~1.~~ Notwithstanding the foregoing, contracts with
 3881 employees of the association, and contracts for attorney,
 3882 accountant, architect, community association manager, timeshare
 3883 management firm, engineering, and landscape architect services
 3884 shall not be subject to the provisions of this section.

3885 ~~2. A contract executed before January 1, 1992, and any~~
 3886 ~~renewal thereof, is not subject to the competitive bid~~
 3887 ~~requirements of this section. If a contract was awarded under~~
 3888 ~~the competitive bid procedures of this section, any renewal of~~
 3889 ~~that contract is not subject to such competitive bid~~
 3890 ~~requirements if the contract contains a provision that allows~~
 3891 ~~the board to cancel the contract on 30 days' notice. Materials,~~

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3892 ~~equipment, or services provided to a cooperative pursuant to a~~
3893 ~~local government franchise agreement by a franchise holder are~~
3894 ~~not subject to the competitive bid requirement. A contract with~~
3895 ~~a manager, if made by a competitive bid, may be made for up to 3~~
3896 ~~years. A condominium whose declaration or bylaws provides for~~
3897 ~~competitive bidding for services may operate under the~~
3898 ~~provisions of that declaration or bylaws in lieu of this section~~
3899 ~~if those provisions are not less stringent than the requirements~~
3900 ~~of this section.~~

3901 (b) This section does not limit the ability of an
3902 association to obtain needed products and services in an
3903 emergency.

3904 (c) This section does not apply if the business entity
3905 with which the association desires to enter into a contract is
3906 the only source of supply within the county serving the
3907 association.

3908 (d) This section does not excuse a party contracting to
3909 provide maintenance or management services from compliance with
3910 s. 719.3025.

3911 (3) As to any contract or other transaction between an
3912 association and one or more of its directors or any other
3913 corporation, firm, association, or entity in which one or more
3914 of its directors are directors or officers or are financially
3915 interested:

3916 (a) The association shall comply with the requirements of
3917 s. 617.0832.

3918 (b) The disclosures required by s. 617.0832 shall be
3919 entered into the written minutes of the meeting.

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3920 (c) Approval of the contract or other transaction shall
 3921 require an affirmative vote of two-thirds of the directors
 3922 present.

3923 (d) At the next regular or special meeting of the
 3924 shareholders, the existence of the contract or other transaction
 3925 shall be disclosed to the shareholders. Upon motion of any
 3926 shareholder, the contract or transaction shall be brought up for
 3927 a vote and may be canceled by a majority vote of the
 3928 shareholders present. Should the shareholders cancel the
 3929 contract, the association shall only be liable for the
 3930 reasonable value of goods and services provided up to the time
 3931 of cancellation and shall not be liable for any termination fee,
 3932 liquidated damages, or other form of penalty for such
 3933 cancellation.

3934 Section 28. Section 719.303, Florida Statutes, is amended
 3935 to read:

3936 719.303 Obligations of shareholders ~~owners~~.—

3937 (1) Each shareholder ~~unit owner~~, each tenant and other
 3938 invitee, and each association shall be governed by, and shall
 3939 comply with the provisions of, this chapter, the cooperative
 3940 documents, the documents creating the association, and the
 3941 association bylaws, and the provisions thereof shall be deemed
 3942 expressly incorporated into any lease of a unit. Actions for
 3943 damages or for injunctive relief, or both, for failure to comply
 3944 with these provisions may be brought by the association or by a
 3945 shareholder ~~unit owner~~ against:

- 3946 (a) The association.
- 3947 (b) A shareholder ~~unit owner~~.

3948 (c) Directors designated by the developer, for actions
 3949 taken by them prior to the time control of the association is
 3950 assumed by shareholders ~~unit-owners~~ other than the developer.

3951 (d) Any director who willfully and knowingly fails to
 3952 comply with these provisions.

3953 (e) Any tenant leasing a unit, and any other invitee
 3954 occupying a unit.

3955
 3956 The prevailing party in any such action or in any action in
 3957 which the purchaser claims a right of voidability based upon
 3958 contractual provisions as required in s. 719.503(1)(a) is
 3959 entitled to recover reasonable attorney's fees. A shareholder
 3960 ~~unit-owner~~ prevailing in an action between the association and
 3961 the shareholder ~~unit-owner~~ under this section, in addition to
 3962 recovering his or her reasonable attorney's fees, may recover
 3963 additional amounts as determined by the court to be necessary to
 3964 reimburse the shareholder ~~unit-owner~~ for his or her share of
 3965 assessments levied by the association to fund its expenses of
 3966 the litigation. This relief does not exclude other remedies
 3967 provided by law. Actions arising under this subsection shall not
 3968 be deemed to be actions for specific performance.

3969 (2) A provision of this chapter may not be waived if the
 3970 waiver would adversely affect the rights of a shareholder ~~unit~~
 3971 ~~owner~~ or the purpose of the provision, except that shareholders
 3972 ~~unit-owners~~ or members of a board of administration may waive
 3973 notice of specific meetings in writing if provided by the
 3974 bylaws. Any instrument given in writing by the shareholder ~~unit~~
 3975 ~~owner~~ or purchaser to an escrow agent may be relied upon by an

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3976 escrow agent, whether or not such instruction and the payment of
 3977 funds thereunder might constitute a waiver of any provision of
 3978 this chapter.

3979 (3) If a shareholder is delinquent for more than 90 days
 3980 in the payment of a regular or special assessment or if the
 3981 cooperative documents so provide, the association may suspend,
 3982 for a reasonable time, the right of a shareholder or a
 3983 shareholder's occupant, licensee, or invitee to use the common
 3984 areas, common facilities, or any other association property.
 3985 This subsection does not apply to limited common areas intended
 3986 to be used by that unit, common areas that must be used to
 3987 access the unit, utility services provided to the unit, parking
 3988 areas, or elevators. The association may also levy reasonable
 3989 fines against a shareholder ~~unit owner~~ for failure of the
 3990 shareholder ~~unit owner~~ or his or her licensee or invitee or the
 3991 unit's occupant to comply with any provision of the cooperative
 3992 documents or reasonable rules of the association. No fine shall
 3993 become a lien against a unit. No fine shall exceed \$100 per
 3994 violation. However, a fine may be levied on the basis of each
 3995 day of a continuing violation, with a single notice and
 3996 opportunity for hearing, provided that no such fine shall in the
 3997 aggregate exceed \$1,000. No fine may be levied except after
 3998 giving reasonable notice and opportunity for a hearing to the
 3999 shareholder ~~unit owner~~ and, if applicable, his or her licensee
 4000 or invitee. The hearing shall be held before a committee of
 4001 other shareholders who are neither board members nor persons
 4002 residing in a board member's household ~~unit owners~~. If the
 4003 committee does not agree with the fine, it shall not be levied.

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4004 This subsection does not apply to unoccupied units.

4005 (4) The notice and hearing requirements of subsection (3)
 4006 do not apply to the imposition of suspensions and fines against
 4007 a shareholder or a shareholder's occupant, licensee, or invitee
 4008 because of the failure to pay any amounts due the association.
 4009 If such a fine or suspension is imposed, the association may
 4010 levy the fine or impose a reasonable suspension at a properly
 4011 noticed board meeting, and after the imposition of such fine or
 4012 suspension, the association must notify the shareholder and, if
 4013 applicable, the shareholder's occupant, licensee, or invitee by
 4014 mail or hand delivery.

4015 Section 29. Section 719.501, Florida Statutes, is amended
 4016 to read:

4017 719.501 Authority, responsibilities, ~~Powers~~ and duties of
 4018 Division of Florida Condominiums, Timeshares, and Mobile Homes.—

4019 (1) The Division of Florida Condominiums, Timeshares, and
 4020 Mobile Homes of the Department of Business and Professional
 4021 Regulation, referred to as the "division" in this part, in
 4022 addition to other powers and duties prescribed by chapter 718,
 4023 has the power to enforce and ensure compliance with this chapter
 4024 and adopted rules relating to the development, construction,
 4025 sale, lease, ownership, operation, and management of residential
 4026 cooperative units. In performing its duties, the division shall
 4027 have the following powers and duties:

4028 (a) The division may make necessary public or private
 4029 investigations within or outside this state to determine whether
 4030 any person has violated this chapter or any rule or order
 4031 hereunder, to aid in the enforcement of this chapter, or to aid

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4032 in the adoption of rules or forms hereunder.

4033 (b) The division may require or permit any person to file
4034 a statement in writing, under oath or otherwise, as the division
4035 determines, as to the facts and circumstances concerning a
4036 matter to be investigated.

4037 (c) For the purpose of any investigation under this
4038 chapter, the division director or any officer or employee
4039 designated by the division director may administer oaths or
4040 affirmations, subpoena witnesses and compel their attendance,
4041 take evidence, and require the production of any matter which is
4042 relevant to the investigation, including the existence,
4043 description, nature, custody, condition, and location of any
4044 books, documents, or other tangible things and the identity and
4045 location of persons having knowledge of relevant facts or any
4046 other matter reasonably calculated to lead to the discovery of
4047 material evidence. Upon failure by a person to obey a subpoena
4048 or to answer questions propounded by the investigating officer
4049 and upon reasonable notice to all persons affected thereby, the
4050 division may apply to the circuit court for an order compelling
4051 compliance.

4052 (d) Notwithstanding any remedies available to shareholders
4053 ~~unit owners~~ and associations, if the division has reasonable
4054 cause to believe that a violation of any provision of this
4055 chapter or related rule has occurred, the division may institute
4056 enforcement proceedings in its own name against a developer,
4057 association, officer, or member of the board, or its assignees
4058 or agents, as follows:

4059 1. The division may permit a person whose conduct or

4060 actions may be under investigation to waive formal proceedings
 4061 and enter into a consent proceeding whereby orders, rules, or
 4062 letters of censure or warning, whether formal or informal, may
 4063 be entered against the person.

4064 2. The division may issue an order requiring the
 4065 developer, association, officer, or member of the board, or its
 4066 assignees or agents, or any community association manager or
 4067 community association management firm to cease and desist from
 4068 the unlawful practice and take such affirmative action as in the
 4069 judgment of the division will carry out the purposes of this
 4070 chapter. If the division finds that a developer, association,
 4071 officer, or member of the board of directors, or its assignees
 4072 or agents, or any community association manager or community
 4073 association management firm is violating or is about to violate
 4074 any provision of this chapter, any rule adopted or order issued
 4075 by the division, or any written agreement entered into with the
 4076 division, and presents an immediate danger to the public
 4077 requiring an immediate final order, it may issue an emergency
 4078 cease and desist order reciting with particularity the facts
 4079 underlying such findings. The emergency cease and desist order
 4080 is effective for 90 days. If the division begins nonemergency
 4081 cease and desist proceedings, the emergency cease and desist
 4082 order remains effective until the conclusion of the proceedings
 4083 under ss. 120.569 and 120.57. ~~Such affirmative action may~~
 4084 ~~include, but is not limited to, an order requiring a developer~~
 4085 ~~to pay moneys determined to be owed to a condominium~~
 4086 ~~association.~~

4087 3. If a developer fails to pay any restitution determined

4088 by the division to be owed, plus any accrued interest at the
 4089 highest rate permitted by law, within 30 days after expiration
 4090 of any appellate time period of a final order requiring payment
 4091 of restitution or the conclusion of any appeal thereof,
 4092 whichever is later, the division shall bring an action in
 4093 circuit or county court on behalf of any association, class of
 4094 shareholders, lessees, or purchasers for restitution,
 4095 declaratory relief, injunctive relief, or any other available
 4096 remedy. The division may also temporarily revoke its acceptance
 4097 of the filing for the developer to which the restitution relates
 4098 until payment of restitution is made. ~~The division may bring an~~
 4099 ~~action in circuit court on behalf of a class of unit owners,~~
 4100 ~~lessees, or purchasers for declaratory relief, injunctive~~
 4101 ~~relief, or restitution.~~

4102 4. The division may petition the court for the appointment
 4103 of a receiver or conservator. If appointed, the receiver or
 4104 conservator may take action to implement the court order to
 4105 ensure the performance of the order and to remedy any breach
 4106 thereof. In addition to all other means provided by law for the
 4107 enforcement of an injunction or temporary restraining order, the
 4108 circuit court may impound or sequester the property of a party
 4109 defendant, including books, papers, documents, and related
 4110 records, and allow the examination and use of the property by
 4111 the division and a court-appointed receiver or conservator.

4112 5. The division may apply to the circuit court for an
 4113 order of restitution in which the defendant in an action brought
 4114 pursuant to subparagraph 4. shall be ordered to make restitution
 4115 of those sums shown by the division to have been obtained by the

4116 defendant in violation of this chapter. Such restitution shall,
 4117 at the option of the court, be payable to the conservator or
 4118 receiver appointed pursuant to subparagraph 4. or directly to
 4119 the persons whose funds or assets were obtained in violation of
 4120 this chapter.

4121 6.4. The division may impose a civil penalty against a
 4122 developer or association, or its assignees or agents, for any
 4123 violation of this chapter or ~~related~~ rule adopted under this
 4124 chapter. The division may impose a civil penalty individually
 4125 against any officer or board member who willfully and knowingly
 4126 violates a provision of this chapter, a rule adopted pursuant to
 4127 this chapter, or a final order of the division; may order the
 4128 removal of such individual as an officer or from the board of
 4129 directors or as an officer of the association; and may prohibit
 4130 such individual from serving as an officer or on the board of a
 4131 community association for a stated period of time. The term
 4132 "willfully and knowingly" means that the division informed the
 4133 officer or board member that his or her action or intended
 4134 action violates this chapter, a rule adopted under this chapter,
 4135 or a final order of the division, and that the officer or board
 4136 member refused to comply with the requirements of this chapter,
 4137 a rule adopted under this chapter, or a final order of the
 4138 division. The division, prior to initiating formal agency action
 4139 under chapter 120, shall afford the officer or board member an
 4140 opportunity to voluntarily comply with this chapter, a rule
 4141 adopted under this chapter, or a final order of the division. An
 4142 officer or board member who complies within 10 days is not
 4143 subject to a civil penalty. A penalty may be imposed on the

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4144 basis of each day of continuing violation, but in no event shall
 4145 the penalty for any offense exceed \$5,000. By January 1, 1998,
 4146 the division shall adopt, by rule, penalty guidelines applicable
 4147 to possible violations or to categories of violations of this
 4148 chapter or rules adopted by the division. The guidelines must
 4149 specify a meaningful range of civil penalties for each such
 4150 violation of the statute and rules and must be based upon the
 4151 harm caused by the violation, the repetition of the violation,
 4152 and upon such other factors deemed relevant by the division. For
 4153 example, the division may consider whether the violations were
 4154 committed by a developer or shareholder-controlled ~~owner-~~
 4155 ~~controlled~~ association, the size of the association, and other
 4156 factors. The guidelines must designate the possible mitigating
 4157 or aggravating circumstances that justify a departure from the
 4158 range of penalties provided by the rules. It is the legislative
 4159 intent that minor violations be distinguished from those which
 4160 endanger the health, safety, or welfare of the cooperative
 4161 residents or other persons and that such guidelines provide
 4162 reasonable and meaningful notice to the public of likely
 4163 penalties that may be imposed for proscribed conduct. This
 4164 subsection does not limit the ability of the division to
 4165 informally dispose of administrative actions or complaints by
 4166 stipulation, agreed settlement, or consent order. All amounts
 4167 collected shall be deposited with the Chief Financial Officer to
 4168 the credit of the Division of Florida Condominiums, Timeshares,
 4169 and Mobile Homes Trust Fund. If a developer fails to pay the
 4170 civil penalty and the amount deemed to be owed to the
 4171 association, the division shall thereupon issue an order

4172 directing that such developer cease and desist from further
 4173 operation until such time as the civil penalty is paid or may
 4174 pursue enforcement of the penalty in a court of competent
 4175 jurisdiction. If an association fails to pay the civil penalty,
 4176 the division shall thereupon pursue enforcement in a court of
 4177 competent jurisdiction, and the order imposing the civil penalty
 4178 or the cease and desist order shall not become effective until
 4179 20 days after the date of such order. Any action commenced by
 4180 the division shall be brought in the county in which the
 4181 division has its executive offices or in the county where the
 4182 violation occurred.

4183 7. If a shareholder presents the division with proof that
 4184 the shareholder has requested access to official records in
 4185 writing by certified mail, and that after 10 days the
 4186 shareholder again made the same request for access to official
 4187 records in writing by certified mail, and that more than 10 days
 4188 has elapsed since the second request and the association has
 4189 still failed or refused to provide access to official records as
 4190 required by this chapter, the division shall issue a subpoena
 4191 requiring production of the requested records where the records
 4192 are kept pursuant to s. 719.104.

4193 8. In addition to subparagraph 6., the division may seek
 4194 the imposition of a civil penalty through the circuit court for
 4195 any violation for which the division may issue a notice to show
 4196 cause under paragraph (r). The civil penalty shall be at least
 4197 \$500 but no more than \$5,000 for each violation. The court may
 4198 also award to the prevailing party court costs and reasonable
 4199 attorney's fees and, if the division prevails, may also award

4200 reasonable costs of investigation.

4201 9. When the division finds that any person has derived an
 4202 improper personal benefit from a cooperative association, the
 4203 division shall order the person to pay restitution to the
 4204 association and shall order the person to pay to the division
 4205 the costs of investigation and prosecution.

4206 (e) The division may prepare and disseminate a prospectus
 4207 and other information to assist prospective shareholders ~~owners,~~
 4208 purchasers, lessees, and developers of residential cooperatives
 4209 in assessing the rights, privileges, and duties pertaining
 4210 thereto.

4211 (f) The division has authority to adopt rules pursuant to
 4212 ss. 120.536(1) and 120.54 to implement and enforce the
 4213 provisions of this chapter.

4214 (g) The division shall establish procedures for providing
 4215 notice to an association, and to the developer during the period
 4216 when the developer controls the association, when the division
 4217 is considering the issuance of a declaratory statement with
 4218 respect to the cooperative documents governing such cooperative
 4219 community.

4220 (h) The division shall furnish each association which pays
 4221 the fees required by paragraph (2) (a) a copy of this chapter
 4222 ~~act, subsequent changes to this act~~ on an annual basis, as an
 4223 ~~amended version of this act as it becomes available from the~~
 4224 ~~Secretary of State's office on a biennial basis,~~ and the rules
 4225 adopted thereto on an annual basis.

4226 (i) The division shall annually provide each association
 4227 with a summary of declaratory statements and formal legal

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4228 | opinions relating to the operations of cooperatives which were
 4229 | rendered by the division during the previous year.

4230 | ~~(j) The division shall adopt uniform accounting~~
 4231 | ~~principles, policies, and standards to be used by all~~
 4232 | ~~associations in the preparation and presentation of all~~
 4233 | ~~financial statements required by this chapter. The principles,~~
 4234 | ~~policies, and standards shall take into consideration the size~~
 4235 | ~~of the association and the total revenue collected by the~~
 4236 | ~~association.~~

4237 | (j)(*) The division shall provide training and educational
 4238 | programs for cooperative association board members and
 4239 | shareholders unit owners. The training may, in the division's
 4240 | discretion, include web-based electronic media and live training
 4241 | and seminars in various locations throughout the state. The
 4242 | division may review and approve educational and training
 4243 | programs for board members and shareholders offered by providers
 4244 | and shall maintain a current list of approved programs and
 4245 | providers and make such list available to board members and
 4246 | shareholders in a reasonable and cost-effective manner.

4247 | (k)(†) The division shall maintain a toll-free telephone
 4248 | number accessible to cooperative shareholders unit owners.

4249 | (l) The division shall develop a program to certify both
 4250 | volunteer and paid mediators to provide mediation of cooperative
 4251 | disputes. The division shall provide, upon request, a list of
 4252 | such mediators to any association, shareholder, or other
 4253 | participant in arbitration proceedings under s. 719.1255
 4254 | requesting a copy of the list. The division shall include on the
 4255 | list of volunteer mediators only the names of persons who have

4256 received at least 20 hours of training in mediation techniques
 4257 or who have mediated at least 20 disputes. In order to become
 4258 initially certified by the division, paid mediators must be
 4259 certified by the Supreme Court to mediate court cases in county
 4260 or circuit courts. However, the division may adopt, by rule,
 4261 additional factors for the certification of paid mediators,
 4262 which factors must be related to experience, education, or
 4263 background. Any person initially certified as a paid mediator by
 4264 the division must, in order to continue to be certified, comply
 4265 with the factors or requirements imposed by rules adopted by the
 4266 division.

4267 (m) When a complaint is made to the division, the division
 4268 shall conduct its inquiry with reasonable dispatch and with due
 4269 regard to the interests of the affected parties. Within 30 days
 4270 after receipt of a complaint, the division shall acknowledge the
 4271 complaint in writing and notify the complainant whether the
 4272 complaint is within the jurisdiction of the division and whether
 4273 additional information is needed by the division from the
 4274 complainant. The division shall conduct its investigation and
 4275 shall, within 90 days after receipt of the original complaint or
 4276 timely requested additional information, take action upon the
 4277 complaint. However, the failure to complete the investigation
 4278 within 90 days does not prevent the division from continuing the
 4279 investigation, accepting or considering evidence obtained or
 4280 received after 90 days, or taking administrative action if
 4281 reasonable cause exists to believe that a violation of this
 4282 chapter or a rule of the division has occurred. If an
 4283 investigation is not completed within the time limits

4284 established in this paragraph, the division shall, on a monthly
 4285 basis, notify the complainant in writing of the status of the
 4286 investigation. When reporting its action to the complainant, the
 4287 division shall inform the complainant of any right to a hearing
 4288 pursuant to ss. 120.569 and 120.57.

4289 (n) Cooperative association directors, officers, and
 4290 employees, cooperative developers, community association
 4291 managers, and community association management firms have an
 4292 ongoing duty to reasonably cooperate with the division in any
 4293 investigation pursuant to this section. The division shall refer
 4294 to local law enforcement authorities any person who the division
 4295 believes has altered, destroyed, concealed, or removed any
 4296 record, document, or thing required to be kept or maintained by
 4297 this chapter with the purpose to impair its verity or
 4298 availability in the department's investigation.

4299 (o) The division may:

- 4300 1. Contract with agencies in this state or other
- 4301 jurisdictions to perform investigative functions; or
- 4302 2. Accept grants-in-aid from any source.

4303 (p) The division shall cooperate with similar agencies in
 4304 other jurisdictions to establish uniform filing procedures and
 4305 forms, public offering statements, advertising standards, and
 4306 rules and common administrative practices.

4307 (q) The division shall consider notice to a developer to
 4308 be complete when it is delivered to the developer's address
 4309 currently on file with the division.

4310 (r) In addition to its enforcement authority, the division
 4311 may issue a notice to show cause, which shall provide for a

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4312 hearing, upon written request, in accordance with chapter 120.

4313 (s) In the annual report required by s. 718.501(1)(s), the
 4314 division shall also report the same information for cooperative
 4315 associations. The division may combine figures and issues into
 4316 one report covering both condominiums and cooperatives.

4317 ~~(n) The division shall develop a program to certify both~~
 4318 ~~volunteer and paid mediators to provide mediation of cooperative~~
 4319 ~~disputes. The division shall provide, upon request, a list of~~
 4320 ~~such mediators to any association, unit owner, or other~~
 4321 ~~participant in arbitration proceedings under s. 718.1255~~
 4322 ~~requesting a copy of the list. The division shall include on the~~
 4323 ~~list of voluntary mediators only persons who have received at~~
 4324 ~~least 20 hours of training in mediation techniques or have~~
 4325 ~~mediated at least 20 disputes. In order to become initially~~
 4326 ~~certified by the division, paid mediators must be certified by~~
 4327 ~~the Supreme Court to mediate court cases in county or circuit~~
 4328 ~~courts. However, the division may adopt, by rule, additional~~
 4329 ~~factors for the certification of paid mediators, which factors~~
 4330 ~~must be related to experience, education, or background. Any~~
 4331 ~~person initially certified as a paid mediator by the division~~
 4332 ~~must, in order to continue to be certified, comply with the~~
 4333 ~~factors or requirements imposed by rules adopted by the~~
 4334 ~~division.~~

4335 (2) (a) Each cooperative association shall pay to the
 4336 division, on or before January 1 of each year, an annual fee in
 4337 the amount of \$4 for each residential unit in cooperatives
 4338 operated by the association. If the fee is not paid by March 1,
 4339 then the association shall be assessed a penalty of 10 percent

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4340 of the amount due, and the association shall not have the
4341 standing to maintain or defend any action in the courts of this
4342 state until the amount due, plus any penalty, is paid.

4343 (b) All fees shall be deposited in the Division of Florida
4344 Condominiums, Timeshares, and Mobile Homes Trust Fund as
4345 provided by law.

4346 Section 30. Paragraph (b) of subsection (1) and paragraph
4347 (a) of subsection (2) of section 719.503, Florida Statutes, are
4348 amended to read:

4349 719.503 Disclosure prior to sale.—

4350 (1) DEVELOPER DISCLOSURE.—

4351 (b) Copies of documents to be furnished to prospective
4352 buyer or lessee.—Until such time as the developer has furnished
4353 the documents listed below to a person who has entered into a
4354 contract to purchase a unit or lease it for more than 5 years,
4355 the contract may be voided by that person, entitling the person
4356 to a refund of any deposit together with interest thereon as
4357 provided in s. 719.202. The contract may be terminated by
4358 written notice from the proposed buyer or lessee delivered to
4359 the developer within 15 days after the buyer or lessee receives
4360 all of the documents required by this section. The developer
4361 shall not close for 15 days following the execution of the
4362 agreement and delivery of the documents to the buyer as
4363 evidenced by a receipt for documents signed by the buyer unless
4364 the buyer is informed in the 15-day voidability period and
4365 agrees to close prior to the expiration of the 15 days. The
4366 developer shall retain in his or her records a separate signed
4367 agreement as proof of the buyer's agreement to close prior to

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4368 the expiration of such ~~said~~ voidability period. Such ~~Said~~ proof
 4369 shall be retained for a period of 5 years after the date of the
 4370 closing transaction. The documents to be delivered to the
 4371 prospective buyer are the prospectus or disclosure statement
 4372 with all exhibits, if the development is subject to the
 4373 provisions of s. 719.504, or, if not, then copies of the
 4374 following which are applicable:

4375 1. The question and answer sheet described in s. 719.504,
 4376 and cooperative documents, or the proposed cooperative documents
 4377 if the documents have not been recorded, which shall include the
 4378 certificate of a surveyor approximately representing the
 4379 locations required by s. 719.504 ~~719.104~~.

4380 2. The documents creating the association.

4381 3. The bylaws.

4382 4. The ground lease or other underlying lease of the
 4383 cooperative.

4384 5. The management contract, maintenance contract, and
 4385 other contracts for management of the association and operation
 4386 of the cooperative and facilities used by the shareholders ~~unit~~
 4387 ~~owners~~ having a service term in excess of 1 year, and any
 4388 management contracts that are renewable.

4389 6. The estimated operating budget for the cooperative and
 4390 a schedule of expenses for each type of unit, including fees
 4391 assessed to a shareholder who has exclusive use of limited
 4392 common areas, where such costs are shared only by those entitled
 4393 to use such limited common areas.

4394 7. The lease of recreational and other facilities that
 4395 will be used only by shareholders ~~unit-owners~~ of the subject

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4396 cooperative.

4397 8. The lease of recreational and other common areas that
 4398 will be used by shareholders ~~unit-owners~~ in common with
 4399 shareholders ~~unit-owners~~ of other cooperatives.

4400 9. The form of unit lease if the offer is of a leasehold.

4401 10. Any declaration of servitude of properties serving the
 4402 cooperative but not owned by shareholders ~~unit-owners~~ or leased
 4403 to them or the association.

4404 11. If the development is to be built in phases or if the
 4405 association is to manage more than one cooperative, a
 4406 description of the plan of phase development or the arrangements
 4407 for the association to manage two or more cooperatives.

4408 12. If the cooperative is a conversion of existing
 4409 improvements, the statements and disclosure required by s.
 4410 719.616.

4411 13. The form of agreement for sale or lease of units.

4412 14. A copy of the floor plan of the unit and the plot plan
 4413 showing the location of the residential buildings and the
 4414 recreation and other common areas.

4415 15. A copy of all covenants and restrictions which will
 4416 affect the use of the property and which are not contained in
 4417 the foregoing.

4418 16. If the developer is required by state or local
 4419 authorities to obtain acceptance or approval of any dock or
 4420 marina facilities intended to serve the cooperative, a copy of
 4421 any such acceptance or approval acquired by the time of filing
 4422 with the division pursuant to s. 719.502(1) or a statement that
 4423 such acceptance or approval has not been acquired or received.

4424 17. Evidence demonstrating that the developer has an
 4425 ownership, leasehold, or contractual interest in the land upon
 4426 which the cooperative is to be developed.

4427 (2) NONDEVELOPER DISCLOSURE.—

4428 (a) Each shareholder ~~unit owner~~ who is not a developer as
 4429 defined by this chapter must comply with the provisions of this
 4430 subsection prior to the sale of his or her interest in the
 4431 association. Each prospective purchaser who has entered into a
 4432 contract for the purchase of an interest in a cooperative is
 4433 entitled, at the seller's expense, to a current copy of the
 4434 articles of incorporation of the association, the bylaws, and
 4435 rules of the association, as well as a copy of the question and
 4436 answer sheet as provided in s. 719.504. On and after July 1,
 4437 2010, the prospective purchaser shall also be entitled to
 4438 receive from the seller a copy of a governance form. Such form
 4439 shall be provided by the division summarizing governance of
 4440 cooperative associations. In addition to such other information
 4441 as the division considers helpful to a prospective purchaser in
 4442 understanding association governance, the governance form shall
 4443 address the following subjects:

4444 1. The role of the board in conducting the day-to-day
 4445 affairs of the association on behalf of, and in the best
 4446 interests of, the shareholders.

4447 2. The board's responsibility to provide advance notice of
 4448 board and shareholder meetings.

4449 3. The rights of shareholders to attend and speak at board
 4450 and shareholder meetings.

4451 4. The responsibility of the board and shareholders with

4452 respect to maintenance of the cooperative property.
 4453 5. The responsibility of the board and shareholders to
 4454 abide by the cooperative documents, this chapter, rules adopted
 4455 by the division, and reasonable rules adopted by the board.
 4456 6. Shareholders' rights to inspect and copy association
 4457 records and the limitations on such rights.
 4458 7. Remedies available to shareholders with respect to
 4459 actions by the board which may be abusive or beyond the board's
 4460 power and authority.
 4461 8. The right of the board to hire a property management
 4462 firm, subject to its own primary responsibility for such
 4463 management.
 4464 9. The responsibility of shareholders with regard to
 4465 payment of regular or special assessments necessary for the
 4466 operation of the property and the potential consequences of
 4467 failure to pay such assessments.
 4468 10. The voting rights of shareholders.
 4469 11. Rights and obligations of the board in enforcement of
 4470 rules in the cooperative documents and rules adopted by the
 4471 board.
 4472
 4473 The governance form shall also include the following statement
 4474 in conspicuous type: THIS PUBLICATION IS INTENDED AS AN INFORMAL
 4475 EDUCATIONAL OVERVIEW OF COOPERATIVE GOVERNANCE. IN THE EVENT OF
 4476 A CONFLICT, THE PROVISIONS OF CHAPTER 719, FLORIDA STATUTES,
 4477 RULES ADOPTED BY THE DIVISION OF FLORIDA CONDOMINIUMS,
 4478 TIMESHARES, AND MOBILE HOMES OF THE DEPARTMENT OF BUSINESS AND
 4479 PROFESSIONAL REGULATION, THE PROVISIONS OF THE COOPERATIVE

4480 DOCUMENTS, AND REASONABLE RULES ADOPTED BY THE COOPERATIVE
 4481 ASSOCIATION'S BOARD OF DIRECTORS PREVAIL OVER THE CONTENTS OF
 4482 THIS PUBLICATION.

4483 Section 31. Paragraph (c) of subsection (2) of section
 4484 720.303, Florida Statutes, is amended, and subsections (12),
 4485 (13), and (14) are added to that section, to read:

4486 720.303 Association powers and duties; meetings of board;
 4487 official records; budgets; financial reporting; association
 4488 funds; recalls; borrowing; transfer fees.—

4489 (2) BOARD MEETINGS.—

4490 (c) The bylaws shall provide for giving notice to parcel
 4491 owners and members of all board meetings and, if they do not do
 4492 so, shall be deemed to provide the following:

4493 1. Notices of all board meetings must be posted in a
 4494 conspicuous place in the community at least 48 hours in advance
 4495 of a meeting, except in an emergency. In the alternative, if
 4496 notice is not posted in a conspicuous place in the community,
 4497 notice of each board meeting must be mailed or delivered to each
 4498 member at least 7 days before the meeting, except in an
 4499 emergency. Notwithstanding this general notice requirement, for
 4500 communities with more than 100 members, the bylaws may provide
 4501 for a reasonable alternative to posting or mailing of notice for
 4502 each board meeting, including publication of notice, provision
 4503 of a schedule of board meetings, or the conspicuous posting and
 4504 repeated broadcasting of the notice on a closed-circuit cable
 4505 television system serving the homeowners' association. However,
 4506 if broadcast notice is used in lieu of a notice posted
 4507 physically in the community, the notice must be broadcast at

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4508 | least four times every broadcast hour of each day that a posted
4509 | notice is otherwise required. When broadcast notice is provided,
4510 | the notice and agenda must be broadcast in a manner and for a
4511 | sufficient continuous length of time so as to allow an average
4512 | reader to observe the notice and read and comprehend the entire
4513 | content of the notice and the agenda. The bylaws or amended
4514 | bylaws may provide for giving notice by electronic transmission
4515 | in a manner authorized by law for meetings of the board of
4516 | directors, committee meetings requiring notice under this
4517 | section, and annual and special meetings of the members;
4518 | however, a member must consent in writing to receiving notice by
4519 | electronic transmission.

4520 | 2. An assessment may not be levied at a board meeting
4521 | unless the notice of the meeting includes a statement that
4522 | assessments will be considered and the nature of, the actual
4523 | cost of, and a description of the purposes for such ~~the~~
4524 | assessments. Written notice of any meeting at which special
4525 | assessments will be considered or at which amendments to rules
4526 | regarding parcel use will be considered must be mailed,
4527 | delivered, or electronically transmitted to the members and
4528 | parcel owners and posted conspicuously on the property or
4529 | broadcast on closed-circuit cable television not less than 14
4530 | days before the meeting.

4531 | 3. Directors may not vote by proxy or by secret ballot at
4532 | board meetings, except that secret ballots may be used in the
4533 | election of officers. This subsection also applies to the
4534 | meetings of any committee or other similar body, when a final
4535 | decision will be made regarding the expenditure of association

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4536 funds, and to any body vested with the power to approve or
4537 disapprove architectural decisions with respect to a specific
4538 parcel of residential property owned by a member of the
4539 community.

4540 (12) BORROWING.—The borrowing of funds or committing to a
4541 line of credit by the board shall be considered a special
4542 assessment, and any meeting of the board to discuss such matters
4543 must be noticed as provided in paragraph (2) (c). The board may
4544 not borrow funds or enter into a line of credit for any purpose
4545 unless the specific use of the funds from the loan or line of
4546 credit is set forth in the notice of meeting with the same
4547 specificity as required for a special assessment or unless the
4548 borrowing or line of credit has received the prior approval of
4549 at least two-thirds of the voting interests of the association.

4550 (13) TRANSFER FEES.—No charge may be made by the
4551 association or anyone on its behalf in connection with the sale,
4552 mortgage, lease, sublease, or other transfer of a parcel.
4553 Nothing in this subsection may be construed to prohibit an
4554 association from requiring as a condition to permitting the
4555 letting or renting of a parcel, when the association has such
4556 authority in the documents, the depositing into an escrow
4557 account maintained by the association of a security deposit in
4558 an amount not to exceed the equivalent of 1 month's rent. The
4559 security deposit shall protect against damages to the common
4560 areas or association property. Within 15 days after a tenant
4561 vacates the premises, the association shall refund the full
4562 security deposit or give written notice to the tenant of any
4563 claim made against the security. Disputes under this subsection

4564 shall be handled in the same fashion as disputes concerning
 4565 security deposits under s. 83.49.

4566 (14) LIMIT ON EXPENDITURES AND CONTRIBUTIONS.—It shall be
 4567 unlawful for an association to make any expenditure of
 4568 association funds or to make any in-kind contribution of
 4569 association assets that does not relate to the purposes for
 4570 which the association is organized.

4571 (a) The association shall not make any contribution to a
 4572 campaign or committee of continuous existence governed by
 4573 chapter 105 or chapter 106.

4574 (b) The association shall not make any contribution to a
 4575 charitable organization if the association does not receive a
 4576 direct benefit from the organization.

4577 (c) Members of the board shall be jointly and severely
 4578 liable to reimburse the association for any contribution,
 4579 expenditure, or in-kind contribution made in violation of this
 4580 subsection.

4581 Section 32. Paragraph (a) of subsection (2) of section
 4582 720.304, Florida Statutes, is amended to read:

4583 720.304 Right of owners to peaceably assemble; display of
 4584 flag; SLAPP suits prohibited.—

4585 (2) (a) Any homeowner may display within the boundaries of
 4586 the homeowner's parcel one portable, removable United States
 4587 flag ~~or official flag of the State of Florida in a respectful~~
 4588 manner, and one portable, removable official flag, in a
 4589 respectful way and, on Armed Forces Day, Memorial Day, Flag Day,
 4590 Independence Day, and Veterans' Day, may display in a respectful
 4591 way portable, removable official flags manner, not larger than 4

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4592 1/2 feet by 6 feet, that represent ~~which represents~~ the United
 4593 States Army, Navy, Air Force, Marine Corps, or Coast Guard, ~~or a~~
 4594 ~~POW-MIA flag,~~ regardless of any declaration covenants,
 4595 ~~restrictions, bylaws, rules,~~ or requirements dealing with flags
 4596 or decorations ~~of the association.~~

4597 Section 33. Subsection (1) of section 720.306, Florida
 4598 Statutes, is amended to read:

4599 720.306 Meetings of members; voting and election
 4600 procedures; amendments.—

4601 (1) QUORUM; AMENDMENTS.—

4602 (a) Unless a lower number is provided in the bylaws, the
 4603 percentage of voting interests required to constitute a quorum
 4604 at a meeting of the members shall be 30 percent of the total
 4605 voting interests. Unless otherwise provided in this chapter or
 4606 in the articles of incorporation or bylaws, decisions that
 4607 require a vote of the members must be made by the concurrence of
 4608 at least a majority of the voting interests present, in person
 4609 or by proxy, at a meeting at which a quorum has been attained.

4610 (b) Unless otherwise provided in the governing documents
 4611 or required by law, and other than those matters set forth in
 4612 paragraphs ~~paragraph~~ (c) and (d), any governing document of an
 4613 association may be amended by the affirmative vote of two-thirds
 4614 of the voting interests of the association.

4615 (c) Unless otherwise provided in the governing documents
 4616 as originally recorded or permitted by this chapter or chapter
 4617 617, an amendment may not materially and adversely alter the
 4618 proportionate voting interest appurtenant to a parcel or
 4619 increase the proportion or percentage by which a parcel shares

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4620 in the common expenses of the association unless the record
 4621 parcel owner and all record owners of liens on the parcels join
 4622 in the execution of the amendment. For purposes of this section,
 4623 a change in quorum requirements is not an alteration of voting
 4624 interests. The merger or consolidation of one or more
 4625 associations under a plan of merger or consolidation under
 4626 chapter 607 or chapter 617 shall not be considered a material or
 4627 adverse alteration of the proportionate voting interest
 4628 appurtenant to a parcel.

4629 (d) The method by which the bylaws may be amended
 4630 consistent with the provisions of this chapter shall be stated.
 4631 No bylaw shall be revised or amended by reference to its title
 4632 or number only. Proposals to amend existing bylaws shall contain
 4633 the full text of the bylaws to be amended. New words shall be
 4634 inserted in the text underlined, and words to be deleted shall
 4635 be lined through with hyphens. However, if the proposed change
 4636 is so extensive that this procedure would hinder, rather than
 4637 assist, the understanding of the proposed amendment, it is not
 4638 necessary to use underlining and hyphens as indicators of words
 4639 added or deleted, but, instead, a notation must be inserted
 4640 immediately preceding the proposed amendment in substantially
 4641 the following language: "Substantial rewording of bylaw. See
 4642 bylaw _____ for present text." Nonmaterial errors or omissions
 4643 in the bylaw process will not invalidate an otherwise properly
 4644 adopted amendment.

4645 Section 34. Section 720.3065, Florida Statutes, is created
 4646 to read:

4647 720.3065 Qualifications of directors and officers.—

4648 (1) DIRECTOR OR OFFICER OFFENSES.—A director or officer
 4649 charged by information or indictment with a felony theft or
 4650 embezzlement offense involving the association's funds or
 4651 property shall be removed from office, creating a vacancy in the
 4652 office to be filled according to law. While such director or
 4653 officer has such criminal charge pending in the state or federal
 4654 court system, he or she may not be appointed or elected to a
 4655 position as a director or officer. However, should the charges
 4656 be resolved without a finding of guilt, the director or officer
 4657 shall be reinstated for the remainder of his or her term of
 4658 office, if any.

4659 (2) QUALIFICATION OF DIRECTORS.—In addition to any other
 4660 requirement for office in statute, a person running for, seeking
 4661 appointment to, or serving as a director of the board must meet
 4662 the following qualifications:

4663 (a) In a homeowners' association of 10 or more units, only
 4664 one individual coowner of a unit may serve on the board.

4665 (b) No person may serve as a director of any homeowners'
 4666 association in the state if restricted from serving as director
 4667 of a condominium or cooperative association by action of the
 4668 division pursuant to s. 718.501(1)(d)6.

4669 (c) A person who has been convicted of any felony in this
 4670 state or in a United States District or Territorial Court, or
 4671 who has been convicted of any offense in another jurisdiction
 4672 that would be considered a felony if committed in this state, is
 4673 not eligible for board membership unless such felon's civil
 4674 rights have been restored for a period of no less than 5 years
 4675 as of the date on which such person seeks election to the board.

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4676 (d) A director more than 90 days delinquent in the payment
 4677 of regular assessments shall be deemed to have abandoned his or
 4678 her office.

4679 (e) Within 30 days after being elected or appointed to the
 4680 board, a director must certify in writing to the secretary of
 4681 the association that he or she has read this chapter and the
 4682 association's covenants, articles of incorporation, bylaws, and
 4683 current written policies. The director shall further certify
 4684 that he or she will work to uphold such documents and policies
 4685 to the best of his or her ability and that he or she will
 4686 faithfully discharge his or her fiduciary responsibility to the
 4687 association's members. If a court finds that a director has
 4688 falsely certified that he or she has read the required statutes
 4689 and documents, the court shall order the director removed from
 4690 the board and shall order the director to reimburse the opposing
 4691 party in the litigation for all reasonable costs and attorney's
 4692 fees.

4693 (f) After turnover of the association pursuant to s.
 4694 720.307(1), a director must:

4695 1. If the parcel is owned by an individual or individuals,
 4696 be one of those individuals.

4697 2. If the parcel is owned by a trust, be an individual
 4698 qualified pursuant to s. 617.0802.

4699
 4700 These qualifications shall operate on a continuing basis, and,
 4701 upon the failure of a director at any time to meet a
 4702 qualification, the director shall be removed from office and
 4703 that office shall be deemed vacant.

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4704 Section 35. Section 720.3068, Florida Statutes, is created
 4705 to read:

4706 720.3068 Meetings.—Regular meetings of the board shall be
 4707 held at such time and place as provided in the bylaws until the
 4708 first regular meeting held on or after July 1, 2010. Thereafter,
 4709 the location and time for regular board meetings shall be
 4710 determined by a majority vote of the parcel owners at the next
 4711 regular meeting held on or after July 1, 2010. Once the time and
 4712 place for regular board meetings have been selected, neither may
 4713 be changed unless approved by a majority vote of the parcel
 4714 owners. Regular meetings of the board held on weekdays may be
 4715 held no earlier than 6 p.m. local time.

4716 Section 36. Subsection (1) of section 720.3085, Florida
 4717 Statutes, is amended, and subsection (8) is added to that
 4718 section, to read:

4719 720.3085 Payment for assessments; lien claims.—

4720 (1) When authorized by the governing documents, the
 4721 association has a lien on each parcel to secure the payment of
 4722 assessments and other amounts provided for by this section.
 4723 Except as otherwise set forth in this section, the lien is
 4724 effective from and shall relate back to the date on which the
 4725 original declaration of the community was recorded. ~~However, as~~
 4726 ~~to first mortgages of record, the lien is effective from and~~
 4727 ~~after recording of a claim of lien in the public records of the~~
 4728 ~~county in which the parcel is located. This subsection does not~~
 4729 ~~bestow upon any lien, mortgage, or certified judgment of record~~
 4730 ~~on July 1, 2008, including the lien for unpaid assessments~~
 4731 ~~created in this section, a priority that, by law, the lien,~~

4732 ~~mortgage, or judgment did not have before July 1, 2008.~~

4733 (a) To be valid, a claim of lien must state the
 4734 description of the parcel, the name of the record owner, the
 4735 name and address of the association, the assessment amount due,
 4736 and the due date. The claim of lien shall secure all unpaid
 4737 assessments that are due and that may accrue subsequent to the
 4738 recording of the claim of lien and before entry of a certificate
 4739 of title, as well as interest, late charges, and reasonable
 4740 costs and attorney's fees incurred by the association incident
 4741 to the collection process. A notice of delinquency sent to a
 4742 parcel owner shall provide an overall total of assessments
 4743 claimed by the association and shall specify for each assessment
 4744 or charge the date of the assessment or charge, the principal
 4745 balance owed for the assessment or charge, and affiliated late
 4746 fees or collection charges. Costs to a parcel owner secured by
 4747 the association's claim of lien with regard to collection
 4748 efforts by management companies or licensed managers as to any
 4749 delinquent installment of an assessment may not exceed \$50.
 4750 However, there shall be no charge for the first notice of a
 4751 delinquency to the parcel owner. The person making the payment
 4752 is entitled to a satisfaction of the lien upon payment in full.

4753 (b) By recording a notice in substantially the following
 4754 form, a parcel owner or the parcel owner's agent or attorney may
 4755 require the association to enforce a recorded claim of lien
 4756 against his or her parcel:

4757
 4758 NOTICE OF CONTEST OF LIEN
 4759

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4760 TO: ...(Name and address of association)...

4761
 4762 You are notified that the undersigned contests the claim of lien
 4763 filed by you on _____, ...(year)..., and recorded in Official
 4764 Records Book _____ at page _____, of the public records of _____
 4765 County, Florida, and that the time within which you may file
 4766 suit to enforce your lien is limited to 90 days following the
 4767 date of service of this notice. Executed this _____ day of
 4768 _____, ...(year)....

4769
 4770 Signed: ...(Owner or Attorney)...

4771
 4772 After the notice of a contest of lien has been recorded, the
 4773 clerk of the circuit court shall mail a copy of the recorded
 4774 notice to the association by certified mail, return receipt
 4775 requested, at the address shown in the claim of lien or the most
 4776 recent amendment to it and shall certify to the service on the
 4777 face of the notice. Service is complete upon mailing. After
 4778 service, the association has 90 days in which to file an action
 4779 to enforce the lien and, if the action is not filed within the
 4780 90-day period, the lien is void. However, the 90-day period
 4781 shall be extended for any length of time that the association is
 4782 prevented from filing its action because of an automatic stay
 4783 resulting from the filing of a bankruptcy petition by the parcel
 4784 owner or by any other person claiming an interest in the parcel.

4785 (c) The association may bring an action in its name to
 4786 foreclose a lien for assessments in the same manner in which a
 4787 mortgage of real property is foreclosed and may also bring an

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4788 action to recover a money judgment for the unpaid assessments
4789 without waiving any claim of lien. The association is entitled
4790 to recover its reasonable attorney's fees incurred in an action
4791 to foreclose a lien or an action to recover a money judgment for
4792 unpaid assessments.

4793 (d) If the parcel owner remains in possession of the
4794 parcel after a foreclosure judgment has been entered, the court
4795 may require the parcel owner to pay a reasonable rent for the
4796 parcel. If the parcel is rented or leased during the pendency of
4797 the foreclosure action, the association is entitled to the
4798 appointment of a receiver to collect the rent. The expenses of
4799 the receiver must be paid by the party who does not prevail in
4800 the foreclosure action.

4801 (e) The association may purchase the parcel at the
4802 foreclosure sale and hold, lease, mortgage, or convey the
4803 parcel.

4804 (8) During the pendency of any foreclosure action of a
4805 parcel in a homeowners' association, if the parcel is occupied
4806 by a tenant and the parcel owner is delinquent in the payment of
4807 regular assessments, the association may demand that the tenant
4808 pay to the association the future regular assessments related to
4809 the parcel. The demand shall be continuing in nature, and upon
4810 demand the tenant shall continue to pay the regular assessments
4811 to the association until the association releases the tenant or
4812 the tenant discontinues tenancy in the unit. The association
4813 shall mail written notice to the unit owner of the association's
4814 demand that the tenant pay regular assessments to the
4815 association. The tenant shall not be liable for increases in the

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4816 amount of the regular assessments due unless the tenant was
 4817 reasonably notified of the increase prior to the day that the
 4818 rent is due. The tenant shall be given a credit against rents
 4819 due to the parcel owner in the amount of assessments paid to the
 4820 association. The association shall, upon request, provide the
 4821 tenant with written receipts for payments made. The association
 4822 may issue notices under s. 83.56 and may sue for eviction under
 4823 ss. 83.59-83.625 as if the association were a landlord under
 4824 part II of chapter 83 should the tenant fail to pay an
 4825 assessment. However, the association shall not otherwise be
 4826 considered a landlord under chapter 83 and shall specifically
 4827 not have any duty under s. 83.51. The tenant shall not, by
 4828 virtue of payment of assessments, have any of the rights of a
 4829 parcel owner to vote in any election or to examine the books and
 4830 records of the association. A court may supersede the effect of
 4831 this subsection when appointing a receiver at the request of a
 4832 mortgagee.

4833 Section 37. Section 720.314, Florida Statutes, is created
 4834 to read:

4835 720.314 Parcel owner informational complaint.—

4836 (1) Any parcel owner may file an informational complaint
 4837 to report alleged failures by the homeowners' association or
 4838 officers or directors of the association to comply with the
 4839 provisions of this chapter. The informational complaint shall be
 4840 in writing and signed by the complainant, and the accuracy of
 4841 the facts alleged shall be sworn to before a notary public.
 4842 Properly filed informational complaints shall be used for
 4843 analysis and recommendations to the Legislature for changes to

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4844 this chapter.

4845 (2) The informational complaint shall be in the format
 4846 provided in subsection (3) and shall be filed with the Office of
 4847 Program Policy Analysis and Government Accountability. If the
 4848 form does not comply with the requirements provided in
 4849 subsection (3), it shall be returned to the complainant as not
 4850 in compliance with the requirements of this section and may not
 4851 be considered by the Office of Program Policy Analysis and
 4852 Government Accountability for any purpose.

4853 (3) The informational complaint shall be in substantially
 4854 the following form:

4855
 4856 PARCEL OWNER COMPLAINT

4857
 4858 Name of complainant:

4859 Address of complainant:

4860 Name of association:

4861 Address of association:

4862 Statute not complied with:

4863 Name of officer:

4864 Name of director:

4865 Facts supporting violation (50 words or less):

4866

4867

4868 Signature of Complainant

4869

4870 Sworn to and subscribed to this _____ day of _____, (year)

4871

4872
4873
4874
4875
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Notary Public

Section 38. Subsection (3) of section 721.16, Florida Statutes, is amended to read:

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

(3) The lien is effective from the date of recording a claim of lien in the public records of the county or counties in which the accommodations and facilities constituting the timeshare plan are located. The claim of lien shall state the name of the timeshare plan and identify the timeshare interest for which the lien is effective, state the name of the purchaser, state the assessment amount due, and state the due dates. Notwithstanding any provision of s. 718.116(5) (a) or s. 719.108~~(5)~~~~(4)~~ to the contrary, the lien is effective until satisfied or until 5 years have expired after the date the claim of lien is recorded unless, within that time, an action to enforce the lien is commenced pursuant to subsection (2). A claim of lien for assessments may include only assessments which are due when the claim is recorded. A claim of lien shall be signed and acknowledged by an officer or agent of the managing entity. Upon full payment, the person making the payment is entitled to receive a satisfaction of the lien.

Section 39. This act shall take effect July 1, 2010.