

1 A bill to be entitled
2 An act relating to community associations; amending s.
3 399.02, F.S.; exempting certain elevators from specific
4 code update requirements; providing a phase-in period for
5 such elevators; amending s. 617.0721, F.S.; revising the
6 limitations on the right of members to vote on corporate
7 matters for certain corporations not for profit that are
8 regulated under ch. 718 or ch. 719, F.S.; amending s.
9 617.0808, F.S.; exempting certain corporations not for
10 profit that are an association as defined in s. 720.301,
11 F.S., or a corporation regulated under ch. 718 or ch. 719,
12 F.S., from certain provisions relating to the removal of a
13 director; creating s. 617.1606, F.S.; providing that
14 certain statutory provisions providing for the inspection
15 of corporate records do not apply to a corporation not for
16 profit that is an association as defined in s. 720.301,
17 F.S., or a corporation regulated under ch. 718 or ch. 719,
18 F.S.; creating s. 627.714, F.S.; requiring that coverage
19 under a condominium unit owner's policy for certain
20 assessments include at least a minimum amount of loss
21 assessment coverage; requiring that every property
22 insurance policy to an individual condominium unit owner
23 contain a specified provision; amending s. 633.0215, F.S.;
24 exempting certain residential buildings from a requirement
25 to install a manual fire alarm system; amending s.
26 718.103, F.S.; redefining the term "developer"; amending
27 s. 718.110, F.S.; allowing the condominium association to
28 have the authority to restrict through an amendment to a

29 | declaration of condominium, rather than prohibit, the
30 | rental of condominium units; amending s. 718.111, F.S.;
31 | deleting a requirement for the board of a condominium to
32 | hold a meeting open to unit owners to establish the amount
33 | of an insurance deductible; revising the property to which
34 | a property insurance policy for a condominium association
35 | applies; revising the requirements for a condominium unit
36 | owner's property insurance policy; limiting the
37 | circumstances under which a person who violates
38 | requirements to maintain association records may be
39 | personally liable for a civil penalty; providing that a
40 | condominium association is not responsible for the use of
41 | certain information provided to an association member
42 | under certain circumstances; specifying records of a
43 | condominium association that are exempt from a requirement
44 | for records to be available for inspection by an
45 | association member; revising the requirements for rules
46 | relating to the financial report that must be adopted by
47 | the Division of Florida Condominiums, Timeshares, and
48 | Mobile Homes of the Department of Business and
49 | Professional Regulation; revising the requirements for a
50 | financial report based on the amount of a condominium's
51 | revenues; amending s. 718.112, F.S.; revising provisions
52 | relating to the terms of appointment or election of
53 | condominium members to a board of administration; creating
54 | exceptions to such provisions for condominiums that
55 | contain timeshares; specifying a certification that a
56 | person who is appointed or elected to a board of

57 administration must make or educational requirements such
58 board member must satisfy; conforming cross-references to
59 changes made by the act; deleting a provision prohibiting
60 an association from foregoing the retrofitting with a fire
61 sprinkler system of common areas in a high-rise building;
62 prohibiting local authorities having jurisdiction from
63 requiring retrofitting with a sprinkler system or other
64 engineered lifesafety system before a specified date;
65 requiring an association that has not voted to forego
66 retrofitting to file for a building permit by a certain
67 date; authorizing an association to forgo retrofitting
68 under certain circumstances; providing requirements for a
69 special meeting of unit owners which may be called every 3
70 years in order to vote to forgo retrofitting of the
71 sprinkler system or other engineered lifesafety systems;
72 providing meeting notice requirements; expanding the
73 monetary obligations that a director or officer must
74 satisfy to avoid abandoning his or her office; revising
75 provisions relating to director or officer offenses;
76 providing that a condominium association may expend moneys
77 for neighborhood marketing activities; amending s.
78 718.115, F.S.; specifying certain services provided in a
79 declaration of condominium which are obtained pursuant to
80 a bulk contract to be deemed a common expense; specifying
81 provisions that must be contained in a bulk contract;
82 specifying cancellation procedures for bulk contracts;
83 amending s. 718.116, F.S.; increasing the liability of a
84 first mortgagee or assignee of a first mortgagee for

85 assessments owed at the time of a foreclosure sale;
86 requiring a tenant in a unit owned by a person who is
87 delinquent in the payment of a monetary obligation to the
88 condominium association to pay rent to the association
89 under certain circumstances; authorizing the condominium
90 association to sue such tenant who fails to pay rent for
91 eviction under certain circumstances; providing that the
92 tenant is immune from claims from the unit owner as the
93 result of paying rent to the association under certain
94 circumstances; amending s. 718.117, F.S.; revising the
95 circumstances under which a condominium association may be
96 terminated due to economic waste or impossibility;
97 revising provisions specifying the effect of a termination
98 of condominium; amending s. 718.202, F.S.; providing that
99 certain escrow funds may be maintained in a common escrow
100 account; amending s. 718.301, F.S.; revising conditions
101 under which unit owners other than the developer may elect
102 at least a majority of the members of the board of
103 administration of an association; amending s. 718.303,
104 F.S.; authorizing an association to suspend for a
105 reasonable time the right of a unit owner or the unit's
106 occupant, licensee, or invitee to use certain common
107 elements under certain circumstances; prohibiting a fine
108 from being levied or a suspension from being imposed
109 unless the association meets certain requirements for
110 notice and provides an opportunity for a hearing;
111 authorizing an association to suspend voting rights of a
112 member due to nonpayment of assessments, fines, or other

113 charges under certain circumstances; amending s. 718.501,
114 F.S.; specifying that the jurisdiction of the Division of
115 Florida Condominiums, Timeshares, and Mobile Homes
116 includes bulk assignees and bulk buyers; creating part VII
117 of ch. 718, F.S.; creating the "Distressed Condominium
118 Relief Act"; providing legislative findings and intent;
119 defining the terms "bulk assignee" and "bulk buyer";
120 providing for the assignment of developer rights by a bulk
121 assignee; specifying liabilities of bulk assignees and
122 bulk buyers; providing exceptions; providing additional
123 responsibilities of bulk assignees and bulk buyers;
124 authorizing certain entities to assign developer rights to
125 a bulk assignee; limiting the number of bulk assignees at
126 any given time; providing for the transfer of control of a
127 board of administration to unit owners; providing effects
128 of such transfer on parcels acquired by a bulk assignee;
129 providing obligations of a bulk assignee upon the transfer
130 of control of a board of administration; requiring that a
131 bulk assignee certify certain information in writing;
132 providing for the resolution of a conflict between
133 specified provisions of state law; providing that the
134 failure of a bulk assignee or bulk buyer to comply with
135 specified provisions of state law results in the loss of
136 certain protections and exemptions; requiring that a bulk
137 assignee or bulk buyer file certain information with the
138 Division of Florida Condominiums, Timeshares, and Mobile
139 Homes of the Department of Business and Professional
140 Regulation before offering any units for sale or lease in

141 excess of a specified term; requiring that a copy of such
142 information be provided to a prospective purchaser or
143 tenant; requiring that certain contracts and disclosure
144 statements contain specified statements; requiring that a
145 bulk assignee or bulk buyer comply with certain disclosure
146 requirements; prohibiting a bulk assignee from authorizing
147 certain actions on behalf of an association while the bulk
148 assignee is in control of the board of administration of
149 the association; requiring that a bulk assignee or bulk
150 buyer comply with certain laws with respect to contracts
151 entered into by the association while the bulk assignee or
152 bulk buyer was in control of the board of administration;
153 providing parcel owners with specified protections
154 regarding certain contracts; requiring that a bulk buyer
155 comply with certain requirements regarding the transfer of
156 a parcel; prohibiting a person from being classified as a
157 bulk assignee or bulk buyer unless condominium parcels
158 were acquired before a specified date; providing that the
159 assignment of developer rights to a bulk assignee does not
160 release a developer from certain liabilities; amending s.
161 719.106, F.S.; providing for the filling of vacancies on
162 the board of administration of a cooperative; amending s.
163 719.1055, F.S.; providing an additional required provision
164 in cooperative bylaws; deleting a provision prohibiting an
165 association from foregoing the retrofitting with a fire
166 sprinkler system of common areas in a high-rise building;
167 prohibiting local authorities having jurisdiction from
168 requiring retrofitting with a sprinkler system or other

169 | engineered lifesafety system before a specified date;
170 | providing requirements for a special meeting of unit
171 | owners which may be called every 3 years in order to vote
172 | to require retrofitting of the sprinkler system or other
173 | engineered lifesafety system; providing meeting notice
174 | requirements; amending s. 719.108, F.S.; providing for a
175 | lien by an association on a cooperative unit for certain
176 | fees and costs; providing procedures and notice
177 | requirements for the filing of a lien by an association;
178 | requiring a tenant in a unit owned by a person who is
179 | delinquent in the payment of a monetary obligation to the
180 | cooperative association to pay rent to the association
181 | under certain circumstances; amending s. 720.303, F.S.;
182 | revising provisions relating to homeowners' association
183 | board meetings, inspection and copying of records, and
184 | reserve accounts of budgets; expanding the list of
185 | association records that are not accessible to members and
186 | parcel owners; prohibiting certain association personnel
187 | from receiving a salary or compensation; providing
188 | exceptions; amending s. 720.304, F.S.; providing that a
189 | flagpole and any flagpole display are subject to certain
190 | codes and regulations; amending s. 720.305, F.S.;
191 | authorizing a homeowners' association to suspend rights to
192 | use common areas and facilities if the member is
193 | delinquent on the payment of a monetary obligation due for
194 | a certain period of time; providing procedures and notice
195 | requirements for levying a fine or imposing a suspension;
196 | amending s. 720.306, F.S.; providing requirements for

197 secret ballots; providing procedures for filling a vacancy
198 on the board of directors of a homeowners' association;
199 amending s. 720.3085, F.S.; requiring a tenant in a
200 property owned by a person who is delinquent in the
201 payment of a monetary obligation to the homeowners'
202 association to pay rent to the association under certain
203 circumstances; amending s. 720.31, F.S.; authorizing an
204 association to enter into certain agreements to use lands
205 or facilities; requiring that certain items be stated and
206 fully described in the declaration; limiting an
207 association's power to enter into such agreements after a
208 specified period following the recording of a declaration;
209 requiring that certain agreements be approved by a
210 specified percentage of voting interests of an association
211 when the declaration is silent as to the authority of an
212 association to enter into such agreement; authorizing an
213 association to join with other associations or a master
214 association under certain circumstances and for specified
215 purposes; creating s. 720.315, F.S.; prohibiting the board
216 of directors of a homeowners' association from levying a
217 special assessment before turnover of the association by
218 the developer unless certain conditions are met; providing
219 an effective date.

220

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

222

223 Section 1. Subsection (8) is added to section 399.02,
224 Florida Statutes, to read:

225 399.02 General requirements.—

226 (8) Updates to the code requiring modifications for Phase
 227 II Firefighters' Service on existing elevators, as amended into
 228 the Safety Code for Existing Elevators and Escalators, ASME
 229 A17.1 and A17.3, may not be enforced on elevators in
 230 condominiums, cooperatives, or multifamily residential buildings
 231 issued a certificate of occupancy by the local building
 232 authority as of July 1, 2008, for 5 years or until the elevator
 233 is replaced or requires major modification, whichever occurs
 234 first. This exception does not apply to a building for which a
 235 certificate of occupancy was issued after July 1, 2008. This
 236 exception does not prevent an elevator owner from requesting a
 237 variance from the applicable codes before or after the
 238 expiration of the 5-year term. This subsection does not prohibit
 239 the division from granting variances pursuant to s. 120.542. The
 240 division shall adopt rules to administer this subsection.

241 Section 2. Subsection (7) of section 617.0721, Florida
 242 Statutes, is amended to read:

243 617.0721 Voting by members.—

244 (7) Subsections (1), ~~(2)~~, (5), and (6) do not apply to a
 245 corporation that is an association, as defined in s. 720.301, or
 246 a corporation regulated by chapter 718 or chapter 719.

247 Section 3. Subsection (3) is added to section 617.0808,
 248 Florida Statutes, to read:

249 617.0808 Removal of directors.—

250 (3) This section does not apply to any corporation that is
 251 an association, as defined in s. 720.301, or a corporation
 252 regulated under chapter 718 or chapter 719.

253 Section 4. Section 617.1606, Florida Statutes, is created
 254 to read:

255 617.1606 Access to records.—Sections 617.1601–617.1605 do
 256 not apply to a corporation that is an association, as defined in
 257 s. 720.301, or a corporation regulated under chapter 718 or
 258 chapter 719.

259 Section 5. Section 627.714, Florida Statutes, is created
 260 to read:

261 627.714 Residential condominium unit owner coverage; loss
 262 assessment coverage required.—For policies issued or renewed on
 263 or after July 1, 2010, coverage under a condominium unit owner's
 264 residential property policy must include at least \$2,000 in
 265 property loss assessment coverage for all assessments made as a
 266 result of the same direct loss to the property, regardless of
 267 the number of assessments, owned by all members of the
 268 association collectively if such loss is of the type of loss
 269 covered by the unit owner's residential property insurance
 270 policy, to which a deductible of no more than \$250 per direct
 271 property loss applies. If a deductible was or will be applied to
 272 other property loss sustained by the unit owner resulting from
 273 the same direct loss to the property, no deductible applies to
 274 the loss assessment coverage. The maximum amount of any
 275 condominium unit owner's loss assessment coverage that can be
 276 assessed for any loss shall be an amount equal to that unit
 277 owner's loss assessment coverage limit that was in effect 1 day
 278 before the date of the occurrence. Any changes to the limits of
 279 a condominium unit owner's coverage for loss assessments that
 280 are made on or after 1 day before the date that the loss occurs

281 shall not be applicable to that loss. Regardless of the number
 282 of assessments, an insurer providing loss assessment coverage to
 283 a condominium unit owner is not required to pay more than an
 284 amount equal to that unit owner's loss assessment coverage limit
 285 as a result of the same direct loss to property. Every
 286 individual condominium unit owner's residential property policy
 287 must contain a provision stating that the coverage afforded by
 288 such policy is excess coverage over the amount recoverable under
 289 any other policy covering the same property.

290 Section 6. Subsection (13) is added to section 633.0215,
 291 Florida Statutes, to read:

292 633.0215 Florida Fire Prevention Code.—

293 (13) A condominium, cooperative, or multifamily
 294 residential building that is less than four stories in height
 295 and has a corridor providing an exterior means of egress is
 296 exempt from the requirement to install a manual fire alarm
 297 system under s. 9.6 of the Life Safety Code adopted in the
 298 Florida Fire Prevention Code.

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

301 718.103 Definitions.—As used in this chapter, the term:

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

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

308 (b) A cooperative association that ~~which~~ creates a

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309 condominium by conversion of an existing residential cooperative
310 after control of the association has been transferred to the
311 unit owners if, following the conversion, the unit owners are
312 ~~will be~~ the same persons who were unit owners of the cooperative
313 and no units are offered for sale or lease to the public as part
314 of the plan of conversion;—

315 (c) A bulk assignee or bulk buyer as defined in s.
316 718.703; or

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

321 Section 8. Subsection (13) of section 718.110, Florida
322 Statutes, is amended to read:

323 718.110 Amendment of declaration; correction of error or
324 omission in declaration by circuit court.—

325 (13) An ~~Any~~ amendment prohibiting ~~restricting~~ unit owners
326 from renting their units or altering the duration of the rental
327 term or specifying or limiting the number of times unit owners
328 are entitled to rent their units during a specified period
329 ~~owners' rights relating to the rental of units~~ applies only to
330 unit owners who consent to the amendment and unit owners who
331 acquire title to ~~purchase~~ their units after the effective date
332 of that amendment.

333 Section 9. Paragraphs (a), (b), (c), (d), (f), (g), (j),
334 and (n) of subsection (11) and subsections (12) and (13) of
335 section 718.111, Florida Statutes, are amended to read:

336 718.111 The association.—

337 (11) INSURANCE.—In order to protect the safety, health,
338 and welfare of the people of the State of Florida and to ensure
339 consistency in the provision of insurance coverage to
340 condominiums and their unit owners, this subsection applies to
341 every residential condominium in the state, regardless of the
342 date of its declaration of condominium. It is the intent of the
343 Legislature to encourage lower or stable insurance premiums for
344 associations described in this subsection.

345 (a) Adequate property hazard insurance, regardless of any
346 requirement in the declaration of condominium for coverage by
347 the association for full insurable value, replacement cost, or
348 similar coverage, must ~~shall~~ be based on ~~upon~~ the replacement
349 cost of the property to be insured as determined by an
350 independent insurance appraisal or update of a prior appraisal.
351 The replacement cost must ~~full insurable value shall~~ be
352 determined at least once every 36 months.

353 1. An association or group of associations may provide
354 adequate property hazard insurance through a self-insurance fund
355 that complies with the requirements of ss. 624.460-624.488.

356 2. The association may also provide adequate property
357 ~~hazard~~ insurance coverage for a group of at least ~~no fewer than~~
358 three communities created and operating under this chapter,
359 chapter 719, chapter 720, or chapter 721 by obtaining and
360 maintaining for such communities insurance coverage sufficient
361 to cover an amount equal to the probable maximum loss for the
362 communities for a 250-year windstorm event. Such probable
363 maximum loss must be determined through the use of a competent
364 model that has been accepted by the Florida Commission on

365 Hurricane Loss Projection Methodology. A ~~No~~ policy or program
 366 providing such coverage may not ~~shall~~ be issued or renewed after
 367 July 1, 2008, unless it has been reviewed and approved by the
 368 Office of Insurance Regulation. The review and approval must
 369 ~~shall~~ include approval of the policy and related forms pursuant
 370 to ss. 627.410 and 627.411, approval of the rates pursuant to s.
 371 627.062, a determination that the loss model approved by the
 372 commission was accurately and appropriately applied to the
 373 insured structures to determine the 250-year probable maximum
 374 loss, and a determination that complete and accurate disclosure
 375 of all material provisions is provided to condominium unit
 376 owners before ~~prior to~~ execution of the agreement by a
 377 condominium association.

378 3. When determining the adequate amount of property hazard
 379 insurance coverage, the association may consider deductibles as
 380 determined by this subsection.

381 (b) If an association is a developer-controlled
 382 association, the association shall exercise its best efforts to
 383 obtain and maintain insurance as described in paragraph (a).
 384 Failure to obtain and maintain adequate property hazard
 385 insurance during any period of developer control constitutes a
 386 breach of fiduciary responsibility by the developer-appointed
 387 members of the board of directors of the association, unless the
 388 members can show that despite such failure, they have made their
 389 best efforts to maintain the required coverage.

390 (c) Policies may include deductibles as determined by the
 391 board.

392 1. The deductibles must ~~shall~~ be consistent with industry

393 standards and prevailing practice for communities of similar
 394 size and age, and having similar construction and facilities in
 395 the locale where the condominium property is situated.

396 2. The deductibles may be based upon available funds,
 397 including reserve accounts, or predetermined assessment
 398 authority at the time the insurance is obtained.

399 3. The board shall establish the amount of deductibles
 400 based upon the level of available funds and predetermined
 401 assessment authority at a meeting of the board. ~~Such meeting~~
 402 ~~shall be open to all unit owners~~ in the manner set forth in s.
 403 718.112(2)(e). ~~The notice of such meeting must state the~~
 404 ~~proposed deductible and the available funds and the assessment~~
 405 ~~authority relied upon by the board and estimate any potential~~
 406 ~~assessment amount against each unit, if any. The meeting~~
 407 ~~described in this paragraph may be held in conjunction with a~~
 408 ~~meeting to consider the proposed budget or an amendment thereto.~~

409 (d) An association controlled by unit owners operating as
 410 a residential condominium shall use its best efforts to obtain
 411 and maintain adequate property insurance to protect the
 412 association, the association property, the common elements, and
 413 the condominium property that must ~~is required to~~ be insured by
 414 the association pursuant to this subsection.

415 (f) Every property hazard insurance policy issued or
 416 renewed on or after January 1, 2009, for the purpose of
 417 protecting the condominium must ~~shall~~ provide primary coverage
 418 for:

419 1. All portions of the condominium property as originally
 420 installed or replacement of like kind and quality, in accordance

421 with the original plans and specifications.

422 2. All alterations or additions made to the condominium
423 property or association property pursuant to s. 718.113(2).

424 3. The coverage must ~~shall~~ exclude all personal property
425 within the unit or limited common elements, and floor, wall, and
426 ceiling coverings, electrical fixtures, appliances, water
427 heaters, water filters, built-in cabinets and countertops, and
428 window treatments, including curtains, drapes, blinds, hardware,
429 and similar window treatment components, or replacements of any
430 of the foregoing which are located within the boundaries of the
431 unit and serve only such unit. Such property and any insurance
432 thereupon is the responsibility of the unit owner.

433 (g) A condominium unit owner's policy must conform to the
434 requirements of s. 627.714. ~~Every hazard insurance policy issued~~
435 ~~or renewed on or after January 1, 2009, to an individual unit~~
436 ~~owner must contain a provision stating that the coverage~~
437 ~~afforded by such policy is excess coverage over the amount~~
438 ~~recoverable under any other policy covering the same property.~~
439 ~~Such policies must include special assessment coverage of no~~
440 ~~less than \$2,000 per occurrence. An insurance policy issued to~~
441 ~~an individual unit owner providing such coverage does not~~
442 ~~provide rights of subrogation against the condominium~~
443 ~~association operating the condominium in which such individual's~~
444 ~~unit is located.~~

445 1. ~~All improvements or additions to the condominium~~
446 ~~property that benefit fewer than all unit owners shall be~~
447 ~~insured by the unit owner or owners having the use thereof, or~~
448 ~~may be insured by the association at the cost and expense of the~~

449 ~~unit owners having the use thereof.~~

450 ~~2. The association shall require each owner to provide~~
451 ~~evidence of a currently effective policy of hazard and liability~~
452 ~~insurance upon request, but not more than once per year. Upon~~
453 ~~the failure of an owner to provide a certificate of insurance~~
454 ~~issued by an insurer approved to write such insurance in this~~
455 ~~state within 30 days after the date on which a written request~~
456 ~~is delivered, the association may purchase a policy of insurance~~
457 ~~on behalf of an owner. The cost of such a policy, together with~~
458 ~~reconstruction costs undertaken by the association but which are~~
459 ~~the responsibility of the unit owner, may be collected in the~~
460 ~~manner provided for the collection of assessments in s. 718.116.~~

461 ~~1.3.~~ All reconstruction work after a property casualty
462 loss must ~~shall~~ be undertaken by the association except as
463 otherwise authorized in this section. A unit owner may undertake
464 reconstruction work on portions of the unit with the prior
465 written consent of the board of administration. However, such
466 work may be conditioned upon the approval of the repair methods,
467 the qualifications of the proposed contractor, or the contract
468 that is used for that purpose. A unit owner must ~~shall~~ obtain
469 all required governmental permits and approvals before ~~prior to~~
470 commencing reconstruction.

471 ~~2.4.~~ Unit owners are responsible for the cost of
472 reconstruction of any portions of the condominium property for
473 which the unit owner is required to carry property casualty
474 insurance, and any such reconstruction work undertaken by the
475 association is ~~shall be~~ chargeable to the unit owner and
476 enforceable as an assessment pursuant to s. 718.116. ~~The~~

477 ~~association must be an additional named insured and loss payee~~
 478 ~~on all casualty insurance policies issued to unit owners in the~~
 479 ~~condominium operated by the association.~~

480 3.5. A multicondominium association may elect, by a
 481 majority vote of the collective members of the condominiums
 482 operated by the association, to operate the ~~such~~ condominiums as
 483 a single condominium for purposes of insurance matters,
 484 including, but not limited to, the purchase of the property
 485 ~~hazard~~ insurance required by this section and the apportionment
 486 of deductibles and damages in excess of coverage. The election
 487 to aggregate the treatment of insurance premiums, deductibles,
 488 and excess damages constitutes an amendment to the declaration
 489 of all condominiums operated by the association, and the costs
 490 of insurance must ~~shall~~ be stated in the association budget. The
 491 amendments must ~~shall~~ be recorded as required by s. 718.110.

492 (j) Any portion of the condominium property that must
 493 ~~required to~~ be insured by the association against property
 494 ~~casualty~~ loss pursuant to paragraph (f) which is damaged ~~by~~
 495 ~~casualty~~ shall be reconstructed, repaired, or replaced as
 496 necessary by the association as a common expense. All property
 497 ~~hazard~~ insurance deductibles, uninsured losses, and other
 498 damages in excess of property ~~hazard~~ insurance coverage under
 499 the property ~~hazard~~ insurance policies maintained by the
 500 association are a common expense of the condominium, except
 501 that:

502 1. A unit owner is responsible for the costs of repair or
 503 replacement of any portion of the condominium property not paid
 504 by insurance proceeds, if such damage is caused by intentional

505 | conduct, negligence, or failure to comply with the terms of the
 506 | declaration or the rules of the association by a unit owner, the
 507 | members of his or her family, unit occupants, tenants, guests,
 508 | or invitees, without compromise of the subrogation rights of the
 509 | ~~any insurer as set forth in paragraph (g).~~

510 | 2. The provisions of subparagraph 1. regarding the
 511 | financial responsibility of a unit owner for the costs of
 512 | repairing or replacing other portions of the condominium
 513 | property also apply to the costs of repair or replacement of
 514 | personal property of other unit owners or the association, as
 515 | well as other property, whether real or personal, which the unit
 516 | owners are required to insure ~~under paragraph (g).~~

517 | 3. To the extent the cost of repair or reconstruction for
 518 | which the unit owner is responsible under this paragraph is
 519 | reimbursed to the association by insurance proceeds, ~~and, to the~~
 520 | ~~extent~~ the association has collected the cost of such repair or
 521 | reconstruction from the unit owner, the association shall
 522 | reimburse the unit owner without the waiver of any rights of
 523 | subrogation.

524 | 4. The association is not obligated to pay for
 525 | reconstruction or repairs of property ~~casualty~~ losses as a
 526 | common expense if the property ~~casualty~~ losses were known or
 527 | should have been known to a unit owner and were not reported to
 528 | the association until after the insurance claim of the
 529 | association for that property ~~casualty~~ was settled or resolved
 530 | with finality, or denied because ~~on the basis that~~ it was
 531 | untimely filed.

532 | (n) The association is not obligated to pay for any

533 reconstruction or repair expenses due to property ~~casualty~~ loss
 534 to any improvements installed by a current or former owner of
 535 the unit or by the developer if the improvement benefits only
 536 the unit for which it was installed and is not part of the
 537 standard improvements installed by the developer on all units as
 538 part of original construction, whether or not such improvement
 539 is located within the unit. This paragraph does not relieve any
 540 party of its obligations regarding recovery due under any
 541 insurance implemented specifically for ~~any~~ such improvements.

542 (12) OFFICIAL RECORDS.—

543 (a) From the inception of the association, the association
 544 shall maintain each of the following items, if ~~when~~ applicable,
 545 which shall constitute the official records of the association:

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

548 2. A photocopy of the recorded declaration of condominium
 549 of each condominium operated by the association and of each
 550 amendment to each declaration.

551 3. A photocopy of the recorded bylaws of the association
 552 and of each amendment to the bylaws.

553 4. A certified copy of the articles of incorporation of
 554 the association, or other documents creating the association,
 555 and of each amendment thereto.

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

557 6. A book or books which contain the minutes of all
 558 meetings of the association, of the board of administration, and
 559 of unit owners, which minutes must ~~shall~~ be retained for at
 560 least ~~a period of not less than~~ 7 years.

561 7. A current roster of all unit owners and their mailing
562 addresses, unit identifications, voting certifications, and, if
563 known, telephone numbers. The association shall also maintain
564 the electronic mailing addresses and the numbers designated by
565 unit owners for receiving notice sent by electronic transmission
566 of those unit owners consenting to receive notice by electronic
567 transmission. The electronic mailing addresses and telephone
568 numbers must ~~provided by unit owners to receive notice by~~
569 ~~electronic transmission shall~~ be removed from association
570 records if ~~when~~ consent to receive notice by electronic
571 transmission is revoked. However, the association is not liable
572 for an erroneous disclosure of the electronic mail address or
573 the number for receiving electronic transmission of notices.

574 8. All current insurance policies of the association and
575 condominiums operated by the association.

576 9. A current copy of any management agreement, lease, or
577 other contract to which the association is a party or under
578 which the association or the unit owners have an obligation or
579 responsibility.

580 10. Bills of sale or transfer for all property owned by
581 the association.

582 11. Accounting records for the association and separate
583 accounting records for each condominium which the association
584 operates. All accounting records shall be maintained for at
585 least ~~a period of not less than~~ 7 years. Any person who
586 knowingly or intentionally defaces or destroys accounting
587 records required to be created and maintained by this chapter
588 during the period for which such records are required to be

589 maintained, or who knowingly or intentionally fails to create or
 590 maintain such ~~accounting~~ records ~~required to be maintained by~~
 591 ~~this chapter~~, with the intent of causing harm to the association
 592 or one or more of its members, is personally subject to a civil
 593 penalty pursuant to s. 718.501(1)(d). The accounting records
 594 must ~~shall~~ include, but are not limited to:

595 a. Accurate, itemized, and detailed records of all
 596 receipts and expenditures.

597 b. A current account and a monthly, bimonthly, or
 598 quarterly statement of the account for each unit designating the
 599 name of the unit owner, the due date and amount of each
 600 assessment, the amount paid upon the account, and the balance
 601 due.

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

604 d. All contracts for work to be performed. Bids for work
 605 to be performed are ~~shall~~ also ~~be~~ considered official records
 606 and must ~~shall~~ be maintained by the association.

607 12. Ballots, sign-in sheets, voting proxies, and all other
 608 papers relating to voting by unit owners, which must ~~shall~~ be
 609 maintained for ~~a period of~~ 1 year from the date of the election,
 610 vote, or meeting to which the document relates, notwithstanding
 611 paragraph (b).

612 13. All rental records if, ~~when~~ the association is acting
 613 as agent for the rental of condominium units.

614 14. A copy of the current question and answer sheet as
 615 described in ~~by~~ s. 718.504.

616 15. All other records of the association not specifically

617 included in the foregoing which are related to the operation of
618 the association.

619 16. A copy of the inspection report as provided ~~for~~ in s.
620 718.301(4)(p).

621 (b) The official records of the association must ~~shall~~ be
622 maintained within the state for at least 7 years. The records of
623 the association shall be made available to a unit owner within
624 45 miles of the condominium property or within the county in
625 which the condominium property is located within 5 working days
626 after receipt of a written request by the board or its designee.
627 However, such distance requirement does not apply to an
628 association governing a timeshare condominium. This paragraph
629 may be complied with by having a copy of the official records of
630 the association available for inspection or copying on the
631 condominium property or association property, or the association
632 may offer the option of making the records ~~of the association~~
633 available to a unit owner ~~either~~ electronically via the Internet
634 or by allowing the records to be viewed in electronic format on
635 a computer screen and printed upon request. The association is
636 not responsible for the use or misuse of the information
637 provided to an association member or his or her authorized
638 representative pursuant to the compliance requirements of this
639 chapter unless the association has an affirmative duty not to
640 disclose such information pursuant to this chapter.

641 (c) The official records of the association are open to
642 inspection by any association member or the authorized
643 representative of such member at all reasonable times. The right
644 to inspect the records includes the right to make or obtain

645 copies, at the reasonable expense, if any, of the ~~association~~
646 member. The association may adopt reasonable rules regarding the
647 frequency, time, location, notice, and manner of record
648 inspections and copying. The failure of an association to
649 provide the records within 10 working days after receipt of a
650 written request creates ~~shall create~~ a rebuttable presumption
651 that the association willfully failed to comply with this
652 paragraph. A unit owner who is denied access to official records
653 is entitled to the actual damages or minimum damages for the
654 association's willful failure to comply ~~with this paragraph~~. The
655 Minimum damages shall be \$50 per calendar day up to 10 days, the
656 calculation to begin on the 11th working day after receipt of
657 the written request. The failure to permit inspection of the
658 association records as provided herein entitles any person
659 prevailing in an enforcement action to recover reasonable
660 attorney's fees from the person in control of the records who,
661 directly or indirectly, knowingly denied access to the records
662 ~~for inspection~~. Any person who knowingly or intentionally
663 defaces or destroys accounting records that are required by this
664 chapter to be maintained during the period for which such
665 records are required to be maintained, or who knowingly or
666 intentionally fails to create or maintain accounting records
667 that are required to be created or maintained ~~by this chapter~~,
668 with the intent of causing harm to the association or one or
669 more of its members, is personally subject to a civil penalty
670 pursuant to s. 718.501(1)(d). The association shall maintain an
671 adequate number of copies of the declaration, articles of
672 incorporation, bylaws, and rules, and all amendments to each of

673 the foregoing, as well as the question and answer sheet provided
674 for in s. 718.504 and year-end financial information required in
675 this section, on the condominium property to ensure their
676 availability to unit owners and prospective purchasers, and may
677 charge its actual costs for preparing and furnishing these
678 documents to those requesting the documents ~~same~~.

679 Notwithstanding the provisions of this paragraph, the following
680 records are ~~shall~~ not ~~be~~ accessible to unit owners:

681 1. Any record protected by the lawyer-client privilege as
682 described in s. 90.502; and any record protected by the work-
683 product privilege, including any record prepared by an
684 association attorney or prepared at the attorney's express
685 direction; which reflects a mental impression, conclusion,
686 litigation strategy, or legal theory of the attorney or the
687 association, and which was prepared exclusively for civil or
688 criminal litigation or for adversarial administrative
689 proceedings, or which was prepared in anticipation of imminent
690 civil or criminal litigation or imminent adversarial
691 administrative proceedings until the conclusion of the
692 litigation or adversarial administrative proceedings.

693 2. Information obtained by an association in connection
694 with the approval of the lease, sale, or other transfer of a
695 unit.

696 3. Personnel records of association employees, including,
697 but not limited to, disciplinary, payroll, health, and insurance
698 records.

699 4.3. Medical records of unit owners.

700 5.4. Social security numbers, driver's license numbers,

701 credit card numbers, e-mail addresses, telephone numbers,
702 emergency contact information, any addresses of a unit owner
703 other than as provided to fulfill the association's notice
704 requirements, and other personal identifying information of any
705 person, excluding the person's name, unit designation, mailing
706 address, and property address.

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

709 7. The software and operating system used by the
710 association which allows manipulation of data, even if the owner
711 owns a copy of the same software used by the association. The
712 data is part of the official records of the association.

713 (d) The association shall prepare a question and answer
714 sheet as described in s. 718.504, and shall update it annually.

715 (e)1. The association or its authorized agent is not
716 required to provide a prospective purchaser or lienholder with
717 information about the condominium or the association other than
718 information or documents required by this chapter to be made
719 available or disclosed. The association or its authorized agent
720 may charge a reasonable fee to the prospective purchaser,
721 lienholder, or the current unit owner for providing good faith
722 responses to requests for information by or on behalf of a
723 prospective purchaser or lienholder, other than that required by
724 law, if the fee does not exceed \$150 plus the reasonable cost of
725 photocopying and any attorney's fees incurred by the association
726 in connection with the response.

727 2. An association and its authorized agent are not liable
728 for providing such information in good faith pursuant to a

729 written request if the person providing the information includes
730 a written statement in substantially the following form: "The
731 responses herein are made in good faith and to the best of my
732 ability as to their accuracy."

733 (13) FINANCIAL REPORTING.—Within 90 days after the end of
734 the fiscal year, or annually on a date provided in the bylaws,
735 the association shall prepare and complete, or contract for the
736 preparation and completion of, a financial report for the
737 preceding fiscal year. Within 21 days after the final financial
738 report is completed by the association or received from the
739 third party, but not later than 120 days after the end of the
740 fiscal year or other date as provided in the bylaws, the
741 association shall mail to each unit owner at the address last
742 furnished to the association by the unit owner, or hand deliver
743 to each unit owner, a copy of the financial report or a notice
744 that a copy of the financial report will be mailed or hand
745 delivered to the unit owner, without charge, upon receipt of a
746 written request from the unit owner. The division shall adopt
747 rules setting forth uniform accounting principles and standards
748 to be used by all associations and ~~shall adopt rules~~ addressing
749 the financial reporting requirements for multicondominium
750 associations. The rules must ~~shall~~ include, but not be limited
751 to, standards for presenting a summary of association reserves,
752 including a good faith estimate disclosing the annual amount of
753 reserve funds that would be necessary for the association to
754 fully fund reserves for each reserve item based on the straight-
755 line accounting method. This disclosure is not applicable to
756 reserves funded via the pooling method. ~~uniform accounting~~

757 ~~principles and standards for stating the disclosure of at least~~
 758 ~~a summary of the reserves, including information as to whether~~
 759 ~~such reserves are being funded at a level sufficient to prevent~~
 760 ~~the need for a special assessment and, if not, the amount of~~
 761 ~~assessments necessary to bring the reserves up to the level~~
 762 ~~necessary to avoid a special assessment. The person preparing~~
 763 ~~the financial reports shall be entitled to rely on an inspection~~
 764 ~~report prepared for or provided to the association to meet the~~
 765 ~~fiscal and fiduciary standards of this chapter.~~ In adopting such
 766 rules, the division shall consider the number of members and
 767 annual revenues of an association. Financial reports shall be
 768 prepared as follows:

769 (a) An association that meets the criteria of this
 770 paragraph shall prepare ~~or cause to be prepared~~ a complete set
 771 of financial statements in accordance with generally accepted
 772 accounting principles. The financial statements must ~~shall~~ be
 773 based upon the association's total annual revenues, as follows:

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

777 2. An association with total annual revenues of at least
 778 \$200,000, but less than \$400,000, shall prepare reviewed
 779 financial statements.

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

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

785 2. An association that ~~which~~ operates fewer ~~less~~ than 75
 786 ~~50~~ units, regardless of the association's annual revenues, shall
 787 prepare a report of cash receipts and expenditures in lieu of
 788 financial statements required by paragraph (a).

789 3. A report of cash receipts and disbursements must
 790 disclose the amount of receipts by accounts and receipt
 791 classifications and the amount of expenses by accounts and
 792 expense classifications, including, but not limited to, the
 793 following, as applicable: costs for security, professional and
 794 management fees and expenses, taxes, costs for recreation
 795 facilities, expenses for refuse collection and utility services,
 796 expenses for lawn care, costs for building maintenance and
 797 repair, insurance costs, administration and salary expenses, and
 798 reserves accumulated and expended for capital expenditures,
 799 deferred maintenance, and any other category for which the
 800 association maintains reserves.

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

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

806 2. Reviewed or audited financial statements, if the
 807 association is required to prepare compiled financial
 808 statements; or

809 3. Audited financial statements if the association is
 810 required to prepare reviewed financial statements.

811 (d) If approved by a majority of the voting interests
 812 present at a properly called meeting of the association, an

813 association may prepare ~~or cause to be prepared~~:

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

816 2. A report of cash receipts and expenditures or a
817 compiled financial statement in lieu of a reviewed or audited
818 financial statement; or

819 3. A report of cash receipts and expenditures, a compiled
820 financial statement, or a reviewed financial statement in lieu
821 of an audited financial statement.

822

823 Such meeting and approval must occur before ~~prior to~~ the end of
824 the fiscal year and is effective only for the fiscal year in
825 which the vote is taken, except that the approval may also ~~may~~
826 be effective for the following fiscal year. With respect to an
827 association to which the developer has not turned over control
828 of the association, all unit owners, including the developer,
829 may vote on issues related to the preparation of financial
830 reports for the first 2 fiscal years of the association's
831 operation, beginning with the fiscal year in which the
832 declaration is recorded. Thereafter, all unit owners except the
833 developer may vote on such issues until control is turned over
834 to the association by the developer. Any audit or review
835 prepared under this section shall be paid for by the developer
836 if done before ~~prior to~~ turnover of control of the association.
837 An association may not waive the financial reporting
838 requirements of this section for more than 3 consecutive years.

839 Section 10. Paragraphs (d), (l), (n), and (o) of
840 subsection (2) of section 718.112, Florida Statutes, are

841 amended, and paragraph (e) is added to subsection (3) of that
 842 section, to read:

843 718.112 Bylaws.—

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

847 (d) Unit owner meetings.—

848 1. ~~There shall be~~ An annual meeting of the unit owners
 849 shall be held at the location provided in the association bylaws
 850 and, if the bylaws are silent as to the location, the meeting
 851 shall be held within 45 miles of the condominium property.

852 However, such distance requirement does not apply to an
 853 association governing a timeshare condominium. Unless the bylaws
 854 provide otherwise, a vacancy on the board caused by the
 855 expiration of a director's term shall be filled by electing a
 856 new board member, and the election must ~~shall~~ be by secret
 857 ballot. ~~‡~~ However, if the number of vacancies equals or exceeds
 858 the number of candidates, an ~~no~~ election is not required. Except
 859 in a timeshare condominium, the terms of all members of the
 860 board ~~shall~~ expire at the annual meeting and such board members
 861 may stand for reelection unless otherwise permitted by the
 862 bylaws. If ~~In the event that~~ the bylaws permit staggered terms
 863 of no more than 2 years and upon approval of a majority of the
 864 total voting interests, the association board members may serve
 865 2-year staggered terms. If the number of board members whose
 866 terms have expired exceeds the number of eligible members
 867 showing interest in or demonstrating an intention to run for the
 868 vacant positions ~~no person is interested in or demonstrates an~~

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869 ~~intention to run for the position of a board member whose term~~
870 ~~has expired according to the provisions of this subparagraph,~~
871 each such board member whose term has expired is eligible for
872 reappointment ~~shall be automatically reappointed~~ to the board of
873 administration and need not stand for reelection. In a
874 condominium association of more than 10 units or in a
875 condominium association that does not include timeshare units or
876 timeshare interests, coowners of a unit may not serve as members
877 of the board of directors at the same time unless they own more
878 than one unit or unless there are not enough eligible candidates
879 to fill the vacancies on the board at the time of the vacancy.
880 Any unit owner desiring to be a candidate for board membership
881 must ~~shall~~ comply with sub-subparagraph ~~subparagraph~~ 3.a. A
882 person who has been suspended or removed by the division under
883 this chapter, or who is delinquent in the payment of any fee,
884 fine, or special or regular assessment as provided in paragraph
885 (n), is not eligible for board membership. A person who has been
886 convicted of any felony in this state or in a United States
887 District or Territorial Court, or who has been convicted of any
888 offense in another jurisdiction that would be considered a
889 felony if committed in this state, is not eligible for board
890 membership unless such felon's civil rights have been restored
891 for at least ~~a period of no less than~~ 5 years as of the date on
892 which such person seeks election to the board. The validity of
893 an action by the board is not affected if it is later determined
894 that a member of the board is ineligible for board membership
895 due to having been convicted of a felony.

896 2. The bylaws must ~~shall~~ provide the method of calling

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897 meetings of unit owners, including annual meetings. Written
898 notice, which ~~notice~~ must include an agenda, shall be mailed,
899 hand delivered, or electronically transmitted to each unit owner
900 at least 14 days before ~~prior to~~ the annual meeting and must
901 ~~shall~~ be posted in a conspicuous place on the condominium
902 property at least 14 continuous days preceding the annual
903 meeting. Upon notice to the unit owners, the board shall, by
904 duly adopted rule, designate a specific location on the
905 condominium property or association property upon which all
906 notices of unit owner meetings shall be posted. ~~+~~ However, if
907 there is no condominium property or association property upon
908 which notices can be posted, this requirement does not apply. In
909 lieu of or in addition to the physical posting of meeting
910 notices ~~notice of any meeting of the unit owners on the~~
911 ~~condominium property,~~ the association may, by reasonable rule,
912 adopt a procedure for conspicuously posting and repeatedly
913 broadcasting the notice and the agenda on a closed-circuit cable
914 television system serving the condominium association. However,
915 if broadcast notice is used in lieu of a notice posted
916 physically on the condominium property, the notice and agenda
917 must be broadcast at least four times every broadcast hour of
918 each day that a posted notice is otherwise required under this
919 section. If ~~When~~ broadcast notice is provided, the notice and
920 agenda must be broadcast in a manner and for a sufficient
921 continuous length of time so as to allow an average reader to
922 observe the notice and read and comprehend the entire content of
923 the notice and the agenda. Unless a unit owner waives in writing
924 the right to receive notice of the annual meeting, such notice

925 must ~~shall~~ be hand delivered, mailed, or electronically
 926 transmitted to each unit owner. Notice for meetings and notice
 927 for all other purposes must ~~shall~~ be mailed to each unit owner
 928 at the address last furnished to the association by the unit
 929 owner, or hand delivered to each unit owner. However, if a unit
 930 is owned by more than one person, the association shall provide
 931 notice, for meetings and all other purposes, to that one address
 932 which the developer initially identifies for that purpose and
 933 thereafter as one or more of the owners of the unit shall ~~se~~
 934 advise the association in writing, or if no address is given or
 935 the owners of the unit do not agree, to the address provided on
 936 the deed of record. An officer of the association, or the
 937 manager or other person providing notice of the association
 938 meeting, shall provide an affidavit or United States Postal
 939 Service certificate of mailing, to be included in the official
 940 records of the association affirming that the notice was mailed
 941 or hand delivered, in accordance with this provision.

942 3. The members of the board shall be elected by written
 943 ballot or voting machine. Proxies may not ~~shall in no event~~ be
 944 used in electing the board, ~~either~~ in general elections or
 945 elections to fill vacancies caused by recall, resignation, or
 946 otherwise, unless otherwise provided in this chapter.

947 a. At least ~~Not less than~~ 60 days before a scheduled
 948 election, the association shall mail, deliver, or electronically
 949 transmit, whether by separate association mailing or included in
 950 another association mailing, delivery, or transmission,
 951 including regularly published newsletters, to each unit owner
 952 entitled to a vote, a first notice of the date of the election

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953 ~~along with a certification form provided by the division~~
954 ~~attesting that he or she has read and understands, to the best~~
955 ~~of his or her ability, the governing documents of the~~
956 ~~association and the provisions of this chapter and any~~
957 ~~applicable rules.~~ Any unit owner or other eligible person
958 desiring to be a candidate for the board must give written
959 notice of his or her intent to be a candidate to the association
960 at least ~~not less than~~ 40 days before a scheduled election.
961 Together with the written notice and agenda as set forth in
962 subparagraph 2., the association shall mail, deliver, or
963 electronically transmit a second notice of the election to all
964 unit owners entitled to vote ~~therein~~, together with a ballot
965 that lists ~~which shall list~~ all candidates. Upon request of a
966 candidate, ~~the association shall include~~ an information sheet,
967 no larger than 8 1/2 inches by 11 inches, which must be
968 furnished by the candidate at least ~~not less than~~ 35 days before
969 the election, must ~~along with the signed certification form~~
970 ~~provided for in this subparagraph~~, to be included with the
971 mailing, delivery, or transmission of the ballot, with the costs
972 of mailing, delivery, or electronic transmission and copying to
973 be borne by the association. The association is not liable for
974 the contents of the information sheets prepared by the
975 candidates. In order to reduce costs, the association may print
976 or duplicate the information sheets on both sides of the paper.
977 The division shall by rule establish voting procedures
978 consistent with this sub-subparagraph ~~the provisions contained~~
979 ~~herein~~, including rules establishing procedures for giving
980 notice by electronic transmission and rules providing for the

981 secrecy of ballots. Elections shall be decided by a plurality of
 982 those ballots cast. There is ~~shall be~~ no quorum requirement;
 983 however, at least 20 percent of the eligible voters must cast a
 984 ballot in order to have a valid election of members of the
 985 board. A ~~No~~ unit owner may not ~~shall~~ permit any other person to
 986 vote his or her ballot, and any ~~such~~ ballots improperly cast are
 987 ~~shall be deemed~~ invalid, provided any unit owner who violates
 988 this provision may be fined by the association in accordance
 989 with s. 718.303. A unit owner who needs assistance in casting
 990 the ballot for the reasons stated in s. 101.051 may obtain such
 991 assistance ~~in casting the ballot~~. The regular election must
 992 ~~shall~~ occur on the date of the annual meeting. ~~The provisions of~~
 993 This sub-subparagraph does ~~subparagraph shall~~ not apply to
 994 timeshare condominium associations. Notwithstanding ~~the~~
 995 ~~provisions of this~~ sub-subparagraph ~~subparagraph~~, an election is
 996 not required unless more candidates file notices of intent to
 997 run or are nominated than board vacancies exist.

998 b. Within 90 days after being elected or appointed to the
 999 board, each newly elected or appointed director shall certify in
 1000 writing to the secretary of the association that he or she has
 1001 read the association's declaration of condominium, articles of
 1002 incorporation, bylaws, and current written policies; that he or
 1003 she will work to uphold such documents and policies to the best
 1004 of his or her ability; and that he or she will faithfully
 1005 discharge his or her fiduciary responsibility to the
 1006 association's members. In lieu of this written certification,
 1007 the newly elected or appointed director may submit a certificate
 1008 of satisfactory completion of the educational curriculum

1009 administered by a division-approved condominium education
 1010 provider. A director who fails to timely file the written
 1011 certification or educational certificate is suspended from
 1012 service on the board until he or she complies with this sub-
 1013 subparagraph. The board may temporarily fill the vacancy during
 1014 the period of suspension. The secretary shall cause the
 1015 association to retain a director's written certification or
 1016 educational certificate for inspection by the members for 5
 1017 years after a director's election. Failure to have such written
 1018 certification or educational certificate on file does not affect
 1019 the validity of any action.

1020 4. Any approval by unit owners called for by this chapter
 1021 or the applicable declaration or bylaws, including, but not
 1022 limited to, the approval requirement in s. 718.111(8), shall be
 1023 made at a duly noticed meeting of unit owners and is ~~shall be~~
 1024 subject to all requirements of this chapter or the applicable
 1025 condominium documents relating to unit owner decisionmaking,
 1026 except that unit owners may take action by written agreement,
 1027 without meetings, on matters for which action by written
 1028 agreement without meetings is expressly allowed by the
 1029 applicable bylaws or declaration or any statute that provides
 1030 for such action.

1031 5. Unit owners may waive notice of specific meetings if
 1032 allowed by the applicable bylaws or declaration or any statute.
 1033 If authorized by the bylaws, notice of meetings of the board of
 1034 administration, unit owner meetings, except unit owner meetings
 1035 called to recall board members under paragraph (j), and
 1036 committee meetings may be given by electronic transmission to

1037 unit owners who consent to receive notice by electronic
 1038 transmission.

1039 6. Unit owners shall have the right to participate in
 1040 meetings of unit owners with reference to all designated agenda
 1041 items. However, the association may adopt reasonable rules
 1042 governing the frequency, duration, and manner of unit owner
 1043 participation.

1044 7. Any unit owner may tape record or videotape a meeting
 1045 of the unit owners subject to reasonable rules adopted by the
 1046 division.

1047 8. Unless otherwise provided in the bylaws, any vacancy
 1048 occurring on the board before the expiration of a term may be
 1049 filled by the affirmative vote of the majority of the remaining
 1050 directors, even if the remaining directors constitute less than
 1051 a quorum, or by the sole remaining director. In the alternative,
 1052 a board may hold an election to fill the vacancy, in which case
 1053 the election procedures must conform to the requirements of sub-
 1054 subparagraph ~~subparagraph~~ 3.a. unless the association governs 10
 1055 units or fewer ~~less~~ and has opted out of the statutory election
 1056 process, in which case the bylaws of the association control.
 1057 Unless otherwise provided in the bylaws, a board member
 1058 appointed or elected under this section shall fill the vacancy
 1059 for the unexpired term of the seat being filled. Filling
 1060 vacancies created by recall is governed by paragraph (j) and
 1061 rules adopted by the division.

1062
 1063 Notwithstanding sub-subparagraph 3.a. and subparagraph
 1064 ~~subparagraphs (b)2. and (d)3.~~, an association of 10 or fewer

1065 units may, by ~~the~~ affirmative vote of a majority of the total
 1066 voting interests, provide for different voting and election
 1067 procedures in its bylaws, which vote may be by a proxy
 1068 specifically delineating the different voting and election
 1069 procedures. The different voting and election procedures may
 1070 provide for elections to be conducted by limited or general
 1071 proxy.

1072 (1) Certificate of compliance. ~~There shall be~~ A provision
 1073 that a certificate of compliance from a licensed electrical
 1074 contractor or electrician may be accepted by the association's
 1075 board as evidence of compliance of the condominium units with
 1076 the applicable fire and life safety code must be included.
 1077 Notwithstanding ~~the provisions of~~ chapter 633 or of any other
 1078 code, statute, ordinance, administrative rule, or regulation, or
 1079 any interpretation of the foregoing, an association,
 1080 condominium, or unit owner is not obligated to retrofit the
 1081 common elements, association property, or units of a residential
 1082 condominium with a fire sprinkler system or any other form of
 1083 engineered lifesafety system in a building that has been
 1084 certified for occupancy by the applicable governmental entity,
 1085 if the unit owners have voted to forego such retrofitting and
 1086 engineered lifesafety system by the affirmative vote of two-
 1087 thirds of all voting interests in the affected condominium.
 1088 ~~However, a condominium association may not vote to forego the~~
 1089 ~~retrofitting with a fire sprinkler system of common areas in a~~
 1090 ~~high-rise building. For purposes of this subsection, the term~~
 1091 ~~"high-rise building" means a building that is greater than 75~~
 1092 ~~feet in height where the building height is measured from the~~

1093 ~~lowest level of fire department access to the floor of the~~
 1094 ~~highest occupiable story. For purposes of this subsection, the~~
 1095 ~~term "common areas" means any enclosed hallway, corridor, lobby,~~
 1096 ~~stairwell, or entryway. In no event shall~~ The local authority
 1097 having jurisdiction may not require completion of retrofitting
 1098 ~~of common areas~~ with a sprinkler system or any other form of
 1099 engineered lifesafety system before the end of 2019 ~~2014~~. By
 1100 December 31, 2016, an association that is not in compliance with
 1101 the requirements for a fire sprinkler system or other form of
 1102 engineered lifesafety system and that has not voted to forego
 1103 retrofitting of such system must initiate an application for a
 1104 building permit for the required installation with the local
 1105 government having jurisdiction thereof demonstrating that the
 1106 association will become compliant by December 31, 2019.

1107 1. A vote to forego retrofitting may be obtained by
 1108 limited proxy or by a ballot personally cast at a duly called
 1109 membership meeting, or by execution of a written consent by the
 1110 member, and is ~~shall be~~ effective upon ~~the~~ recording ~~of~~ a
 1111 certificate attesting to such vote in the public records of the
 1112 county where the condominium is located. The association shall
 1113 mail or, ~~hand deliver, or electronically transmit~~ to each unit
 1114 owner written notice at least 14 days before the ~~prior to such~~
 1115 membership meeting in which the vote to forego retrofitting of
 1116 the required fire sprinkler system or any other form of
 1117 engineered lifesafety system is to take place. Within 30 days
 1118 after the association's opt-out vote, notice of the results of
 1119 the opt-out vote must ~~shall~~ be mailed or, ~~hand delivered, or~~
 1120 ~~electronically transmitted~~ to all unit owners. Evidence of

1121 compliance with this ~~30-day~~ notice requirement must ~~shall~~ be
 1122 made by ~~an~~ affidavit executed by the person providing the notice
 1123 and filed among the official records of the association. After
 1124 ~~such~~ notice is provided to each owner, a copy must ~~of such~~
 1125 ~~notice shall~~ be provided by the current owner to a new owner
 1126 before ~~prior to~~ closing and ~~shall be provided~~ by a unit owner to
 1127 a renter before ~~prior to~~ signing a lease.

1128 2. If there has been a previous vote to forego
 1129 retrofitting, a vote to require retrofitting may be obtained at
 1130 a special meeting of the unit owners called by a petition of at
 1131 least 10 percent of the voting interests. Such a vote may only
 1132 be called once every 3 years. Notice shall be provided as
 1133 required for any regularly called meeting of the unit owners and
 1134 must state the purpose of the meeting. Electronic transmission
 1135 may not be used to provide notice of a meeting called in whole
 1136 or in part for this purpose.

1137 ~~3.2.~~ As part of the information collected annually from
 1138 condominiums, the division shall require condominium
 1139 associations to report the membership vote and recording of a
 1140 certificate under this subsection and, if retrofitting has been
 1141 undertaken, the per-unit cost of such work. The division shall
 1142 annually report to the Division of State Fire Marshal of the
 1143 Department of Financial Services the number of condominiums that
 1144 have elected to forego retrofitting.

1145 4. Notwithstanding s. 553.509, an association may not be
 1146 obligated to comply with, and may forego the retrofitting of,
 1147 any improvements required by s. 553.509(2) upon an affirmative
 1148 vote of a majority of the voting interests in the affected

1149 condominium.

1150 (n) Director or officer delinquencies.—A director or
 1151 officer more than 90 days delinquent in the payment of any
 1152 monetary obligation due the association ~~regular assessments~~
 1153 shall be deemed to have abandoned the office, creating a vacancy
 1154 in the office to be filled according to law.

1155 (o) Director or officer offenses.—A director or officer
 1156 charged by information or indictment with a felony theft or
 1157 embezzlement offense involving the association's funds or
 1158 property must ~~shall~~ be removed from office, creating a vacancy
 1159 in the office to be filled according to law until the end of the
 1160 period of the suspension or the end of the director's term of
 1161 office, whichever occurs first. While such director or officer
 1162 has such criminal charge pending, he or she may not be appointed
 1163 or elected to a position as a director or officer. However, if
 1164 ~~should~~ the charges are ~~be~~ resolved without a finding of guilt,
 1165 the director or officer shall be reinstated for the remainder of
 1166 his or her term of office, if any.

1167 (3) OPTIONAL PROVISIONS.—The bylaws as originally recorded
 1168 or as amended under the procedures provided therein may provide
 1169 for the following:

1170 (e) Provisions which authorize a community umbrella
 1171 organization for a community containing a minimum of 1,000
 1172 units, or a committee thereof, to employ an entity to market the
 1173 amenities of the community and financed as a common expense of
 1174 all of the unit owners, provided that no unit owner has a
 1175 controlling interest in any marketing firm employed by the
 1176 association. Any such funds are also prohibited from being

1177 utilized for any purposes except marketing expenses for the
 1178 benefit of all unit owners.

1179 Section 11. Paragraph (d) of subsection (1) of section
 1180 718.115, Florida Statutes, is amended to read:

1181 718.115 Common expenses and common surplus.—

1182 (1)

1183 (d) If ~~so~~ provided in the declaration, the cost of
 1184 communications services as defined in chapter 202, information
 1185 services, or Internet services ~~a master antenna television~~
 1186 ~~system or duly franchised cable television service~~ obtained
 1187 pursuant to a bulk contract is ~~shall be deemed~~ a common expense.

1188 If the declaration does not provide for the cost of such
 1189 services ~~a master antenna television system or duly franchised~~
 1190 ~~cable television service~~ obtained under a bulk contract as a
 1191 common expense, the board may enter into such a contract, and
 1192 the cost of the service will be a common expense. The cost for
 1193 the services under a bulk-rate contract may be ~~but~~ allocated on
 1194 a per-unit basis rather than a percentage basis if the
 1195 declaration provides for other than an equal sharing of common
 1196 expenses, and any contract entered into before July 1, 1998, in
 1197 which the cost of the service is not equally divided among all
 1198 unit owners, may be changed by vote of a majority of the voting
 1199 interests present at a regular or special meeting of the
 1200 association, to allocate the cost equally among all units. The
 1201 contract must be for at least ~~shall be for a term of not less~~
 1202 ~~than~~ 2 years.

1203 1. Any contract made by the board on or after July 1,
 1204 1998, ~~the effective date hereof for a community antenna system~~

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1205 ~~or duly franchised cable television service~~ may be canceled by a
 1206 majority of the voting interests present at the next regular or
 1207 special meeting of the association. Any member may make a motion
 1208 to cancel the ~~said~~ contract, but if no motion is made or if such
 1209 motion fails to obtain the required majority at the next regular
 1210 or special meeting, whichever occurs first ~~is sooner~~, following
 1211 the making of the contract, ~~then~~ such contract shall be deemed
 1212 ratified for the term therein expressed.

1213 2. ~~Any~~ Such contract must ~~shall~~ provide, and is ~~shall be~~
 1214 deemed to provide if not expressly set forth, that any hearing-
 1215 impaired or legally blind unit owner who does not occupy the
 1216 unit with a non-hearing-impaired or sighted person, or any unit
 1217 owner receiving supplemental security income under Title XVI of
 1218 the Social Security Act or food stamps as administered by the
 1219 Department of Children and Family Services pursuant to s.
 1220 414.31, may discontinue the cable or video service without
 1221 incurring disconnect fees, penalties, or subsequent service
 1222 charges, and, as to such units, the owners are ~~shall~~ not ~~be~~
 1223 required to pay any common expenses charge related to such
 1224 service. If fewer ~~less~~ than all members of an association share
 1225 the expenses of cable or video service ~~television~~, the expense
 1226 shall be shared equally by all participating unit owners. The
 1227 association may use the provisions of s. 718.116 to enforce
 1228 payment of the shares of such costs by the unit owners receiving
 1229 cable or video service ~~television~~.

1230 Section 12. Paragraph (b) of subsection (1), subsection
 1231 (3), and paragraph (b) of subsection (5) of section 718.116,
 1232 Florida Statutes, are amended, and subsection (11) is added to

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1233 that section, to read:

1234 718.116 Assessments; liability; lien and priority;
 1235 interest; collection.-

1236 (1)

1237 (b) The liability of a first mortgagee or its successor or
 1238 assignees who acquire title to a unit by foreclosure or by deed
 1239 in lieu of foreclosure for the unpaid assessments that became
 1240 due prior to the mortgagee's acquisition of title is limited to
 1241 the lesser of:

1242 1. The unit's unpaid common expenses and regular periodic
 1243 assessments which accrued or came due during the 12 ~~6~~ months
 1244 immediately preceding the acquisition of title and for which
 1245 payment in full has not been received by the association; or

1246 2. One percent of the original mortgage debt. The
 1247 provisions of this paragraph apply only if the first mortgagee
 1248 joined the association as a defendant in the foreclosure action.
 1249 Joinder of the association is not required if, on the date the
 1250 complaint is filed, the association was dissolved or did not
 1251 maintain an office or agent for service of process at a location
 1252 which was known to or reasonably discoverable by the mortgagee.

1253 (3) Assessments and installments on assessments ~~them~~ which
 1254 are not paid when due bear interest at the rate provided in the
 1255 declaration, from the due date until paid. This rate may not
 1256 exceed the rate allowed by law, and, if no rate is provided in
 1257 the declaration, interest accrues ~~shall accrue~~ at the rate of 18
 1258 percent per year. Also, if provided by the declaration or bylaws
 1259 ~~so provide~~, the association may, in addition to such interest,
 1260 charge an administrative late fee of up to ~~in addition to such~~

1261 ~~interest, in an amount not to exceed~~ the greater of \$25 or 5
 1262 percent of each installment of the assessment for each
 1263 delinquent installment for which ~~that~~ the payment is late. Any
 1264 payment received by an association must ~~shall~~ be applied first
 1265 to any interest accrued by the association, then to any
 1266 administrative late fee, then to any costs and reasonable
 1267 attorney's fees incurred in collection, and then to the
 1268 delinquent assessment. The foregoing is ~~shall be~~ applicable
 1269 notwithstanding any restrictive endorsement, designation, or
 1270 instruction placed on or accompanying a payment. A late fee is
 1271 ~~shall not be~~ subject to ~~the provisions in~~ chapter 687 or s.
 1272 718.303(3).

1273 (5)

1274 (b) To be valid, a claim of lien must state the
 1275 description of the condominium parcel, the name of the record
 1276 owner, the name and address of the association, the amount due,
 1277 and the due dates. It must be executed and acknowledged by an
 1278 officer or authorized agent of the association. The ~~No such~~ lien
 1279 is not ~~shall be~~ effective longer than 1 year after the claim of
 1280 lien was recorded unless, within that time, an action to enforce
 1281 the lien is commenced. The 1-year period is ~~shall~~ automatically
 1282 ~~be~~ extended for any length of time during which the association
 1283 is prevented from filing a foreclosure action by an automatic
 1284 stay resulting from a bankruptcy petition filed by the parcel
 1285 owner or any other person claiming an interest in the parcel.
 1286 The claim of lien secures ~~shall secure~~ all unpaid assessments
 1287 that ~~which~~ are due and that ~~which~~ may accrue after ~~subsequent to~~
 1288 ~~the recording of~~ the claim of lien is recorded and through ~~prior~~

1289 ~~to~~ the entry of a final judgment ~~certificate of title~~, as well
 1290 as interest and all reasonable costs and attorney's fees
 1291 incurred by the association incident to the collection process.
 1292 Upon payment in full, the person making the payment is entitled
 1293 to a satisfaction of the lien.

1294
 1295 After notice of contest of lien has been recorded, the clerk of
 1296 the circuit court shall mail a copy of the recorded notice to
 1297 the association by certified mail, return receipt requested, at
 1298 the address shown in the claim of lien or most recent amendment
 1299 to it and shall certify to the service on the face of the
 1300 notice. Service is complete upon mailing. After service, the
 1301 association has 90 days in which to file an action to enforce
 1302 the lien; and, if the action is not filed within the 90-day
 1303 period, the lien is void. However, the 90-day period shall be
 1304 extended for any length of time that the association is
 1305 prevented from filing its action because of an automatic stay
 1306 resulting from the filing of a bankruptcy petition by the unit
 1307 owner or by any other person claiming an interest in the parcel.

1308 (11) If the unit is occupied by a tenant and the unit
 1309 owner is delinquent in paying any monetary obligation due to the
 1310 association, the association may make a written demand that the
 1311 tenant pay the future monetary obligations related to the
 1312 condominium unit to the association, and the tenant must make
 1313 such payment. The demand is continuing in nature and, upon
 1314 demand, the tenant must pay the monetary obligations to the
 1315 association until the association releases the tenant or the
 1316 tenant discontinues tenancy in the unit. The association must

1317 mail written notice to the unit owner of the association's
1318 demand that the tenant make payments to the association. The
1319 association shall, upon request, provide the tenant with written
1320 receipts for payments made. A tenant who acts in good faith in
1321 response to a written demand from an association is immune from
1322 any claim from the unit owner.

1323 (a) If the tenant prepaid rent to the unit owner before
1324 receiving the demand from the association and provides written
1325 evidence of paying the rent to the association within 14 days
1326 after receiving the demand, the tenant shall receive credit for
1327 the prepaid rent for the applicable period and must make any
1328 subsequent rental payments to the association to be credited
1329 against the monetary obligations of the unit owner to the
1330 association.

1331 (b) The tenant is not liable for increases in the amount
1332 of the monetary obligations due unless the tenant was notified
1333 in writing of the increase at least 10 days before the date the
1334 rent is due. The liability of the tenant may not exceed the
1335 amount due from the tenant to the tenant's landlord. The
1336 tenant's landlord shall provide the tenant a credit against
1337 rents due to the unit owner in the amount of moneys paid to the
1338 association under this subsection.

1339 (c) The association may issue notices under s. 83.56 and
1340 may sue for eviction under ss. 83.59-83.625 as if the
1341 association were a landlord under part II of chapter 83 if the
1342 tenant fails to pay a required payment to the association.
1343 However, the association is not otherwise considered a landlord
1344 under chapter 83 and specifically has no duties under s. 83.51.

1345 (d) The tenant does not, by virtue of payment of monetary
 1346 obligations to the association, have any of the rights of a unit
 1347 owner to vote in any election or to examine the books and
 1348 records of the association.

1349 (e) A court may supersede the effect of this subsection by
 1350 appointing a receiver.

1351 Section 13. Subsections (2) and (19) of section 718.117,
 1352 Florida Statutes, are amended to read:

1353 718.117 Termination of condominium.—

1354 (2) TERMINATION BECAUSE OF ECONOMIC WASTE OR
 1355 IMPOSSIBILITY.—

1356 (a) Notwithstanding any provision ~~to the contrary~~ in the
 1357 declaration, the condominium form of ownership of a property may
 1358 be terminated by a plan of termination approved by the lesser of
 1359 the lowest percentage of voting interests necessary to amend the
 1360 declaration or as otherwise provided in the declaration for
 1361 approval of termination if ~~when~~:

1362 1. The total estimated cost of construction or repairs
 1363 necessary to construct the intended improvements or restore the
 1364 improvements to their former condition or bring them into
 1365 compliance with applicable laws or regulations exceeds the
 1366 combined fair market value of the ~~all~~ units in the condominium
 1367 after completion of the construction or repairs; or

1368 2. It becomes impossible to operate or reconstruct a
 1369 condominium to ~~in~~ its prior physical configuration because of
 1370 land use laws or regulations.

1371 (b) Notwithstanding paragraph (a), a condominium in which
 1372 75 percent or more of the units are timeshare units may be

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1373 terminated only pursuant to a plan of termination approved by 80
 1374 percent of the total voting interests of the association and the
 1375 holders of 80 percent of the original principal amount of
 1376 outstanding recorded mortgage liens of timeshare estates in the
 1377 condominium, unless the declaration provides for a lower voting
 1378 percentage.

1379 (19) CREATION OF ANOTHER CONDOMINIUM.—The termination of a
 1380 condominium does not bar the filing of a declaration of
 1381 condominium or an amended and restated declaration of
 1382 condominium ~~creation~~ by the termination trustee ~~of another~~
 1383 ~~condominium~~ affecting any portion of the same property.

1384 Section 14. Subsection (11) is added to section 718.202,
 1385 Florida Statutes, to read:

1386 718.202 Sales or reservation deposits prior to closing.—

1387 (11) All funds deposited into escrow under subsections (1)
 1388 and (2) shall be held in one or more escrow accounts by the
 1389 escrow agent. If only one escrow account is utilized, the escrow
 1390 agent shall be required to maintain separate accounting records
 1391 for each purchaser and for amounts which are separately covered
 1392 under subsections (1) and (2) and, if applicable, released to
 1393 the developer under subsection (3). Separate accounting by the
 1394 escrow agent of the escrow funds constitutes compliance with the
 1395 requirements of this section even if the funds are held by the
 1396 escrow agent in a single escrow account. It is the intent of
 1397 this paragraph to clarify existing law.

1398 Section 15. Subsection (1) of section 718.301, Florida
 1399 Statutes, is amended to read:

1400 718.301 Transfer of association control; claims of defect

1401 by association.—

1402 (1) ~~If~~ When unit owners other than the developer own 15
 1403 percent or more of the units in a condominium that will be
 1404 operated ultimately by an association, the unit owners other
 1405 than the developer are ~~shall be~~ entitled to elect at least ~~no~~
 1406 ~~less than~~ one-third of the members of the board of
 1407 administration of the association. Unit owners other than the
 1408 developer are entitled to elect at least ~~not less than~~ a
 1409 majority of the members of the board of administration of an
 1410 association:

1411 (a) Three years after 50 percent of the units that will be
 1412 operated ultimately by the association have been conveyed to
 1413 purchasers;

1414 (b) Three months after 90 percent of the units that will
 1415 be operated ultimately by the association have been conveyed to
 1416 purchasers;

1417 (c) When all the units that will be operated ultimately by
 1418 the association have been completed, some of them have been
 1419 conveyed to purchasers, and none of the others are being offered
 1420 for sale by the developer in the ordinary course of business;

1421 (d) When some of the units have been conveyed to
 1422 purchasers and none of the others are being constructed or
 1423 offered for sale by the developer in the ordinary course of
 1424 business;

1425 (e) When the developer files a petition seeking protection
 1426 in bankruptcy;

1427 (f) When a receiver for the developer is appointed by a
 1428 circuit court and is not discharged within 30 days after such

1429 appointment, unless the court determines within 30 days after
 1430 appointment of the receiver that transfer of control would be
 1431 detrimental to the association or its members; or

1432 (g) Seven years after recordation of the declaration of
 1433 condominium; or, in the case of an association that ~~which~~ may
 1434 ultimately operate more than one condominium, 7 years after
 1435 recordation of the declaration for the first condominium it
 1436 operates; or, in the case of an association operating a phase
 1437 condominium created pursuant to s. 718.403, 7 years after
 1438 recordation of the declaration creating the initial phase,
 1439
 1440 whichever occurs first. The developer is entitled to elect at
 1441 least one member of the board of administration of an
 1442 association as long as the developer holds for sale in the
 1443 ordinary course of business at least 5 percent, in condominiums
 1444 with fewer than 500 units, and 2 percent, in condominiums with
 1445 more than 500 units, of the units in a condominium operated by
 1446 the association. After ~~Following the time~~ the developer
 1447 relinquishes control of the association, the developer may
 1448 exercise the right to vote any developer-owned units in the same
 1449 manner as any other unit owner except for purposes of
 1450 reacquiring control of the association or selecting the majority
 1451 members of the board of administration.

1452 Section 16. Section 718.303, Florida Statutes, is amended
 1453 to read:

1454 718.303 Obligations of owners and occupants; remedies
 1455 ~~waiver; levy of fine against unit by association.—~~

1456 (1) Each unit owner, each tenant and other invitee, and

1457 each association is ~~shall be~~ governed by, and must ~~shall~~ comply
 1458 with the provisions of, this chapter, the declaration, the
 1459 documents creating the association, and the association bylaws
 1460 which ~~and the provisions thereof~~ shall be deemed expressly
 1461 incorporated into any lease of a unit. Actions for damages or
 1462 for injunctive relief, or both, for failure to comply with these
 1463 provisions may be brought by the association or by a unit owner
 1464 against:

1465 (a) The association.

1466 (b) A unit owner.

1467 (c) Directors designated by the developer, for actions
 1468 taken by them before ~~prior to the time~~ control of the
 1469 association is assumed by unit owners other than the developer.

1470 (d) Any director who willfully and knowingly fails to
 1471 comply with these provisions.

1472 (e) Any tenant leasing a unit, and any other invitee
 1473 occupying a unit.

1474

1475 The prevailing party in any such action or in any action in
 1476 which the purchaser claims a right of voidability based upon
 1477 contractual provisions as required in s. 718.503(1)(a) is
 1478 entitled to recover reasonable attorney's fees. A unit owner
 1479 prevailing in an action between the association and the unit
 1480 owner under this section, in addition to recovering his or her
 1481 reasonable attorney's fees, may recover additional amounts as
 1482 determined by the court to be necessary to reimburse the unit
 1483 owner for his or her share of assessments levied by the
 1484 association to fund its expenses of the litigation. This relief

1485 does not exclude other remedies provided by law. Actions arising
 1486 under this subsection may ~~shall~~ not be deemed to be actions for
 1487 specific performance.

1488 (2) A provision of this chapter may not be waived if the
 1489 waiver would adversely affect the rights of a unit owner or the
 1490 purpose of the provision, except that unit owners or members of
 1491 a board of administration may waive notice of specific meetings
 1492 in writing if provided by the bylaws. Any instruction given in
 1493 writing by a unit owner or purchaser to an escrow agent may be
 1494 relied upon by an escrow agent, whether or not such instruction
 1495 and the payment of funds thereunder might constitute a waiver of
 1496 any provision of this chapter.

1497 (3) If a unit owner is delinquent for more than 90 days in
 1498 paying a monetary obligation due to the association ~~the~~
 1499 ~~declaration or bylaws so provide,~~ the association may suspend
 1500 the right of a unit owner or a unit's occupant, licensee, or
 1501 invitee to use common elements, common facilities, or any other
 1502 association property until the monetary obligation is paid. This
 1503 subsection does not apply to limited common elements intended to
 1504 be used only by that unit, common elements that must be used to
 1505 access the unit, utility services provided to the unit, parking
 1506 spaces, or elevators. The association may also levy reasonable
 1507 ~~finer against a unit~~ for the failure of the owner of the unit,
 1508 or its occupant, licensee, or invitee, to comply with any
 1509 provision of the declaration, the association bylaws, or
 1510 reasonable rules of the association. A ~~No~~ fine does not ~~will~~
 1511 become a lien against a unit. A ~~No~~ fine may not exceed \$100 per
 1512 violation. However, a fine may be levied on the basis of each

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1513 day of a continuing violation, with a single notice and
1514 opportunity for hearing. However, the ~~provided that no such fine~~
1515 may not shall in the aggregate exceed \$1,000. A ~~No~~ fine may not
1516 be levied and a suspension may not be imposed unless the
1517 association first provides at least 14 days' written ~~except~~
1518 ~~after giving reasonable~~ notice and an opportunity for a hearing
1519 to the unit owner and, if applicable, its occupant, licensee, or
1520 invitee. The hearing must be held before a committee of other
1521 unit owners who are neither board members nor persons residing
1522 in a board member's household. If the committee does not agree
1523 with the fine or suspension, the fine or suspension may not be
1524 levied or imposed. ~~The provisions of this subsection do not~~
1525 ~~apply to unoccupied units.~~

1526 (4) The notice and hearing requirements of subsection (3)
1527 do not apply to the imposition of suspensions or fines against a
1528 unit owner or a unit's occupant, licensee, or invitee because of
1529 failing to pay any amounts due the association. If such a fine
1530 or suspension is imposed, the association must levy the fine or
1531 impose a reasonable suspension at a properly noticed board
1532 meeting, and after the imposition of such fine or suspension,
1533 the association must notify the unit owner and, if applicable,
1534 the unit's occupant, licensee, or invitee by mail or hand
1535 delivery.

1536 (5) An association may also suspend the voting rights of a
1537 member due to nonpayment of any monetary obligation due to the
1538 association which is more than 90 days delinquent. The
1539 suspension ends upon full payment of all obligations currently
1540 due or overdue the association.

1541 Section 17. Subsection (1) of section 718.501, Florida
 1542 Statutes, is amended to read:

1543 718.501 Authority, responsibility, and duties of Division
 1544 of Florida Condominiums, Timeshares, and Mobile Homes.—

1545 (1) The division may ~~of Florida Condominiums, Timeshares,~~
 1546 ~~and Mobile Homes of the Department of Business and Professional~~
 1547 ~~Regulation, referred to as the "division" in this part, has the~~
 1548 ~~power to~~ enforce and ensure compliance with the provisions of
 1549 this chapter and rules relating to the development,
 1550 construction, sale, lease, ownership, operation, and management
 1551 of residential condominium units. In performing its duties, the
 1552 division has complete jurisdiction to investigate complaints and
 1553 enforce compliance ~~with the provisions of this chapter~~ with
 1554 respect to associations that are still under developer control
 1555 or the control of a bulk assignee or bulk buyer pursuant to part
 1556 VII of this chapter and complaints against developers, bulk
 1557 assignees, or bulk buyers involving improper turnover or failure
 1558 to turnover, pursuant to s. 718.301. However, after turnover has
 1559 occurred, the division has ~~shall only have~~ jurisdiction to
 1560 investigate complaints related only to financial issues,
 1561 elections, and unit owner access to association records pursuant
 1562 to s. 718.111(12).

1563 (a)1. The division may make necessary public or private
 1564 investigations within or outside this state to determine whether
 1565 any person has violated this chapter or any rule or order
 1566 hereunder, to aid in the enforcement of this chapter, or to aid
 1567 in the adoption of rules or forms ~~hereunder~~.

1568 2. The division may submit any official written report,

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1569 worksheet, or other related paper, or a duly certified copy
1570 thereof, compiled, prepared, drafted, or otherwise made by and
1571 duly authenticated by a financial examiner or analyst to be
1572 admitted as competent evidence in any hearing in which the
1573 financial examiner or analyst is available for cross-examination
1574 and attests under oath that such documents were prepared as a
1575 result of an examination or inspection conducted pursuant to
1576 this chapter.

1577 (b) The division may require or permit any person to file
1578 a statement in writing, under oath or otherwise, as the division
1579 determines, as to the facts and circumstances concerning a
1580 matter to be investigated.

1581 (c) For the purpose of any investigation under this
1582 chapter, the division director or any officer or employee
1583 designated by the division director may administer oaths or
1584 affirmations, subpoena witnesses and compel their attendance,
1585 take evidence, and require the production of any matter which is
1586 relevant to the investigation, including the existence,
1587 description, nature, custody, condition, and location of any
1588 books, documents, or other tangible things and the identity and
1589 location of persons having knowledge of relevant facts or any
1590 other matter reasonably calculated to lead to the discovery of
1591 material evidence. Upon the failure by a person to obey a
1592 subpoena or to answer questions propounded by the investigating
1593 officer and upon reasonable notice to all ~~persons~~ affected
1594 persons ~~thereby~~, the division may apply to the circuit court for
1595 an order compelling compliance.

1596 (d) Notwithstanding any remedies available to unit owners

1597 and associations, if the division has reasonable cause to
 1598 believe that a violation of any provision of this chapter or
 1599 related rule has occurred, the division may institute
 1600 enforcement proceedings in its own name against any developer,
 1601 bulk assignee, bulk buyer, association, officer, or member of
 1602 the board of administration, or its assignees or agents, as
 1603 follows:

1604 1. The division may permit a person whose conduct or
 1605 actions may be under investigation to waive formal proceedings
 1606 and enter into a consent proceeding whereby orders, rules, or
 1607 letters of censure or warning, whether formal or informal, may
 1608 be entered against the person.

1609 2. The division may issue an order requiring the
 1610 developer, bulk assignee, bulk buyer, association, developer-
 1611 designated officer, or developer-designated member of the board
 1612 of administration, developer-designated assignees or agents,
 1613 bulk assignee-designated assignees or agents, bulk buyer-
 1614 designated assignees or agents, community association manager,
 1615 or community association management firm to cease and desist
 1616 from the unlawful practice and take such affirmative action as
 1617 in the judgment of the division ~~will~~ carry out the purposes of
 1618 this chapter. If the division finds that a developer, bulk
 1619 assignee, bulk buyer, association, officer, or member of the
 1620 board of administration, or its assignees or agents, is
 1621 violating or is about to violate any provision of this chapter,
 1622 any rule adopted or order issued by the division, or any written
 1623 agreement entered into with the division, and presents an
 1624 immediate danger to the public requiring an immediate final

1625 order, it may issue an emergency cease and desist order reciting
1626 with particularity the facts underlying such findings. The
1627 emergency cease and desist order is effective for 90 days. If
1628 the division begins nonemergency cease and desist proceedings,
1629 the emergency cease and desist order remains effective until the
1630 conclusion of the proceedings under ss. 120.569 and 120.57.

1631 3. If a developer, bulk assignee, or bulk buyer, fails to
1632 pay any restitution determined by the division to be owed, plus
1633 any accrued interest at the highest rate permitted by law,
1634 within 30 days after expiration of any appellate time period of
1635 a final order requiring payment of restitution or the conclusion
1636 of any appeal thereof, whichever is later, the division must
1637 ~~shall~~ bring an action in circuit or county court on behalf of
1638 any association, class of unit owners, lessees, or purchasers
1639 for restitution, declaratory relief, injunctive relief, or any
1640 other available remedy. The division may also temporarily revoke
1641 its acceptance of the filing for the developer to which the
1642 restitution relates until payment of restitution is made.

1643 4. The division may petition the court for ~~the~~ appointment
1644 of a receiver or conservator. If appointed, the receiver or
1645 conservator may take action to implement the court order to
1646 ensure the performance of the order and to remedy any breach
1647 thereof. In addition to all other means provided by law for the
1648 enforcement of an injunction or temporary restraining order, the
1649 circuit court may impound or sequester the property of a party
1650 defendant, including books, papers, documents, and related
1651 records, and allow the examination and use of the property by
1652 the division and a court-appointed receiver or conservator.

1653 5. The division may apply to the circuit court for an
 1654 order of restitution whereby the defendant in an action brought
 1655 pursuant to subparagraph 4. is ~~shall be~~ ordered to make
 1656 restitution of those sums shown by the division to have been
 1657 obtained by the defendant in violation of this chapter. ~~Such~~
 1658 ~~restitution shall,~~ At the option of the court, such restitution
 1659 is ~~be~~ payable to the conservator or receiver appointed pursuant
 1660 to subparagraph 4. or directly to the persons whose funds or
 1661 assets were obtained in violation of this chapter.

1662 6. The division may impose a civil penalty against a
 1663 developer, bulk assignee, or bulk buyer, or association, or its
 1664 assignee or agent, for any violation of this chapter or related
 1665 ~~a rule adopted under this chapter.~~ The division may impose a
 1666 civil penalty individually against an ~~any~~ officer or board
 1667 member who willfully and knowingly violates a provision of this
 1668 chapter, adopted rule, or a final order of the division; may
 1669 order the removal of such individual as an officer or from the
 1670 board of administration or as an officer of the association; and
 1671 may prohibit such individual from serving as an officer or on
 1672 the board of a community association for a period of time. The
 1673 term "willfully and knowingly" means that the division informed
 1674 the officer or board member that his or her action or intended
 1675 action violates this chapter, a rule adopted under this chapter,
 1676 or a final order of the division and that the officer or board
 1677 member refused to comply with the requirements of this chapter,
 1678 a rule adopted under this chapter, or a final order of the
 1679 division. The division, before ~~prior to~~ initiating formal agency
 1680 action under chapter 120, must ~~shall~~ afford the officer or board

1681 member an opportunity to voluntarily comply and ~~with this~~
 1682 ~~chapter, a rule adopted under this chapter, or a final order of~~
 1683 ~~the division.~~ an officer or board member who complies within 10
 1684 days is not subject to a civil penalty. A penalty may be imposed
 1685 on the basis of each day of continuing violation, but ~~in no~~
 1686 ~~event shall~~ the penalty for any offense may not exceed \$5,000.
 1687 By January 1, 1998, the division shall adopt, by rule, penalty
 1688 guidelines applicable to possible violations or to categories of
 1689 violations of this chapter or rules adopted by the division. The
 1690 guidelines must specify a meaningful range of civil penalties
 1691 for each such violation of the statute and rules and must be
 1692 based upon the harm caused by the violation, the repetition of
 1693 the violation, and upon such other factors deemed relevant by
 1694 the division. For example, the division may consider whether the
 1695 violations were committed by a developer, bulk assignee, or bulk
 1696 buyer, or owner-controlled association, the size of the
 1697 association, and other factors. The guidelines must designate
 1698 the possible mitigating or aggravating circumstances that
 1699 justify a departure from the range of penalties provided by the
 1700 rules. It is the legislative intent that minor violations be
 1701 distinguished from those which endanger the health, safety, or
 1702 welfare of the condominium residents or other persons and that
 1703 such guidelines provide reasonable and meaningful notice to the
 1704 public of likely penalties that may be imposed for proscribed
 1705 conduct. This subsection does not limit the ability of the
 1706 division to informally dispose of administrative actions or
 1707 complaints by stipulation, agreed settlement, or consent order.
 1708 All amounts collected shall be deposited with the Chief

1709 Financial Officer to the credit of the Division of Florida
 1710 Condominiums, Timeshares, and Mobile Homes Trust Fund. If a
 1711 developer, bulk assignee, or bulk buyer fails to pay the civil
 1712 penalty and the amount deemed to be owed to the association, the
 1713 division shall issue an order directing that such developer,
 1714 bulk assignee, or bulk buyer cease and desist from further
 1715 operation until such time as the civil penalty is paid or may
 1716 pursue enforcement of the penalty in a court of competent
 1717 jurisdiction. If an association fails to pay the civil penalty,
 1718 the division shall pursue enforcement in a court of competent
 1719 jurisdiction, and the order imposing the civil penalty or the
 1720 cease and desist order is ~~will not become~~ effective until 20
 1721 days after the date of such order. Any action commenced by the
 1722 division shall be brought in the county in which the division
 1723 has its executive offices or in the county where the violation
 1724 occurred.

1725 7. If a unit owner presents the division with proof that
 1726 the unit owner has requested access to official records in
 1727 writing by certified mail, and that after 10 days the unit owner
 1728 again made the same request for access to official records in
 1729 writing by certified mail, and that more than 10 days has
 1730 elapsed since the second request and the association has still
 1731 failed or refused to provide access to official records as
 1732 required by this chapter, the division shall issue a subpoena
 1733 requiring production of the requested records where the records
 1734 are kept pursuant to s. 718.112.

1735 8. In addition to subparagraph 6., the division may seek
 1736 the imposition of a civil penalty through the circuit court for

1737 any violation for which the division may issue a notice to show
 1738 cause under paragraph (r). The civil penalty shall be at least
 1739 \$500 but no more than \$5,000 for each violation. The court may
 1740 also award to the prevailing party court costs and reasonable
 1741 attorney's fees and, if the division prevails, may also award
 1742 reasonable costs of investigation.

1743 (e) The division may prepare and disseminate a prospectus
 1744 and other information to assist prospective owners, purchasers,
 1745 lessees, and developers of residential condominiums in assessing
 1746 the rights, privileges, and duties pertaining thereto.

1747 (f) The division may ~~has authority to~~ adopt rules pursuant
 1748 ~~to ss. 120.536(1) and 120.54~~ to administer ~~implement~~ and enforce
 1749 the provisions of this chapter.

1750 (g) The division shall establish procedures for providing
 1751 notice to an association and the developer, bulk assignee, or
 1752 bulk buyer during the period in which ~~where~~ the developer, bulk
 1753 assignee, or bulk buyer controls the association if ~~when~~ the
 1754 division is considering the issuance of a declaratory statement
 1755 with respect to the declaration of condominium or any related
 1756 document governing ~~in~~ such condominium community.

1757 (h) The division shall furnish each association that ~~which~~
 1758 pays the fees required by paragraph (2) (a) a copy of this
 1759 chapter, as amended ~~act, subsequent changes to this act on an~~
 1760 ~~annual basis, an amended version of this act as it becomes~~
 1761 ~~available from the Secretary of State's office on a biennial~~
 1762 ~~basis,~~ and the rules adopted thereto on an annual basis.

1763 (i) The division shall annually provide each association
 1764 with a summary of declaratory statements and formal legal

1765 opinions relating to the operations of condominiums which were
 1766 rendered by the division during the previous year.

1767 (j) The division shall provide training and educational
 1768 programs for condominium association board members and unit
 1769 owners. The training may, in the division's discretion, include
 1770 web-based electronic media, and live training and seminars in
 1771 various locations throughout the state. The division may ~~shall~~
 1772 ~~have the authority to~~ review and approve education and training
 1773 programs for board members and unit owners offered by providers
 1774 and shall maintain a current list of approved programs and
 1775 providers and ~~shall~~ make such list available to board members
 1776 and unit owners in a reasonable and cost-effective manner.

1777 (k) The division shall maintain a toll-free telephone
 1778 number accessible to condominium unit owners.

1779 (l) The division shall develop a program to certify both
 1780 volunteer and paid mediators to provide mediation of condominium
 1781 disputes. The division shall provide, upon request, a list of
 1782 such mediators to any association, unit owner, or other
 1783 participant in arbitration proceedings under s. 718.1255
 1784 requesting a copy of the list. The division shall include on the
 1785 list of volunteer mediators only the names of persons who have
 1786 received at least 20 hours of training in mediation techniques
 1787 or who have mediated at least 20 disputes. In order to become
 1788 initially certified by the division, paid mediators must be
 1789 certified by the Supreme Court to mediate court cases in county
 1790 or circuit courts. However, the division may adopt, by rule,
 1791 additional factors for the certification of paid mediators,
 1792 which ~~factors~~ must be related to experience, education, or

1793 background. Any person initially certified as a paid mediator by
 1794 the division must, in order to continue to be certified, comply
 1795 with the factors or requirements adopted by rule ~~imposed by~~
 1796 ~~rules adopted by the division.~~

1797 (m) If ~~When~~ a complaint is made, the division must ~~shall~~
 1798 conduct its inquiry with due regard for ~~to~~ the interests of the
 1799 affected parties. Within 30 days after receipt of a complaint,
 1800 the division shall acknowledge the complaint in writing and
 1801 notify the complainant whether the complaint is within the
 1802 jurisdiction of the division and whether additional information
 1803 is needed by the division from the complainant. The division
 1804 shall conduct its investigation and ~~shall~~, within 90 days after
 1805 receipt of the original complaint or of timely requested
 1806 additional information, take action upon the complaint. However,
 1807 the failure to complete the investigation within 90 days does
 1808 not prevent the division from continuing the investigation,
 1809 accepting or considering evidence obtained or received after 90
 1810 days, or taking administrative action if reasonable cause exists
 1811 to believe that a violation of this chapter or a rule ~~of the~~
 1812 ~~division~~ has occurred. If an investigation is not completed
 1813 within the time limits established in this paragraph, the
 1814 division shall, on a monthly basis, notify the complainant in
 1815 writing of the status of the investigation. When reporting its
 1816 action to the complainant, the division shall inform the
 1817 complainant of any right to a hearing pursuant to ss. 120.569
 1818 and 120.57.

1819 (n) Condominium association directors, officers, and
 1820 employees; condominium developers; bulk assignees, bulk buyers,

1821 and community association managers; and community association
 1822 management firms have an ongoing duty to reasonably cooperate
 1823 with the division in any investigation pursuant to this section.
 1824 The division shall refer to local law enforcement authorities
 1825 any person whom the division believes has altered, destroyed,
 1826 concealed, or removed any record, document, or thing required to
 1827 be kept or maintained by this chapter with the purpose to impair
 1828 its verity or availability in the department's investigation.

1829 (o) The division may:

- 1830 1. Contract with agencies in this state or other
- 1831 jurisdictions to perform investigative functions; or
- 1832 2. Accept grants-in-aid from any source.

1833 (p) The division shall cooperate with similar agencies in
 1834 other jurisdictions to establish uniform filing procedures and
 1835 forms, public offering statements, advertising standards, and
 1836 rules and common administrative practices.

1837 (q) The division shall consider notice to a developer,
 1838 bulk assignee, or bulk buyer to be complete when it is delivered
 1839 to the ~~developer's~~ address of the developer, bulk assignee, or
 1840 bulk buyer currently on file with the division.

1841 (r) In addition to its enforcement authority, the division
 1842 may issue a notice to show cause, which must ~~shall~~ provide for a
 1843 hearing, upon written request, in accordance with chapter 120.

1844 (s) The division shall submit to the Governor, the
 1845 President of the Senate, the Speaker of the House of
 1846 Representatives, and the chairs of the legislative
 1847 appropriations committees an annual report that includes, but
 1848 need not be limited to, the number of training programs provided

1849 for condominium association board members and unit owners, the
 1850 number of complaints received by type, the number and percent of
 1851 complaints acknowledged in writing within 30 days and the number
 1852 and percent of investigations acted upon within 90 days in
 1853 accordance with paragraph (m), and the number of investigations
 1854 exceeding the 90-day requirement. The annual report must ~~shall~~
 1855 also include an evaluation of the division's core business
 1856 processes and make recommendations for improvements, including
 1857 statutory changes. The report shall be submitted by September 30
 1858 following the end of the fiscal year.

1859 Section 18. Part VII of chapter 718, Florida Statutes,
 1860 consisting of sections 718.701, 718.702, 718.703, 718.704,
 1861 718.705, 718.706, 718.707, and 718.708, is created to read:

1862 718.701 Short title.—This part may be cited as the
 1863 "Distressed Condominium Relief Act."

1864 718.702 Legislative intent.—

1865 (1) The Legislature acknowledges the massive downturn in
 1866 the condominium market which has occurred throughout the state
 1867 and the impact of such downturn on developers, lenders, unit
 1868 owners, and condominium associations. Numerous condominium
 1869 projects have failed or are in the process of failing such that
 1870 the condominium has a small percentage of third-party unit
 1871 owners as compared to the unsold inventory of units. As a result
 1872 of the inability to find purchasers for this inventory of units,
 1873 which results in part from the devaluing of real estate in this
 1874 state, developers are unable to satisfy the requirements of
 1875 their lenders, leading to defaults on mortgages. Consequently,
 1876 lenders are faced with the task of finding a solution to the

1877 problem in order to receive payment for their investments.

1878 (2) The Legislature recognizes that all of the factors
 1879 listed in this section lead to condominiums becoming distressed,
 1880 resulting in detriment to the unit owners and the condominium
 1881 association due to the resulting shortage of assessment moneys
 1882 available for proper maintenance of the condominium. Such
 1883 shortage and the resulting lack of proper maintenance further
 1884 erodes property values. The Legislature finds that individuals
 1885 and entities within this state and in other states have
 1886 expressed interest in purchasing unsold inventory in one or more
 1887 condominium projects, but are reticent to do so because of
 1888 accompanying liabilities inherited from the original developer,
 1889 which are by definition imputed to the successor purchaser,
 1890 including a foreclosing mortgagee. This results in the potential
 1891 successor purchaser having unknown and unquantifiable risks that
 1892 the potential purchaser is unwilling to accept. As a result,
 1893 condominium projects stagnate, leaving all parties involved at
 1894 an impasse and without the ability to find a solution.

1895 (3) The Legislature declares that it is the public policy
 1896 of this state to protect the interests of developers, lenders,
 1897 unit owners, and condominium associations with regard to
 1898 distressed condominiums, and that there is a need for relief
 1899 from certain provisions of the Florida Condominium Act geared
 1900 toward enabling economic opportunities for successor purchasers,
 1901 including foreclosing mortgagees. Such relief would benefit
 1902 existing unit owners and condominium associations. The
 1903 Legislature further finds and declares that this situation
 1904 cannot be open-ended without potentially prejudicing the rights

1905 of unit owners and condominium associations, and thereby
 1906 declares that the provisions of this part may be used by
 1907 purchasers of condominium inventory for only a specific and
 1908 defined period.

1909 718.703 Definitions.—As used in this part, the term:

1910 (1) "Bulk assignee" means a person who:

1911 (a) Acquires more than seven condominium parcels as set
 1912 forth in s. 718.707; and

1913 (b) Receives an assignment of some or all of the rights of
 1914 the developer as set forth in the declaration of condominium or
 1915 this chapter by a written instrument recorded as an exhibit to
 1916 the deed or as a separate instrument in the public records of
 1917 the county in which the condominium is located.

1918 (2) "Bulk buyer" means a person who acquires more than
 1919 seven condominium parcels as set forth in s. 718.707 but who
 1920 does not receive an assignment of developer rights other than
 1921 the right to conduct sales, leasing, and marketing activities
 1922 within the condominium; the right to be exempt from the payment
 1923 of working capital contributions to the condominium association
 1924 arising out of, or in connection with, the bulk buyer's
 1925 acquisition of a bulk number of units; and the right to be
 1926 exempt from any rights of first refusal which may be held by the
 1927 condominium association and would otherwise be applicable to
 1928 subsequent transfers of title from the bulk buyer to a third
 1929 party purchaser concerning one or more units.

1930 718.704 Assignment and assumption of developer rights by
 1931 bulk assignee; bulk buyer.—

1932 (1) A bulk assignee assumes and is liable for all duties

1933 and responsibilities of the developer under the declaration and
 1934 this chapter, except:
 1935 (a) Warranties of the developer under s. 718.203(1) or s.
 1936 718.618, except for design, construction, development, or repair
 1937 work performed by or on behalf of such bulk assignee;
 1938 (b) The obligation to:
 1939 1. Fund converter reserves under s. 718.618 for a unit
 1940 that was not acquired by the bulk assignee; or
 1941 2. Provide converter warranties on any portion of the
 1942 condominium property except as expressly provided by the bulk
 1943 assignee in the contract for purchase and sale executed with a
 1944 purchaser and pertaining to any design, construction,
 1945 development, or repair work performed by or on behalf of the
 1946 bulk assignee;
 1947 (c) The requirement to provide the association with a
 1948 cumulative audit of the association's finances from the date of
 1949 formation of the condominium association as required by s.
 1950 718.301(4)(c). However, the bulk assignee must provide an audit
 1951 for the period during which the bulk assignee elects a majority
 1952 of the members of the board of administration;
 1953 (d) Any liability arising out of or in connection with
 1954 actions taken by the board of administration or the developer-
 1955 appointed directors before the bulk assignee elects a majority
 1956 of the members of the board of administration; and
 1957 (e) Any liability for or arising out of the developer's
 1958 failure to fund previous assessments or to resolve budgetary
 1959 deficits in relation to a developer's right to guarantee
 1960 assessments, except as otherwise provided in subsection (2).

1961
 1962 The bulk assignee is also responsible for delivering documents
 1963 and materials in accordance with s. 718.705(3). A bulk assignee
 1964 may expressly assume some or all of the obligations of the
 1965 developer described in paragraphs (a)-(e).

1966 (2) A bulk assignee receiving the assignment of the rights
 1967 of the developer to guarantee the level of assessments and fund
 1968 budgetary deficits pursuant to s. 718.116 assumes and is liable
 1969 for all obligations of the developer with respect to such
 1970 guarantee, including any applicable funding of reserves to the
 1971 extent required by law, for as long as the guarantee remains in
 1972 effect. A bulk assignee not receiving such assignment or a bulk
 1973 buyer does not assume and is not liable for the obligations of
 1974 the developer with respect to such guarantee, but is responsible
 1975 for payment of assessments in the same manner as all other
 1976 owners of condominium parcels.

1977 (3) A bulk buyer is liable for the duties and
 1978 responsibilities of the developer under the declaration and this
 1979 chapter only to the extent provided in this part, together with
 1980 any other duties or responsibilities of the developer expressly
 1981 assumed in writing by the bulk buyer.

1982 (4) An acquirer of condominium parcels is not a bulk
 1983 assignee or a bulk buyer if the transfer to such acquirer was
 1984 made before the effective date of this part with the intent to
 1985 hinder, delay, or defraud any purchaser, unit owner, or the
 1986 association, or if the acquirer is a person who would be
 1987 considered an insider under s. 726.102(7).

1988 (5) An assignment of developer rights to a bulk assignee

1989 may be made by the developer, a previous bulk assignee, or a
 1990 court acting on behalf of the developer or the previous bulk
 1991 assignee. At any particular time, there may be no more than one
 1992 bulk assignee within a condominium, but there may be more than
 1993 one bulk buyer. If more than one acquirer of condominium parcels
 1994 in the same condominium receives an assignment of developer
 1995 rights from the same person, the bulk assignee is the acquirer
 1996 whose instrument of assignment is recorded first.

1997 718.705 Board of administration; transfer of control.—

1998 (1) For purposes of determining the timing for transfer of
 1999 control of the board of administration of the association to
 2000 unit owners other than the developer under s. 718.301(1)(a) and
 2001 (b), if a bulk assignee is entitled to elect a majority of the
 2002 members of the board, a condominium parcel acquired by the bulk
 2003 assignee is conveyed to a purchaser, or owned by an owner other
 2004 than the developer, until the condominium parcel is conveyed to
 2005 an owner who is not a bulk assignee.

2006 (2) Unless control of the board of administration of the
 2007 association has already been relinquished pursuant to s.
 2008 718.301(1), the bulk assignee must relinquish control of the
 2009 association pursuant to s. 718.301 and this part, as if the bulk
 2010 assignee were the developer.

2011 (3) If a bulk assignee relinquishes control of the board
 2012 of administration as set forth in s. 718.301, the bulk assignee
 2013 must deliver all of those items required by s. 718.301(4).
 2014 However, the bulk assignee is not required to deliver items and
 2015 documents not in the possession of the bulk assignee during the
 2016 period during which the bulk assignee was entitled to elect at

2017 least a majority of the members of the board of administration.
 2018 In conjunction with acquisition of condominium parcels, a bulk
 2019 assignee shall undertake a good faith effort to obtain the
 2020 documents and materials that must be provided to the association
 2021 pursuant to s. 718.301(4). If the bulk assignee is not able to
 2022 obtain all of such documents and materials, the bulk assignee
 2023 must certify in writing to the association the names or
 2024 descriptions of the documents and materials that were not
 2025 obtainable by the bulk assignee. Delivery of the certificate
 2026 relieves the bulk assignee of responsibility for delivering the
 2027 documents and materials referenced in the certificate as
 2028 otherwise required under ss. 718.112 and 718.301 and this part.
 2029 The responsibility of the bulk assignee for the audit required
 2030 by s. 718.301(4) commences as of the date on which the bulk
 2031 assignee elected a majority of the members of the board of
 2032 administration.

2033 (4) If a conflict arises between the provisions or
 2034 application of this section and s. 718.301, this section
 2035 prevails.

2036 (5) Failure of a bulk assignee or bulk buyer to
 2037 substantially comply with all the requirements in this part
 2038 results in the loss of any and all protections or exemptions
 2039 provided under this part.

2040 718.706 Specific provisions pertaining to offering of
 2041 units by a bulk assignee or bulk buyer.—

2042 (1) Before offering any units for sale or for lease for a
 2043 term exceeding 5 years, a bulk assignee or a bulk buyer must
 2044 file the following documents with the division and provide such

2045 documents to a prospective purchaser or tenant:
 2046 (a) An updated prospectus or offering circular, or a
 2047 supplement to the prospectus or offering circular, filed by the
 2048 original developer prepared in accordance with s. 718.504, which
 2049 must include the form of contract for sale and for lease in
 2050 compliance with s. 718.503(2);
 2051 (b) An updated Frequently Asked Questions and Answers
 2052 sheet;
 2053 (c) The executed escrow agreement if required under s.
 2054 718.202; and
 2055 (d) The financial information required by s. 718.111(13).
 2056 However, if a financial information report does not exist for
 2057 the fiscal year before acquisition of title by the bulk assignee
 2058 or bulk buyer, or accounting records cannot be obtained in good
 2059 faith by the bulk assignee or the bulk buyer which would permit
 2060 preparation of the required financial information report, the
 2061 bulk assignee or bulk buyer is excused from the requirement of
 2062 this paragraph. However, the bulk assignee or bulk buyer must
 2063 include in the purchase contract the following statement in
 2064 conspicuous type:

2065
 2066 THE FINANCIAL INFORMATION REPORT REQUIRED UNDER S.
 2067 718.111(13), FLORIDA STATUTES, FOR THE IMMEDIATELY
 2068 PRECEDING FISCAL YEAR OF THE ASSOCIATION IS NOT
 2069 AVAILABLE OR CANNOT BE CREATED BY THE SELLER DUE TO
 2070 THE INSUFFICIENT ACCOUNTING RECORDS OF THE
 2071 ASSOCIATION.
 2072

2073 (2) Before offering any units for sale or for lease for a
 2074 term exceeding 5 years, a bulk assignee must file with the
 2075 division and provide to a prospective purchaser a disclosure
 2076 statement that includes, but is not limited to:

2077 (a) A description of any rights of the developer which
 2078 have been assigned to the bulk assignee or bulk buyer.

2079 (b) The following statement in conspicuous type:

2080
 2081 THE SELLER IS NOT OBLIGATED FOR ANY WARRANTIES OF THE
 2082 DEVELOPER UNDER S. 718.203(1) OR S. 718.618, FLORIDA
 2083 STATUTES, AS APPLICABLE, EXCEPT FOR DESIGN,
 2084 CONSTRUCTION, DEVELOPMENT, OR REPAIR WORK PERFORMED BY
 2085 OR ON BEHALF OF SELLER.

2086
 2087 (c) If the condominium is a conversion subject to part VI,
 2088 the following statement in conspicuous type:

2089
 2090 THE SELLER HAS NO OBLIGATION TO FUND CONVERTER
 2091 RESERVES OR TO PROVIDE CONVERTER WARRANTIES UNDER S.
 2092 718.618, FLORIDA STATUTES, ON ANY PORTION OF THE
 2093 CONDOMINIUM PROPERTY EXCEPT AS MAY BE EXPRESSLY
 2094 REQUIRED OF THE SELLER IN THE CONTRACT FOR PURCHASE
 2095 AND SALE EXECUTED BY THE SELLER AND THE PREVIOUS
 2096 DEVELOPER AND PERTAINING TO ANY DESIGN, CONSTRUCTION,
 2097 DEVELOPMENT, OR REPAIR WORK PERFORMED BY OR ON BEHALF
 2098 OF THE SELLER.

2099
 2100 (3) A bulk assignee, while it is in control of the board

2101 of administration of the association, may not authorize, on
 2102 behalf of the association:

2103 (a) The waiver of reserves or the reduction of funding of
 2104 the reserves pursuant to s. 718.112(2)(f)2., unless approved by
 2105 a majority of the voting interests not controlled by the
 2106 developer, bulk assignee, and bulk buyer; or

2107 (b) The use of reserve expenditures for other purposes
 2108 pursuant to s. 718.112(2)(f)3., unless approved by a majority of
 2109 the voting interests not controlled by the developer, bulk
 2110 assignee, and bulk buyer.

2111 (4) A bulk assignee or a bulk buyer must comply with all
 2112 the requirements of s. 718.302 regarding any contracts entered
 2113 into by the association during the period the bulk assignee or
 2114 bulk buyer maintains control of the board of administration.
 2115 Unit owners shall be afforded all the protections contained in
 2116 s. 718.302 regarding agreements entered into by the association
 2117 before unit owners other than the developer, bulk assignee, or
 2118 bulk buyer elected a majority of the board of administration.

2119 (5) A bulk buyer must comply with the requirements
 2120 contained in the declaration regarding any transfer of a unit,
 2121 including sales, leases, and subleases. A bulk buyer is not
 2122 entitled to any exemptions afforded a developer or successor
 2123 developer under this chapter regarding the transfer of a unit,
 2124 including sales, leases, or subleases.

2125 718.707 Time limitation for classification as bulk
 2126 assignee or bulk buyer.—A person acquiring condominium parcels
 2127 may not be classified as a bulk assignee or bulk buyer unless
 2128 the condominium parcels were acquired before July 1, 2012. The

2129 date of such acquisition shall be determined by the date of
 2130 recording of a deed or other instrument of conveyance for such
 2131 parcels in the public records of the county in which the
 2132 condominium is located, or by the date of issuance of a
 2133 certificate of title in a foreclosure proceeding with respect to
 2134 such condominium parcels.

2135 718.708 Liability of developers and others.—An assignment
 2136 of developer rights to a bulk assignee or bulk buyer does not
 2137 release the original developer from liabilities under the
 2138 declaration or this chapter. This part does not limit the
 2139 liability of the original developer for claims brought by unit
 2140 owners, bulk assignees, or bulk buyers for violations of this
 2141 chapter by the creating developer, unless specifically excluded
 2142 in this part. This part does not waive, release, compromise, or
 2143 limit liability established under chapter 718 except as
 2144 specifically excluded under this part.

2145 Section 19. Paragraph (d) of subsection (1) of section
 2146 719.106, Florida Statutes, is amended to read:

2147 719.106 Bylaws; cooperative ownership.—

2148 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
 2149 documents shall provide for the following, and if they do not,
 2150 they shall be deemed to include the following:

2151 (d) Shareholder meetings.—There shall be an annual meeting
 2152 of the shareholders. All members of the board of administration
 2153 shall be elected at the annual meeting unless the bylaws provide
 2154 for staggered election terms or for their election at another
 2155 meeting. Any unit owner desiring to be a candidate for board
 2156 membership must ~~shall~~ comply with subparagraph 1. The bylaws

2157 must ~~shall~~ provide the method for calling meetings, including
 2158 annual meetings. Written notice, which must ~~notice shall~~
 2159 incorporate an identification of agenda items, shall be given to
 2160 each unit owner at least 14 days before ~~prior to~~ the annual
 2161 meeting and ~~shall be~~ posted in a conspicuous place on the
 2162 cooperative property at least 14 continuous days preceding the
 2163 annual meeting. Upon notice to the unit owners, the board must
 2164 ~~shall~~ by duly adopted rule designate a specific location on the
 2165 cooperative property upon which all notice of unit owner
 2166 meetings are ~~shall be~~ posted. In lieu of or in addition to the
 2167 physical posting of the meeting notice ~~of any meeting of the~~
 2168 ~~shareholders on the cooperative property~~, the association may,
 2169 by reasonable rule, adopt a procedure for conspicuously posting
 2170 and repeatedly broadcasting the notice and the agenda on a
 2171 closed-circuit cable television system serving the cooperative
 2172 association. However, if broadcast notice is used in lieu of a
 2173 posted notice ~~posted physically on the cooperative property~~, the
 2174 notice and agenda must be broadcast at least four times every
 2175 broadcast hour of each day that a posted notice is otherwise
 2176 required under this section. If ~~When~~ broadcast notice is
 2177 provided, the notice and agenda must be broadcast in a manner
 2178 and for a sufficient continuous length of time ~~so as~~ to allow an
 2179 average reader to observe the notice and read and comprehend the
 2180 entire content of the notice and the agenda. Unless a unit owner
 2181 waives in writing the right to receive notice of the annual
 2182 meeting, the notice of the annual meeting must ~~shall~~ be sent by
 2183 mail, hand delivered, or electronically transmitted to each unit
 2184 owner. An officer of the association must ~~shall~~ provide an

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2185 affidavit or United States Postal Service certificate of
2186 mailing, to be included in the official records of the
2187 association, affirming that notices of the association meeting
2188 were mailed, hand delivered, or electronically transmitted, in
2189 accordance with this provision, to each unit owner at the
2190 address last furnished to the association.

2191 1. ~~After January 1, 1992,~~ The board of administration
2192 shall be elected by written ballot or voting machine. A proxy
2193 may not ~~Proxies shall in no event~~ be used in electing the board
2194 of administration, ~~either~~ in general elections or elections to
2195 fill vacancies caused by recall, resignation, or otherwise
2196 unless otherwise provided in this chapter. At least ~~Not less~~
2197 ~~than~~ 60 days before a scheduled election, the association shall
2198 mail, deliver, or transmit, whether by separate association
2199 mailing, delivery, or electronic transmission or included in
2200 another association mailing, delivery, or electronic
2201 transmission, including regularly published newsletters, to each
2202 unit owner entitled to vote, a first notice of the date of the
2203 election. Any unit owner or other eligible person desiring to be
2204 a candidate for the board of administration must ~~shall~~ give
2205 written notice to the association at least ~~not less than~~ 40 days
2206 before a scheduled election. Together with the written notice
2207 and agenda as set forth in this section, the association shall
2208 mail, deliver, or electronically transmit a second notice of
2209 election to all unit owners entitled to vote ~~therein~~, together
2210 with a ballot which lists ~~shall list~~ all candidates. Upon
2211 request of a candidate, the association shall include an
2212 information sheet, no larger than 8 1/2 inches by 11 inches,

2213 | which must be furnished by the candidate at least ~~not less than~~
 2214 | 35 days before ~~prior to~~ the election, to be included with the
 2215 | mailing, delivery, or electronic transmission of the ballot,
 2216 | with the costs of mailing, delivery, or transmission and copying
 2217 | to be borne by the association. The association is not liable
 2218 | ~~has no liability~~ for the contents of the information sheets
 2219 | provided by the candidates. In order to reduce costs, the
 2220 | association may print or duplicate the information sheets on
 2221 | both sides of the paper. The division shall by rule establish
 2222 | voting procedures consistent with this subparagraph ~~the~~
 2223 | ~~provisions contained herein~~, including rules establishing
 2224 | procedures for giving notice by electronic transmission and
 2225 | rules providing for the secrecy of ballots. Elections shall be
 2226 | decided by a plurality of those ballots cast. There is ~~shall be~~
 2227 | no quorum requirement. However, at least 20 percent of the
 2228 | eligible voters must cast a ballot in order to have a valid
 2229 | election ~~of members of the board of administration~~. A ~~No~~ unit
 2230 | owner may not ~~shall~~ permit any other person to vote his or her
 2231 | ballot, and any such ballots improperly cast are ~~shall be deemed~~
 2232 | invalid. A unit owner who needs assistance in casting the ballot
 2233 | for the reasons stated in s. 101.051 may obtain assistance in
 2234 | casting the ballot. Any unit owner violating this provision may
 2235 | be fined by the association in accordance with s. 719.303. The
 2236 | regular election must ~~shall~~ occur on the date of the annual
 2237 | meeting. ~~The provisions of~~ This subparagraph does ~~shall~~ not
 2238 | apply to timeshare cooperatives. Notwithstanding ~~the provisions~~
 2239 | ~~of~~ this subparagraph, an election and balloting are not required
 2240 | unless more candidates file a notice of intent to run or are

2241 | nominated than vacancies exist on the board.

2242 | 2. Any approval by unit owners called for by this chapter,
 2243 | or the applicable cooperative documents, must ~~shall~~ be made at a
 2244 | duly noticed meeting of unit owners and is ~~shall be~~ subject to
 2245 | ~~all requirements of~~ this chapter or the applicable cooperative
 2246 | documents relating to unit owner decisionmaking, except that
 2247 | unit owners may take action by written agreement, without
 2248 | meetings, on matters for which action by written agreement
 2249 | without meetings is expressly allowed by the applicable
 2250 | cooperative documents or law ~~any Florida statute~~ which provides
 2251 | for the unit owner action.

2252 | 3. Unit owners may waive notice of specific meetings if
 2253 | allowed by the applicable cooperative documents or law ~~any~~
 2254 | ~~Florida statute~~. If authorized by the bylaws, notice of meetings
 2255 | of the board of administration, shareholder meetings, except
 2256 | shareholder meetings called to recall board members under
 2257 | paragraph (f), and committee meetings may be given by electronic
 2258 | transmission to unit owners who consent to receive notice by
 2259 | electronic transmission.

2260 | 4. Unit owners ~~shall~~ have the right to participate in
 2261 | meetings of unit owners with reference to all designated agenda
 2262 | items. However, the association may adopt reasonable rules
 2263 | governing the frequency, duration, and manner of unit owner
 2264 | participation.

2265 | 5. Any unit owner may tape record or videotape meetings of
 2266 | the unit owners subject to reasonable rules adopted by the
 2267 | division.

2268 | 6. Unless otherwise provided in the bylaws, a vacancy

2269 occurring on the board before the expiration of a term may be
 2270 filled by the affirmative vote of the majority of the remaining
 2271 directors, even if the remaining directors constitute less than
 2272 a quorum, or by the sole remaining director. In the alternative,
 2273 a board may hold an election to fill the vacancy, in which case
 2274 the election procedures must conform to the requirements of
 2275 subparagraph 1. unless the association has opted out of the
 2276 statutory election process, in which case the bylaws of the
 2277 association control. Unless otherwise provided in the bylaws, a
 2278 board member appointed or elected under this subparagraph shall
 2279 fill the vacancy for the unexpired term of the seat being
 2280 filled. Filling vacancies created by recall is governed by
 2281 paragraph (f) and rules adopted by the division.

2282
 2283 Notwithstanding subparagraphs (b)2. and (d)1., an association
 2284 may, by the affirmative vote of a majority of the total voting
 2285 interests, provide for a different voting and election procedure
 2286 in its bylaws, which vote may be by a proxy specifically
 2287 delineating the different voting and election procedures. The
 2288 different voting and election procedures may provide for
 2289 elections to be conducted by limited or general proxy.

2290 Section 20. Subsection (5) of section 719.1055, Florida
 2291 Statutes, is amended to read:

2292 719.1055 Amendment of cooperative documents; alteration
 2293 and acquisition of property.—

2294 (5) The bylaws must include a provision whereby a
 2295 certificate of compliance from a licensed electrical contractor
 2296 or electrician may be accepted by the association's board as

2297 evidence of compliance of the cooperative units with the
 2298 applicable fire and life safety code. Notwithstanding the
 2299 ~~provisions of chapter 633 or of any other code, statute,~~
 2300 ~~ordinance, administrative rule, or regulation, or any~~
 2301 ~~interpretation of the foregoing, a cooperative or unit owner is~~
 2302 ~~not obligated to retrofit the common elements, common areas,~~
 2303 association property, or units of a residential cooperative with
 2304 a fire sprinkler system or any other form of engineered
 2305 lifesafety ~~life safety~~ system in a building that has been
 2306 certified for occupancy by the applicable governmental entity,
 2307 if the unit owners have voted to forego such retrofitting and
 2308 engineered lifesafety ~~life safety~~ system by the affirmative vote
 2309 of two-thirds of all voting interests in the affected
 2310 cooperative. ~~However, a cooperative may not forego the~~
 2311 ~~retrofitting with a fire sprinkler system of common areas in a~~
 2312 ~~high-rise building. For purposes of this subsection, the term~~
 2313 ~~"high-rise building" means a building that is greater than 75~~
 2314 ~~feet in height where the building height is measured from the~~
 2315 ~~lowest level of fire department access to the floor of the~~
 2316 ~~highest occupiable story. For purposes of this subsection, the~~
 2317 ~~term "common areas" means any enclosed hallway, corridor, lobby,~~
 2318 ~~stairwell, or entryway. In no event shall The local authority~~
 2319 ~~having jurisdiction may not require completion of retrofitting~~
 2320 ~~of common areas with a sprinkler system or other form of~~
 2321 engineered lifesafety system before the end of 2019 ~~2014~~.

2322 (a) A vote to forego retrofitting may be obtained by
 2323 limited proxy or by a ballot personally cast at a duly called
 2324 membership meeting, or by execution of a written consent by the

2325 member, and is ~~shall be~~ effective upon ~~the~~ recording of a
 2326 certificate attesting to such vote in the public records of the
 2327 county where the cooperative is located. The association shall
 2328 mail or, hand deliver, ~~or electronically transmit~~ to each unit
 2329 owner written notice at least 14 days before ~~prior to~~ such
 2330 membership meeting in which the vote to forego retrofitting of
 2331 the required fire sprinkler system or any other form of
 2332 engineered lifesafety system is to take place. Within 30 days
 2333 after the association's opt-out vote, notice of the results of
 2334 the opt-out vote shall be mailed or, hand delivered, ~~or~~
 2335 ~~electronically transmitted~~ to all unit owners. Evidence of
 2336 compliance with this ~~30-day~~ notice must ~~shall~~ be made by an
 2337 affidavit executed by the person providing the notice and filed
 2338 among the official records of the association. After such notice
 2339 is provided to each owner, a copy of the ~~such~~ notice shall be
 2340 provided by the current owner to a new owner before ~~prior to~~
 2341 closing and ~~shall be provided~~ by a unit owner to a renter before
 2342 ~~prior to~~ signing a lease.

2343 (b) If there has been a previous vote to forego
 2344 retrofitting, a vote to require retrofitting may be obtained at
 2345 a special meeting of the unit owners called by a petition of
 2346 least 10 percent of the voting interests. Such vote may only be
 2347 called once every 3 years. Notice must be provided as required
 2348 for any regularly called meeting of the unit owners, and the
 2349 notice must state the purpose of the meeting. Electronic
 2350 transmission may not be used to provide notice of a meeting
 2351 called in whole or in part for this purpose.

2352 (c) ~~(b)~~ As part of the information collected annually from

2353 cooperatives, the division shall require associations to report
 2354 the membership vote and recording of a certificate under this
 2355 subsection and, if retrofitting has been undertaken, the per-
 2356 unit cost of such work. The division shall annually report to
 2357 the Division of State Fire Marshal of the Department of
 2358 Financial Services the number of cooperatives that have elected
 2359 to forego retrofitting.

2360 Section 21. Subsections (3) and (4) of section 719.108,
 2361 Florida Statutes, are amended, and subsection (10) is added to
 2362 that section, to read:

2363 719.108 Rents and assessments; liability; lien and
 2364 priority; interest; collection; cooperative ownership.—

2365 (3) Rents and assessments, and installments on them, not
 2366 paid when due bear interest at the rate provided in the
 2367 cooperative documents from the date due until paid. This rate
 2368 may not exceed the rate allowed by law, and, if a ~~no~~ rate is not
 2369 provided in the cooperative documents, ~~then~~ interest accrues
 2370 ~~shall accrue~~ at 18 percent per annum. ~~Also,~~ If the cooperative
 2371 documents or bylaws so provide, the association may charge an
 2372 administrative late fee in addition to such interest, in an
 2373 amount not to exceed the greater of \$25 or 5 percent of each
 2374 installment of the assessment for each delinquent installment
 2375 that the payment is late. Any payment received by an association
 2376 must ~~shall~~ be applied first to any interest accrued by the
 2377 association, then to any administrative late fee, then to any
 2378 costs and reasonable attorney's fees incurred in collection, and
 2379 then to the delinquent assessment. The foregoing applies ~~shall~~
 2380 ~~be applicable~~ notwithstanding any restrictive endorsement,

2381 designation, or instruction placed on or accompanying a payment.
 2382 A late fee is not subject to chapter 687 or s. 719.303(3).

2383 (4) The association has ~~shall have~~ a lien on each
 2384 cooperative parcel for any unpaid rents and assessments, plus
 2385 interest, any authorized administrative late fees, and any
 2386 reasonable costs for collection services for which the
 2387 association has contracted against the unit owner of the
 2388 cooperative parcel. If authorized by the cooperative documents,
 2389 the said lien shall also secures ~~secure~~ reasonable attorney's
 2390 fees incurred by the association incident to the collection of
 2391 the rents and assessments or enforcement of such lien. The lien
 2392 is effective from and after ~~the~~ recording ~~of~~ a claim of lien in
 2393 the public records in the county in which the cooperative parcel
 2394 is located which states the description of the cooperative
 2395 parcel, the name of the unit owner, the amount due, and the due
 2396 dates. The lien expires ~~shall expire~~ if a claim of lien is not
 2397 filed within 1 year after the date the assessment was due, and
 2398 the no-such lien does not ~~shall~~ continue for a longer ~~period~~
 2399 than 1 year after the claim of lien has been recorded unless,
 2400 within that time, an action to enforce the lien is commenced ~~in~~
 2401 ~~a court of competent jurisdiction~~. Except as otherwise provided
 2402 in this chapter, a lien may not be filed by the association
 2403 against a cooperative parcel until 30 days after the date on
 2404 which a notice of intent to file a lien has been delivered to
 2405 the owner.

2406 (a) The notice must be sent to the unit owner at the
 2407 address of the unit by first-class United States mail and:

2408 1. If the most recent address of the unit owner on the

2409 records of the association is the address of the unit, the
 2410 notice must be sent by registered or certified mail, return
 2411 receipt requested, to the unit owner at the address of the unit.

2412 2. If the most recent address of the unit owner on the
 2413 records of the association is in the United States, but is not
 2414 the address of the unit, the notice must be sent by registered
 2415 or certified mail, return receipt requested, to the unit owner
 2416 at his or her most recent address.

2417 3. If the most recent address of the unit owner on the
 2418 records of the association is not in the United States, the
 2419 notice must be sent by first-class United States mail to the
 2420 unit owner at his or her most recent address.

2421 (b) A notice that is sent pursuant to this subsection is
 2422 deemed delivered upon mailing. ~~No lien may be filed by the~~
 2423 ~~association against a cooperative parcel until 30 days after the~~
 2424 ~~date on which a notice of intent to file a lien has been served~~
 2425 ~~on the unit owner of the cooperative parcel by certified mail or~~
 2426 ~~by personal service in the manner authorized by chapter 48 and~~
 2427 ~~the Florida Rules of Civil Procedure.~~

2428 (10) If the unit is occupied by a tenant and the unit
 2429 owner is delinquent in paying any monetary obligation due to the
 2430 association, the association may make a written demand that the
 2431 tenant pay the future monetary obligations related to the
 2432 cooperative share to the association and the tenant must make
 2433 such payment. The demand is continuing in nature, and upon
 2434 demand, the tenant must pay the monetary obligations to the
 2435 association until the association releases the tenant or the
 2436 tenant discontinues tenancy in the unit. The association must

2437 mail written notice to the unit owner of the association's
2438 demand that the tenant make payments to the association. The
2439 association shall, upon request, provide the tenant with written
2440 receipts for payments made. A tenant who acts in good faith in
2441 response to a written demand from an association is immune from
2442 any claim from the unit owner.

2443 (a) If the tenant prepaid rent to the unit owner before
2444 receiving the demand from the association and provides written
2445 evidence of paying the rent to the association within 14 days
2446 after receiving the demand, the tenant shall receive credit for
2447 the prepaid rent for the applicable period and must make any
2448 subsequent rental payments to the association to be credited
2449 against the monetary obligations of the unit owner to the
2450 association.

2451 (b) The tenant is not liable for increases in the amount
2452 of the regular monetary obligations due unless the tenant was
2453 notified in writing of the increase at least 10 days before the
2454 date on which the rent is due. The liability of the tenant may
2455 not exceed the amount due from the tenant to the tenant's
2456 landlord. The tenant's landlord shall provide the tenant a
2457 credit against rents due to the unit owner in the amount of
2458 moneys paid to the association under this subsection.

2459 (c) The association may issue notices under s. 83.56 and
2460 may sue for eviction under ss. 83.59-83.625 as if the
2461 association were a landlord under part II of chapter 83 if the
2462 tenant fails to pay a required payment. However, the association
2463 is not otherwise considered a landlord under chapter 83 and
2464 specifically has no duties under s. 83.51.

2465 (d) The tenant does not, by virtue of payment of monetary
 2466 obligations, have any of the rights of a unit owner to vote in
 2467 any election or to examine the books and records of the
 2468 association.

2469 (e) A court may supersede the effect of this subsection by
 2470 appointing a receiver.

2471 Section 22. Paragraph (b) of subsection (2), paragraphs
 2472 (a) and (c) of subsection (5), and paragraphs (b), (c), (d),
 2473 (f), and (g) of subsection (6) of section 720.303, Florida
 2474 Statutes, are amended, and subsection (12) is added to that
 2475 section, to read:

2476 720.303 Association powers and duties; meetings of board;
 2477 official records; budgets; financial reporting; association
 2478 funds; recalls.—

2479 (2) BOARD MEETINGS.—

2480 (b) Members have the right to attend all meetings of the
 2481 board and to speak on any matter placed on the agenda by
 2482 petition of the voting interests for at least 3 minutes. The
 2483 association may adopt written reasonable rules expanding the
 2484 right of members to speak and governing the frequency, duration,
 2485 and other manner of member statements, which rules must be
 2486 consistent with this paragraph and may include a sign-up sheet
 2487 for members wishing to speak. Notwithstanding any other law, ~~the~~
 2488 ~~requirement that board meetings and committee meetings be open~~
 2489 ~~to the members is inapplicable to meetings between the board or~~
 2490 a committee and the association's attorney to discuss proposed
 2491 or pending litigation, or with respect to meetings of the board
 2492 held for the purpose of discussing personnel matters, are not

2493 required to be open to the members other than directors.

2494 (5) INSPECTION AND COPYING OF RECORDS.—The official
 2495 records shall be maintained within the state and must be open to
 2496 inspection and available for photocopying by members or their
 2497 authorized agents at reasonable times and places within 10
 2498 business days after receipt of a written request for access.
 2499 This subsection may be complied with by having a copy of the
 2500 official records available for inspection or copying in the
 2501 community. If the association has a photocopy machine available
 2502 where the records are maintained, it must provide parcel owners
 2503 with copies on request during the inspection if the entire
 2504 request is limited to no more than 25 pages.

2505 (a) The failure of an association to provide access to the
 2506 records within 10 business days after receipt of a written
 2507 request submitted by certified mail, return receipt requested,
 2508 creates a rebuttable presumption that the association willfully
 2509 failed to comply with this subsection.

2510 (c) The association may adopt reasonable written rules
 2511 governing the frequency, time, location, notice, records to be
 2512 inspected, and manner of inspections, but may not require ~~impose~~
 2513 ~~a requirement that~~ a parcel owner to demonstrate any proper
 2514 purpose for the inspection, state any reason for the inspection,
 2515 or limit a parcel owner's right to inspect records to less than
 2516 one 8-hour business day per month. The association may impose
 2517 fees to cover the costs of providing copies of the official
 2518 records, including, without limitation, the costs of copying.
 2519 The association may charge up to 50 cents per page for copies
 2520 made on the association's photocopier. If the association does

2521 not have a photocopy machine available where the records are
 2522 kept, or if the records requested to be copied exceed 25 pages
 2523 in length, the association may have copies made by an outside
 2524 vendor or association management company personnel and may
 2525 charge the actual cost of copying, including any reasonable
 2526 costs involving personnel fees and charges at an hourly rate for
 2527 vendor or employee time to cover administrative costs to the
 2528 vendor or association. The association shall maintain an
 2529 adequate number of copies of the recorded governing documents,
 2530 to ensure their availability to members and prospective members.
 2531 Notwithstanding ~~the provisions of~~ this paragraph, the following
 2532 records are ~~shall not be~~ accessible to members or parcel owners:
 2533 1. Any record protected by the lawyer-client privilege as
 2534 described in s. 90.502 and any record protected by the work-
 2535 product privilege, including, but not limited to, any record
 2536 prepared by an association attorney or prepared at the
 2537 attorney's express direction which reflects a mental impression,
 2538 conclusion, litigation strategy, or legal theory of the attorney
 2539 or the association and which was prepared exclusively for civil
 2540 or criminal litigation or for adversarial administrative
 2541 proceedings or which was prepared in anticipation of imminent
 2542 civil or criminal litigation or imminent adversarial
 2543 administrative proceedings until the conclusion of the
 2544 litigation or ~~adversarial~~ administrative proceedings.
 2545 2. Information obtained by an association in connection
 2546 with the approval of the lease, sale, or other transfer of a
 2547 parcel.
 2548 3. ~~Disciplinary, health, insurance, and Personnel records~~

2549 of the association's employees, including, but not limited to,
 2550 disciplinary, payroll, health, and insurance records.

2551 4. Medical records of parcel owners or community
 2552 residents.

2553 5. Social security numbers, driver's license numbers,
 2554 credit card numbers, electronic mailing addresses, telephone
 2555 numbers, emergency contact information, any addresses for a
 2556 parcel owner other than as provided for association notice
 2557 requirements, and other personal identifying information of any
 2558 person, excluding the person's name, parcel designation, mailing
 2559 address, and property address.

2560 6. Any electronic security measure that is used by the
 2561 association to safeguard data, including passwords.

2562 7. The software and operating system used by the
 2563 association which allows the manipulation of data, even if the
 2564 owner owns a copy of the same software used by the association.
 2565 The data is part of the official records of the association.

2566 (6) BUDGETS.—

2567 (b) In addition to annual operating expenses, the budget
 2568 may include reserve accounts for capital expenditures and
 2569 deferred maintenance for which the association is responsible.
 2570 If reserve accounts are not established pursuant to paragraph
 2571 (d), funding of such reserves is limited to the extent that the
 2572 governing documents ~~do not~~ limit increases in assessments,
 2573 including reserves. If the budget of the association includes
 2574 reserve accounts established pursuant to paragraph (d), such
 2575 reserves shall be determined, maintained, and waived in the
 2576 manner provided in this subsection. Once an association provides

2577 for reserve accounts pursuant to paragraph (d) ~~in the budget,~~
 2578 the association shall thereafter determine, maintain, and waive
 2579 reserves in compliance with this subsection. This section does
 2580 not preclude the termination of a reserve account established
 2581 pursuant to this paragraph upon approval of a majority of the
 2582 total voting interests of the association. Upon such approval,
 2583 the terminating reserve account shall be removed from the
 2584 budget.

2585 (c)1. If the budget of the association does not provide
 2586 for reserve accounts pursuant to paragraph (d) ~~governed by this~~
 2587 ~~subsection~~ and the association is responsible for the repair and
 2588 maintenance of capital improvements that may result in a special
 2589 assessment if reserves are not provided, each financial report
 2590 for the preceding fiscal year required by subsection (7) must
 2591 ~~shall~~ contain the following statement in conspicuous type:

2592
 2593 THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR
 2594 RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED
 2595 MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS.
 2596 OWNERS MAY ELECT TO PROVIDE FOR RESERVE ACCOUNTS
 2597 PURSUANT TO ~~THE PROVISIONS OF~~ SECTION 720.303(6),
 2598 FLORIDA STATUTES, UPON OBTAINING THE APPROVAL OF ~~NOT~~
 2599 ~~LESS THAN~~ A MAJORITY OF THE TOTAL VOTING INTERESTS OF
 2600 THE ASSOCIATION BY VOTE OF THE MEMBERS AT A MEETING OR
 2601 BY WRITTEN CONSENT.

2602
 2603 2. If the budget of the association does provide for
 2604 funding accounts for deferred expenditures, including, but not

2605 limited to, funds for capital expenditures and deferred
 2606 maintenance, but such accounts are not created or established
 2607 pursuant to paragraph (d), each financial report for the
 2608 preceding fiscal year required under subsection (7) must also
 2609 contain the following statement in conspicuous type:

2611 THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED
 2612 VOLUNTARY DEFERRED EXPENDITURE ACCOUNTS, INCLUDING
 2613 CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE, SUBJECT
 2614 TO LIMITS ON FUNDING CONTAINED IN OUR GOVERNING
 2615 DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED TO
 2616 PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION
 2617 720.303(6), FLORIDA STATUTES, THESE FUNDS ARE NOT
 2618 SUBJECT TO THE RESTRICTIONS ON USE OF SUCH FUNDS SET
 2619 FORTH IN THAT STATUTE, NOR ARE RESERVES CALCULATED IN
 2620 ACCORDANCE WITH THAT STATUTE.

2622 (d) An association is ~~shall be~~ deemed to have provided for
 2623 reserve accounts if ~~when~~ reserve accounts have been initially
 2624 established by the developer or if ~~when~~ the membership of the
 2625 association affirmatively elects to provide for reserves. If
 2626 reserve accounts are not initially provided ~~for~~ by the
 2627 developer, the membership of the association may elect to do so
 2628 upon the affirmative approval of ~~not less than~~ a majority of the
 2629 total voting interests of the association. Such approval may be
 2630 obtained ~~attained~~ by vote of the members at a duly called
 2631 meeting of the membership or by the ~~upon a~~ written consent of
 2632 ~~executed by not less than~~ a majority of the total voting

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2633 | ~~interests of the association in the community.~~ The approval
2634 | action of the membership must ~~shall~~ state that reserve accounts
2635 | shall be provided for in the budget and must designate the
2636 | components for which the reserve accounts are to be established.
2637 | Upon approval by the membership, the board of directors shall
2638 | include ~~provide for~~ the required reserve accounts ~~for inclusion~~
2639 | in the budget in the next fiscal year following the approval and
2640 | ~~in~~ each year thereafter. Once established as provided in this
2641 | subsection, the reserve accounts must ~~shall~~ be funded or
2642 | maintained or ~~shall~~ have their funding waived in the manner
2643 | provided in paragraph (f).

2644 | (f) After one or more ~~Once a reserve account or~~ reserve
2645 | accounts are established, the membership of the association,
2646 | upon a majority vote at a meeting at which a quorum is present,
2647 | may provide for no reserves or less reserves than required by
2648 | this section. If a meeting of the unit owners has been called to
2649 | determine whether to waive or reduce the funding of reserves and
2650 | ~~no~~ such result is not achieved or a quorum is not present, the
2651 | reserves as included in the budget ~~shall~~ go into effect. After
2652 | the turnover, the developer may vote its voting interest to
2653 | waive or reduce the funding of reserves. Any vote taken pursuant
2654 | to this subsection to waive or reduce reserves is ~~shall be~~
2655 | applicable only to one budget year.

2656 | (g) Funding formulas for reserves authorized by this
2657 | section must ~~shall~~ be based on ~~either~~ a separate analysis of
2658 | each of the required assets or a pooled analysis of two or more
2659 | of the required assets.

2660 | 1. If the association maintains separate reserve accounts

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2661 for each of the required assets, the amount of the contribution
 2662 to each reserve account is ~~shall be~~ the sum of the following two
 2663 calculations:

2664 a. The total amount necessary, if any, to bring a negative
 2665 component balance to zero.

2666 b. The total estimated deferred maintenance expense or
 2667 estimated replacement cost of the reserve component less the
 2668 estimated balance of the reserve component as of the beginning
 2669 of the period ~~for which~~ the budget will be in effect. The
 2670 remainder, if greater than zero, shall be divided by the
 2671 estimated remaining useful life of the component.

2672
 2673 The formula may be adjusted each year for changes in estimates
 2674 and deferred maintenance performed during the year and may
 2675 include factors such as inflation and earnings on invested
 2676 funds.

2677 2. If the association maintains a pooled account of two or
 2678 more of the required reserve assets, the amount of the
 2679 contribution to the pooled reserve account as disclosed on the
 2680 proposed budget may ~~shall~~ not be less than that required to
 2681 ensure that the balance on hand at the beginning of the period
 2682 ~~for which~~ the budget will go into effect plus the projected
 2683 annual cash inflows over the remaining estimated useful life of
 2684 all of the assets that make up the reserve pool are equal to or
 2685 greater than the projected annual cash outflows over the
 2686 remaining estimated useful lives of all ~~of~~ the assets that make
 2687 up the reserve pool, based on the current reserve analysis. The
 2688 projected annual cash inflows may include estimated earnings

2689 from investment of principal and accounts receivable minus the
 2690 allowance for doubtful accounts. The reserve funding formula may
 2691 ~~shall~~ not include any type of balloon payments.

2692 (12) COMPENSATION PROHIBITED.—A director, officer, or
 2693 committee member of the association may not directly receive any
 2694 salary or compensation from the association for the performance
 2695 of duties as a director, officer, or committee member and may
 2696 not in any other way benefit financially from service to the
 2697 association. This subsection does not preclude:

2698 (a) Participation by such person in a financial benefit
 2699 accruing to all or a significant number of members as a result
 2700 of actions lawfully taken by the board or a committee of which
 2701 he or she is a member, including, but not limited to, routine
 2702 maintenance, repair, or replacement of community assets.

2703 (b) Reimbursement for out-of-pocket expenses incurred by
 2704 such person on behalf of the association, subject to approval in
 2705 accordance with procedures established by the association's
 2706 governing documents or, in the absence of such procedures, in
 2707 accordance with an approval process established by the board.

2708 (c) Any recovery of insurance proceeds derived from a
 2709 policy of insurance maintained by the association for the
 2710 benefit of its members.

2711 (d) Any fee or compensation authorized in the governing
 2712 documents.

2713 (e) Any fee or compensation authorized in advance by a
 2714 vote of a majority of the voting interests voting in person or
 2715 by proxy at a meeting of the members.

2716 (f) A developer or its representative from serving as a

2717 director, officer, or committee member of the association and
 2718 benefiting financially from service to the association.

2719 Section 23. Paragraph (b) of subsection (2) of section
 2720 720.304, Florida Statutes, is amended to read:

2721 720.304 Right of owners to peaceably assemble; display of
 2722 flag; SLAPP suits prohibited.-

2723 (2)

2724 (b) Any homeowner may erect a freestanding flagpole no
 2725 more than 20 feet high on any portion of the homeowner's real
 2726 property, regardless of any covenants, restrictions, bylaws,
 2727 rules, or requirements of the association, if the flagpole does
 2728 not obstruct sightlines at intersections and is not erected
 2729 within or upon an easement. The homeowner may further display in
 2730 a respectful manner from that flagpole, regardless of any
 2731 covenants, restrictions, bylaws, rules, or requirements of the
 2732 association, one official United States flag, not larger than 4
 2733 1/2 feet by 6 feet, and may additionally display one official
 2734 flag of the State of Florida or the United States Army, Navy,
 2735 Air Force, Marines, or Coast Guard, or a POW-MIA flag. Such
 2736 additional flag must be equal in size to or smaller than the
 2737 United States flag. The flagpole and display are subject to all
 2738 building codes, zoning setbacks, and other applicable
 2739 governmental regulations, including, but not limited to, noise
 2740 and lighting ordinances in the county or municipality in which
 2741 the flagpole is erected and all setback and locational criteria
 2742 contained in the governing documents.

2743 Section 24. Subsection (2) of section 720.305, Florida
 2744 Statutes, is amended to read:

2745 720.305 Obligations of members; remedies at law or in
 2746 equity; levy of fines and suspension of use rights.—
 2747 (2) If a member is delinquent for more than 90 days in
 2748 paying a monetary obligation due the association ~~the governing~~
 2749 ~~documents so provide~~, an association may suspend, until such
 2750 monetary obligation is paid ~~for a reasonable period of time~~, the
 2751 rights of a member or a member's tenants, guests, or invitees,
 2752 or both, to use common areas and facilities and may levy
 2753 reasonable fines of up to, ~~not to exceed~~ \$100 per violation,
 2754 against any member or any tenant, guest, or invitee. A fine may
 2755 be levied for ~~on the basis of~~ each day of a continuing
 2756 violation, with a single notice and opportunity for hearing,
 2757 except that a no such fine may not shall exceed \$1,000 in the
 2758 aggregate unless otherwise provided in the governing documents.
 2759 A fine of less than \$1,000 may shall not become a lien against a
 2760 parcel. In any action to recover a fine, the prevailing party is
 2761 entitled to collect its reasonable attorney's fees and costs
 2762 from the nonprevailing party as determined by the court. The
 2763 provisions regarding the suspension-of-use rights do not apply
 2764 to the portion of common areas that must be used to provide
 2765 access to the parcel or utility services provided to the parcel.
 2766 (a) A fine or suspension may not be imposed without ~~notice~~
 2767 ~~of~~ at least 14 days' notice ~~days~~ to the person sought to be
 2768 fined or suspended and an opportunity for a hearing before a
 2769 committee of at least three members appointed by the board who
 2770 are not officers, directors, or employees of the association, or
 2771 the spouse, parent, child, brother, or sister of an officer,
 2772 director, or employee. If the committee, by majority vote, does

2773 not approve a proposed fine or suspension, it may not be
 2774 imposed. If the association imposes a fine or suspension, the
 2775 association must provide written notice of such fine or
 2776 suspension by mail or hand delivery to the parcel owner and, if
 2777 applicable, to any tenant, licensee, or invitee of the parcel
 2778 owner.

2779 ~~(b) The requirements of this subsection do not apply to~~
 2780 ~~the imposition of suspensions or fines upon any member because~~
 2781 ~~of the failure of the member to pay assessments or other charges~~
 2782 ~~when due if such action is authorized by the governing~~
 2783 ~~documents.~~

2784 (b)(e) Suspension of common-area-use rights do shall not
 2785 impair the right of an owner or tenant of a parcel to have
 2786 vehicular and pedestrian ingress to and egress from the parcel,
 2787 including, but not limited to, the right to park.

2788 Section 25. Subsections (7), (8), and (9) of section
 2789 720.306, Florida Statutes, are amended to read:

2790 720.306 Meetings of members; voting and election
 2791 procedures; amendments.—

2792 (7) ADJOURNMENT.—Unless the bylaws require otherwise,
 2793 adjournment of an annual or special meeting to a different date,
 2794 time, or place must be announced at that meeting before an
 2795 adjournment is taken, or notice must be given of the new date,
 2796 time, or place pursuant to s. 720.303(2). Any business that
 2797 might have been transacted on the original date of the meeting
 2798 may be transacted at the adjourned meeting. If a new record date
 2799 for the adjourned meeting is or must be fixed under s. 607.0707
 2800 ~~s. 617.0707~~, notice of the adjourned meeting must be given to

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2801 persons who are entitled to vote and are members as of the new
2802 record date but were not members as of the previous record date.

2803 (8) PROXY VOTING.—The members have the right, unless
2804 otherwise provided in this subsection or in the governing
2805 documents, to vote in person or by proxy.

2806 (a) To be valid, a proxy must be dated, must state the
2807 date, time, and place of the meeting for which it was given, and
2808 must be signed by the authorized person who executed the proxy.
2809 A proxy is effective only for the specific meeting for which it
2810 was originally given, as the meeting may lawfully be adjourned
2811 and reconvened from time to time, and automatically expires 90
2812 days after the date of the meeting for which it was originally
2813 given. A proxy is revocable at any time at the pleasure of the
2814 person who executes it. If the proxy form expressly so provides,
2815 any proxy holder may appoint, in writing, a substitute to act in
2816 his or her place.

2817 (b) If the governing documents permit voting by secret
2818 ballot by members who are not in attendance at a meeting of the
2819 members for the election of directors, such ballots must be
2820 placed in an inner envelope with no identifying markings and
2821 mailed or delivered to the association in an outer envelope
2822 bearing identifying information reflecting the name of the
2823 member, the lot or parcel for which the vote is being cast, and
2824 the signature of the lot or parcel owner casting that ballot. If
2825 the eligibility of the member to vote is confirmed and no other
2826 ballot has been submitted for that lot or parcel, the inner
2827 envelope shall be removed from the outer envelope bearing the
2828 identification information, placed with the ballots which were

2829 personally cast, and opened when the ballots are counted. If
 2830 more than one ballot is submitted for a lot or parcel, the
 2831 ballots for that lot or parcel shall be disqualified. Any vote
 2832 by ballot received after the closing of the balloting may not be
 2833 considered.

2834 (9) ELECTIONS AND BOARD VACANCIES.—Elections of directors
 2835 must be conducted in accordance with the procedures set forth in
 2836 the governing documents of the association. All members of the
 2837 association are ~~shall be~~ eligible to serve on the board of
 2838 directors, and a member may nominate himself or herself as a
 2839 candidate for the board at a meeting where the election is to be
 2840 held or, if the election process allows voting by absentee
 2841 ballot, in advance of the balloting. Except as otherwise
 2842 provided in the governing documents, boards of directors must be
 2843 elected by a plurality of the votes cast by eligible voters. Any
 2844 election dispute between a member and an association must be
 2845 submitted to mandatory binding arbitration with the division.
 2846 Such proceedings must ~~shall~~ be conducted in the manner provided
 2847 by s. 718.1255 and the procedural rules adopted by the division.
 2848 Unless otherwise provided in the bylaws, any vacancy occurring
 2849 on the board before the expiration of a term may be filled by an
 2850 affirmative vote of the majority of the remaining directors,
 2851 even if the remaining directors constitute less than a quorum,
 2852 or by the sole remaining director. In the alternative, a board
 2853 may hold an election to fill the vacancy, in which case the
 2854 election procedures must conform to the requirements of the
 2855 governing documents. Unless otherwise provided in the bylaws, a
 2856 board member appointed or elected under this section is

2857 appointed for the unexpired term of the seat being filled.
 2858 Filling vacancies created by recall is governed by s.
 2859 720.303(10) and rules adopted by the division.

2860 Section 26. Subsection (8) is added to section 720.3085,
 2861 Florida Statutes, to read:

2862 720.3085 Payment for assessments; lien claims.-

2863 (8) If the parcel is occupied by a tenant and the parcel
 2864 owner is delinquent in paying any monetary obligation due to the
 2865 association, the association may demand that the tenant pay to
 2866 the association the future monetary obligations related to the
 2867 parcel. The demand is continuing in nature, and upon demand, the
 2868 tenant must continue to pay the monetary obligations until the
 2869 association releases the tenant or the tenant discontinues
 2870 tenancy in the parcel. A tenant who acts in good faith in
 2871 response to a written demand from an association is immune from
 2872 any claim from the parcel owner.

2873 (a) If the tenant prepaid rent to the parcel owner before
 2874 receiving the demand from the association and provides written
 2875 evidence of paying the rent to the association within 14 days
 2876 after receiving the demand, the tenant shall receive credit for
 2877 the prepaid rent for the applicable period and must make any
 2878 subsequent rental payments to the association to be credited
 2879 against the monetary obligations of the parcel owner to the
 2880 association. The association shall, upon request, provide the
 2881 tenant with written receipts for payments made. The association
 2882 shall mail written notice to the parcel owner of the
 2883 association's demand that the tenant pay monetary obligations to
 2884 the association.

2885 (b) The tenant is not liable for increases in the amount
 2886 of the monetary obligations due unless the tenant was notified
 2887 in writing of the increase at least 10 days before the date on
 2888 which the rent is due. The tenant shall be given a credit
 2889 against rents due to the parcel owner in the amount of
 2890 assessments paid to the association.

2891 (c) The association may issue notices under s. 83.56 and
 2892 may sue for eviction under ss. 83.59-83.625 as if the
 2893 association were a landlord under part II of chapter 83 if the
 2894 tenant fails to pay a monetary obligation. However, the
 2895 association is not otherwise considered a landlord under chapter
 2896 83 and specifically has no duties under s. 83.51.

2897 (d) The tenant does not, by virtue of payment of monetary
 2898 obligations, have any of the rights of a parcel owner to vote in
 2899 any election or to examine the books and records of the
 2900 association.

2901 (e) A court may supersede the effect of this subsection by
 2902 appointing a receiver.

2903 Section 27. Subsection (6) is added to section 720.31,
 2904 Florida Statutes, to read:

2905 720.31 Recreational leaseholds; right to acquire;
 2906 escalation clauses.—

2907 (6) An association may enter into agreements to acquire
 2908 leaseholds, memberships, and other possessory or use interests
 2909 in lands or facilities, including, but not limited to, country
 2910 clubs, golf courses, marinas, submerged land, parking areas,
 2911 conservation areas, and other recreational facilities. An
 2912 association may enter into such agreements regardless of whether

2913 the lands or facilities are contiguous to the lands of the
 2914 community or whether such lands or facilities are intended to
 2915 provide enjoyment, recreation, or other use or benefit to the
 2916 owners. All leaseholds, memberships, and other possessory or use
 2917 interests existing or created at the time of recording the
 2918 declaration must be stated and fully described in the
 2919 declaration. Agreements acquiring leaseholds, memberships, or
 2920 other possessory or use interests not entered into within 12
 2921 months after recording the declaration may be entered into only
 2922 if authorized by the declaration as a material alteration or
 2923 substantial addition to the common areas or association
 2924 property. If the declaration is silent, any such transaction
 2925 requires the approval of 75 percent of the total voting
 2926 interests of the association. The declaration may provide that
 2927 the rental, membership fees, operations, replacements, or other
 2928 expenses are common expenses; impose covenants and restrictions
 2929 concerning their use; and contain other provisions not
 2930 inconsistent with this subsection. An association exercising its
 2931 rights under this subsection may join with other associations
 2932 that are part of the same development or with a master
 2933 association responsible for the enforcement of shared covenants,
 2934 conditions, and restrictions in carrying out the intent of this
 2935 subsection. This subsection is intended to clarify law in
 2936 existence before July 1, 2010.

2937 Section 28. Section 720.315, Florida Statutes, is created
 2938 to read:

2939 720.315 Passage of special assessments.—Before turnover,
 2940 the board of directors controlled by the developer may not levy

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2941 | a special assessment unless a majority of the parcel owners
2942 | other than the developer have approved the special assessment by
2943 | a majority vote at a duly called special meeting of the
2944 | membership at which a quorum is present.

2945 | Section 29. This act shall take effect July 1, 2010.