

By Senator Garcia

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

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

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59 levying a fine or imposing a suspension; amending s.
60 718.501, F.S.; revising condominium matters over which
61 the Division of Florida Condominiums, Timeshares, and
62 Mobile Homes has jurisdiction; revising and providing
63 powers of the division; requiring the division to
64 create a specified booklet for association directors;
65 amending s. 718.5012, F.S.; authorizing the Office of
66 the Condominium Ombudsman to assist in the resolution
67 of certain disputes; amending s. 718.50151, F.S.;
68 redesignating the Community Association Living Study
69 Council as the Community Association Study Council;
70 revising council membership; amending s. 719.103,
71 F.S.; revising definitions; changing references from
72 unit owner to shareholder in statutes relating to
73 cooperatives; amending s. 719.104, F.S.; providing
74 requirements for association access to a unit,
75 including prior notice; providing an exception for
76 emergencies; providing civil penalties for violations
77 of accounting records requirements; exempting certain
78 personal information from unit owner records requests;
79 providing immunity from liability for certain
80 information provided by associations to prospective
81 purchasers or lienholders under certain circumstances;
82 providing requirements with respect to financial
83 statements and reports; providing that the operation
84 of the cooperative shall be by the association;
85 providing that shareholders shall be members of the
86 association; providing legislative intent; providing
87 that a director of the association who abstains from

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88 voting on any action taken on any corporate matter
89 shall be presumed to have taken no position with
90 regard to the action; providing duties of officers,
91 directors, and agents of a cooperative association and
92 liability for monetary damages under certain
93 circumstances; providing that the association may
94 contract, sue, or be sued with respect to the exercise
95 or nonexercise of its powers; providing powers of the
96 association with respect to title to property and
97 purchase of units; providing requirements for the
98 selection of cooperative association board of
99 directors meeting times and locations; providing
100 restrictions on the times set for certain meetings;
101 prohibiting certain expenditures and contributions by
102 a cooperative association; providing liability;
103 amending s. 719.106, F.S.; requiring certain items to
104 be placed on the agenda of board meetings; revising
105 notice requirements for board meetings; providing
106 requirements for shareholder meetings; providing terms
107 of office and election requirements for the board of
108 directors; providing criteria for the amendment of the
109 bylaws; providing eligibility to vote on certain
110 questions involving reserve funds; requiring proxy
111 questions relating to reserves to contain a specified
112 statement; requiring the bylaws to contain certain
113 provisions; requiring that directors and officers who
114 are delinquent in certain payments owed in excess of
115 certain periods of time be deemed to have abandoned
116 their offices; requiring that directors and officers

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117 charged with certain offenses involving an
118 association's funds or property be suspended from
119 office pending resolution of the charge; providing for
120 the reinstatement of such directors and officers under
121 certain circumstances; providing qualifications for
122 directors; providing requirements for the borrowing of
123 funds or committing to a line of credit by the board;
124 repealing s. 719.1064, F.S., relating to the failure
125 to fill vacancies on board of administration and the
126 appointment of a receiver upon petition of a
127 shareholder; amending s. 719.107, F.S.; providing that
128 the expense of installation, replacement, operation,
129 repair, and maintenance of hurricane shutters or other
130 hurricane protection shall either constitute a common
131 expense or be charged individually to the shareholders
132 under certain conditions; amending s. 719.108, F.S.;
133 providing grounds for disapproval of the proposed
134 lease of a unit by an association; providing lien
135 requirements; providing for the extension of certain
136 liens; providing lien notice and filing requirements;
137 providing requirements for a notice of delinquency;
138 providing foreclosure requirements; providing the
139 association with the power to purchase a cooperative
140 unit at a foreclosure sale; requiring the association
141 to provide a certificate of assessment under certain
142 conditions; providing for the establishment of fees
143 for the preparation of such certificates; providing
144 for the refund of certain fees; authorizing the
145 association to demand payment of future assessments

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146 under specified conditions; providing that the demand
147 is continuing in nature; requiring that a tenant
148 continue to pay assessments until the occurrence of
149 specified events; requiring the delivery of notice of
150 such demand; limiting the liability of a tenant;
151 creating s. 719.113, F.S.; providing that maintenance
152 of common areas is the responsibility of the
153 association; providing that the cooperative documents
154 may include reference that the association provide
155 certain maintenance for the condominium; providing
156 that there shall be no material alteration or
157 substantial additions to the common areas or to real
158 property which is association property; providing for
159 protection of the common areas; allowing shareholders
160 to display a United States flag as well as other
161 specified flags on designated days and patriotic
162 holidays; requiring the board to adopt hurricane
163 shutter specifications; authorizing the board to
164 install certain hurricane protection; prohibiting the
165 board from installing certain hurricane shutters or
166 other hurricane protection under certain
167 circumstances; providing for the maintenance, repair,
168 and replacement of hurricane shutters or other
169 hurricane protection; authorizing the board to operate
170 hurricane shutters without shareholder permission
171 under certain circumstances; prohibiting the board
172 from refusing to approve the installation or
173 replacement of hurricane shutters under certain
174 conditions; requiring that the board inspect certain

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175 buildings and issue a report under certain conditions;
176 providing an exception; prohibiting the board from
177 refusing a request for reasonable accommodation for
178 the attachment to a unit of religious objects meeting
179 certain size specifications; authorizing the board to
180 install solar collectors, clotheslines, or other
181 energy-efficient devices upon or within common areas
182 or association property; creating s. 719.117, F.S.;
183 providing legislative findings; providing provisions
184 relating to the termination of the cooperative form of
185 ownership of a property due to economic waste or
186 impossibility or optional termination; providing
187 grounds for termination; providing an exemption;
188 providing that the approval of a plan of termination
189 by certain mortgage lienholders is not required under
190 certain conditions; providing powers and duties of the
191 board relating to the plan of termination; providing
192 requirements following natural disasters; providing
193 reporting requirements; providing requirements for a
194 plan of termination; providing for the allocation of
195 proceeds from the sale of cooperative property;
196 providing powers and duties of a termination trustee;
197 providing notice requirements; providing a procedure
198 for contesting a plan of termination; providing for
199 recovery of attorney's fees and costs; providing rules
200 for the distribution of property and sale proceeds;
201 providing for the association's status following
202 termination; allowing the creation of another
203 cooperative by the trustee; creating s. 719.1224,

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204 F.S.; prohibiting strategic lawsuits against public
205 participation; providing legislative findings and
206 intent; prohibiting a governmental entity, business
207 organization, or individual from filing certain
208 lawsuits made upon specified bases against a
209 shareholder; providing rights of a shareholder who has
210 been served with such a lawsuit; providing procedures
211 for the resolution of certain claims; providing for
212 the award of damages and attorney's fees; prohibiting
213 associations from expending association funds in
214 prosecuting such a suit against a shareholder;
215 amending s. 719.1255, F.S.; requiring the division to
216 provide alternative dispute resolution for certain
217 matters; creating s. 719.1265, F.S.; authorizing an
218 association to exercise certain powers in instances
219 involving damage caused by an event for which a state
220 of emergency has been declared; limiting the
221 applicability of such powers; amending s. 719.301,
222 F.S.; providing circumstances under which shareholders
223 other than a developer may elect not less than a
224 majority of the members of the board; requiring a
225 turnover inspection report; requiring that the report
226 contain certain information; creating s. 719.3025,
227 F.S.; requiring written contracts for the operation,
228 maintenance, or management of a cooperative
229 association or cooperative property; providing
230 contract requirements; authorizing the association to
231 procure outside services under certain circumstances;
232 providing that services or obligations not stated on

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233 the face of the contract are unenforceable; providing
234 applicability; amending s. 719.3026, F.S.; revising a
235 provision authorizing certain associations to opt out
236 of provisions relating to contracts for products and
237 services; removing provisions exempting contracts
238 executed before a specified date from certain
239 competitive bid requirements; providing requirements
240 for any contract or transaction between an association
241 and one or more of its directors or a specified other
242 entity in which one or more of its directors are
243 directors or officers or have a financial interest;
244 amending s. 719.303, F.S.; authorizing an association
245 to suspend, for a reasonable time, the right of a
246 shareholder or a shareholder's occupant, licensee, or
247 invitee to use certain common elements under certain
248 conditions; excluding certain common elements from
249 such authorization; providing that hearings regarding
250 noncompliance with a declaration be held before
251 certain persons; providing an exception to certain
252 notice and hearing requirements; amending s. 719.501,
253 F.S.; providing authority and responsibilities of the
254 division; providing for enforcement actions brought by
255 the division in its own name; providing for the
256 imposition of penalties by the division; requiring
257 that the division issue a subpoena requiring
258 production of certain requested records under certain
259 circumstances; providing for the issuance of notice of
260 a declaratory statement with respect to documents
261 governing a cooperative; deleting requirement that the

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262 division adopt certain accounting principles;
263 requiring that the division provide training and
264 educational programs for association board members and
265 shareholders; providing that the division shall
266 include certain training components, may review or
267 approve training and educational programs offered by
268 providers, and shall maintain a list of approved
269 programs and providers; requiring that certain
270 individuals cooperate with the division in any
271 investigation conducted by the division; requiring the
272 division to cooperate with similar agencies in other
273 jurisdictions to establish certain procedures,
274 standards, and forms; specifying what constitutes
275 completeness of notice to a developer; authorizing the
276 division to issue a notice to show cause; requiring
277 the division to include certain information relating
278 to cooperatives in a specified annual report relating
279 to condominiums; requiring an association to pay any
280 penalty due to the division before having standing to
281 maintain or defend any action in the courts of this
282 state; amending s. 719.503, F.S.; providing
283 nondeveloper shareholder disclosure requirements for
284 the sale of interest in a cooperative association,
285 including a governance form; requiring the division to
286 provide the governance form; providing requirements
287 for the governance form; amending s. 720.303, F.S.;
288 revising notice requirements for board meetings;
289 providing requirements for the borrowing of funds or
290 committing to a line of credit by the board of

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291 directors of a homeowners' association; providing
292 requirements relating to transfer fees; prohibiting
293 certain expenditures and contributions by a
294 homeowners' association; providing liability; amending
295 s. 720.304, F.S.; revising requirements with respect
296 to the display of flags by a homeowner; amending s.
297 720.306, F.S.; revising instances in which the
298 governing documents of the association may be amended;
299 providing circumstances and methods by which the
300 association bylaws may be amended; creating s.
301 720.3065, F.S.; providing circumstances for removal of
302 a director or officer of, and providing qualifications
303 for service on, the board of directors of a
304 homeowners' association; creating s. 720.3068, F.S.;
305 providing requirements for the selection of
306 homeowners' association board meeting times and
307 locations; providing restrictions on the times set for
308 certain meetings; amending s. 720.3085, F.S.; revising
309 provisions relating to the effectiveness and priority
310 of homeowners' association liens; providing
311 requirements for a notice of delinquency; authorizing
312 an association to demand future regular assessments
313 related to the parcel under specified conditions;
314 providing that the demand is continuing in nature;
315 requiring that a tenant continue to pay assessments
316 until the occurrence of specified events; requiring
317 the delivery of written notice of such demand;
318 limiting the liability of a tenant; creating s.
319 720.314, F.S.; providing for parcel owners to file

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320 informational complaints regarding homeowners'
321 associations and their officers and directors with the
322 Office of Program Policy Analysis and Government
323 Accountability; providing for an informational
324 complaint form and the format of such form; amending
325 s. 721.16, F.S.; conforming a cross-reference;
326 providing an effective date.

327

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

329

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

332 20.165 Department of Business and Professional Regulation.—
333 There is created a Department of Business and Professional
334 Regulation.

335 (10) All employees authorized by the Division of Florida
336 Condominiums, Timeshares, and Mobile Homes shall have access to
337 and shall have the right to examine and inspect the premises,
338 books, and records of any condominium, cooperative, timeshare,
339 or mobile home park regulated by the division. Such employees
340 shall also have access to and shall have the right to examine
341 and inspect the books and records of any community association
342 manager or firm employed by any condominium, cooperative,
343 timeshare, or mobile home park regulated by the division.

344 Section 2. Paragraph (b) of subsection (2) of section
345 468.436, Florida Statutes, is amended, and subsection (6) is
346 added to that section, to read:

347 468.436 Disciplinary proceedings.—

348 (2) The following acts constitute grounds for which the

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349 disciplinary actions in subsection (4) may be taken:

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

351 2. Violation of any lawful order or rule rendered or
352 adopted by the department or the council.

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

355 4. Obtaining a license or certification or any other order,
356 ruling, or authorization by means of fraud, misrepresentation,
357 or concealment of material facts.

358 5. Committing acts of ~~gross~~ misconduct or ~~gross~~ negligence
359 in connection with the profession.

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

363 (6) Upon the fifth or later finding that a community
364 association manager is guilty of any of the grounds set forth in
365 subsection (2), or upon the third or later finding that a
366 community association manager is guilty of a specific ground for
367 which the disciplinary actions set forth in subsection (2) may
368 be taken, the department's discretion under subsection (4) shall
369 not apply and the division shall enter an order permanently
370 revoking the license.

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

373 718.103 Definitions.—As used in this chapter, the term:

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

377 (a) An owner or lessee of a condominium or cooperative unit

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378 who has acquired the unit for his or her own occupancy; ~~nor~~
379 ~~does it include~~

380 (b) A cooperative association that ~~which~~ creates a
381 condominium by conversion of an existing residential cooperative
382 after control of the association has been transferred to the
383 unit owners if, following the conversion, the unit owners will
384 be the same persons who were unit owners of the cooperative and
385 no units are offered for sale or lease to the public as part of
386 the plan of conversion; or—

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

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

394 718.111 The association.—

395 (5) RIGHT OF ACCESS TO UNITS.—The association has the
396 irrevocable right of access to each unit during reasonable
397 hours, when necessary for the maintenance, repair, or
398 replacement of any common elements or of any portion of a unit
399 to be maintained by the association pursuant to the declaration
400 or as necessary to prevent damage to the common elements or to a
401 unit or units. Except in cases of emergency, the association
402 must give the unit owner advance written notice of not less than
403 24 hours of its intent to access the unit and such access must
404 be by two persons, one of whom must be a member of the board of
405 administration or a manager or employee of the association and
406 one of whom must be an authorized representative of the

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407 association. The identity of the authorized representative
408 seeking access to the unit must be provided to the unit owner
409 prior to entering the unit.

410 (12) OFFICIAL RECORDS.—

411 (b) The official records of the association shall be
412 maintained within the state for at least 7 years. The records of
413 the association shall be made available to a unit owner within
414 45 miles of the condominium property or within the county in
415 which the condominium property is located within 5 working days
416 after receipt of written request by the board or its designee.
417 However, such distance requirement does not apply to an
418 association governing a timeshare condominium. This paragraph
419 may be complied with by having a copy of the official records of
420 the association available for inspection or copying on the
421 condominium property or association property. ~~or~~ The
422 association may offer the option of making the records of the
423 association available to a unit owner either electronically via
424 the Internet or by allowing the records to be viewed in
425 electronic format on a computer screen and printed upon request.

426 (15) MEETINGS.—Regular meetings of the board of
427 administration shall be held at such time and place as provided
428 in the bylaws until the first regular meeting of the board held
429 on or after October 1, 2010. Thereafter, the location and time
430 for regular meetings of the board shall be determined by a
431 majority vote of the unit owners at the next regular meeting
432 held on or after October 1, 2010. Once the time and place for
433 regular meetings of the board have been selected, neither may be
434 changed unless approved by a majority vote of the unit owners.
435 Regular meetings of the board of administration held on weekdays

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436 may be held no earlier than 6 p.m. local time.

437 (16) LIMIT ON EXPENDITURES AND CONTRIBUTIONS.—It shall be
438 unlawful for an association to make any expenditure of
439 association funds or to make any in-kind contribution of
440 association assets which does not relate to the purposes for
441 which the association is organized.

442 (a) The association shall not make any contribution to a
443 campaign or committee of continuous existence governed by
444 chapter 105 or chapter 106.

445 (b) The association shall not make any contribution to a
446 charitable organization if the association does not receive a
447 direct benefit from the organization.

448 (c) Members of the board of administration shall be jointly
449 and severely liable to reimburse the association for any
450 contribution, expenditure, or in-kind contribution made in
451 violation of this subsection.

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

455 718.112 Bylaws.—

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

459 (c) *Board of administration meetings.*—Meetings of the board
460 of administration at which a quorum of the members is present
461 shall be open to all unit owners. Any unit owner may tape record
462 or videotape meetings of the board of administration. The right
463 to attend such meetings includes the right to speak at such
464 meetings with reference to all designated agenda items. The

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465 division shall adopt reasonable rules governing the tape
466 recording and videotaping of the meeting. The association may
467 adopt written reasonable rules governing the frequency,
468 duration, and manner of unit owner statements. Adequate notice
469 of all meetings, which notice shall specifically incorporate an
470 identification of agenda items, shall be posted conspicuously on
471 the condominium property at least 48 continuous hours preceding
472 the meeting except in an emergency. If 20 percent of the voting
473 interests petition the board to address an item of business, the
474 board shall at its next regular board meeting or at a special
475 meeting of the board, but not later than 60 days after the
476 receipt of the petition, place the item on the agenda. Any item
477 not included on the notice may be taken up on an emergency basis
478 by at least a majority plus one of the members of the board.
479 Such emergency action shall be noticed and ratified at the next
480 regular meeting of the board. However, written notice of any
481 meeting at which nonemergency special assessments, or at which
482 amendment to rules regarding unit use, will be considered shall
483 be mailed, delivered, or electronically transmitted to the unit
484 owners and posted conspicuously on the condominium property not
485 less than 14 days prior to the meeting. Evidence of compliance
486 with this 14-day notice shall be made by an affidavit executed
487 by the person providing the notice and filed among the official
488 records of the association. Upon notice to the unit owners, the
489 board shall by duly adopted rule designate a specific location
490 on the condominium property or association property upon which
491 all notices of board meetings shall be posted. If there is no
492 condominium property or association property upon which notices
493 can be posted, notices of board meetings shall be mailed,

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494 delivered, or electronically transmitted at least 14 days before
495 the meeting to the owner of each unit. In lieu of or in addition
496 to the physical posting of notice of any meeting of the board of
497 administration on the condominium property, the association may,
498 by reasonable rule, adopt a procedure for conspicuously posting
499 and repeatedly broadcasting the notice and the agenda on a
500 closed-circuit cable television system serving the condominium
501 association. However, if broadcast notice is used in lieu of a
502 notice posted physically on the condominium property, the notice
503 and agenda must be broadcast at least four times every broadcast
504 hour of each day that a posted notice is otherwise required
505 under this section. When broadcast notice is provided, the
506 notice and agenda must be broadcast in a manner and for a
507 sufficient continuous length of time so as to allow an average
508 reader to observe the notice and read and comprehend the entire
509 content of the notice and the agenda. Notice of any meeting in
510 which regular or special assessments against unit owners are to
511 be considered for any reason shall specifically state that
512 assessments will be considered and the nature of, the actual
513 ~~estimated~~ cost of, and a description of the purposes for such
514 assessments. Meetings of a committee to take final action on
515 behalf of the board or make recommendations to the board
516 regarding the association budget are subject to the provisions
517 of this paragraph. Meetings of a committee that does not take
518 final action on behalf of the board or make recommendations to
519 the board regarding the association budget are subject to the
520 provisions of this section, unless those meetings are exempted
521 from this section by the bylaws of the association.
522 Notwithstanding any other law, the requirement that board

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523 meetings and committee meetings be open to the unit owners is
524 inapplicable to meetings between the board or a committee and
525 the association's attorney, with respect to proposed or pending
526 litigation, when the meeting is held for the purpose of seeking
527 or rendering legal advice.

528 (d) *Unit owner meetings.*—

529 1. There shall be an annual meeting of the unit owners held
530 at the location provided in the association bylaws and, if the
531 bylaws are silent as to the location, the meeting shall be held
532 within 45 miles of the condominium property or, if facilities
533 are available on the condominium property, the meeting shall be
534 held at such facilities. However, such distance requirement does
535 not apply to an association governing a timeshare condominium.
536 Unless the bylaws provide otherwise, a vacancy on the board
537 caused by the expiration of a director's term shall be filled by
538 electing a new board member, and the election shall be by secret
539 ballot; however, if the number of vacancies equals or exceeds
540 the number of candidates, no election is required. Except in
541 timeshare condominiums, the terms of all members of the board
542 shall expire at the first annual meeting after July 1, 2010, and
543 at each ~~the~~ annual meeting thereafter and such board members may
544 stand for reelection unless otherwise permitted by the bylaws.
545 In the event that the bylaws permit staggered terms of no more
546 than 2 years ~~and upon approval of a majority of the total voting~~
547 ~~interests,~~ the association board members may serve 2-year
548 staggered terms. If no person is interested in or demonstrates
549 an intention to run for the position of a board member whose
550 term has expired according to the provisions of this
551 subparagraph, such board member whose term has expired shall be

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552 automatically reappointed to the board of administration and
553 need not stand for reelection. ~~In a condominium association of~~
554 ~~more than 10 units, coowners of a unit may not serve as members~~
555 ~~of the board of directors at the same time. Any unit owner~~
556 ~~desiring to be a candidate for board membership shall comply~~
557 ~~with subparagraph 3. A person who has been suspended or removed~~
558 ~~by the division under this chapter, or who is delinquent in the~~
559 ~~payment of any fee or assessment as provided in paragraph (n),~~
560 ~~is not eligible for board membership. A person who has been~~
561 ~~convicted of any felony in this state or in a United States~~
562 ~~District or Territorial Court, or who has been convicted of any~~
563 ~~offense in another jurisdiction that would be considered a~~
564 ~~felony if committed in this state, is not eligible for board~~
565 ~~membership unless such felon's civil rights have been restored~~
566 ~~for a period of no less than 5 years as of the date on which~~
567 ~~such person seeks election to the board. The validity of an~~
568 ~~action by the board is not affected if it is later determined~~
569 ~~that a member of the board is ineligible for board membership~~
570 ~~due to having been convicted of a felony.~~

571 2. The bylaws shall provide the method of calling meetings
572 of unit owners, including annual meetings. Written notice, which
573 notice must include an agenda, shall be mailed, hand delivered,
574 or electronically transmitted to each unit owner at least 14
575 days prior to the annual meeting and shall be posted in a
576 conspicuous place on the condominium property at least 14
577 continuous days preceding the annual meeting. Upon notice to the
578 unit owners, the board shall by duly adopted rule designate a
579 specific location on the condominium property or association
580 property upon which all notices of unit owner meetings shall be

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581 posted; however, if there is no condominium property or
582 association property upon which notices can be posted, this
583 requirement does not apply. In lieu of or in addition to the
584 physical posting of notice of any meeting of the unit owners on
585 the condominium property, the association may, by reasonable
586 rule, adopt a procedure for conspicuously posting and repeatedly
587 broadcasting the notice and the agenda on a closed-circuit cable
588 television system serving the condominium association. However,
589 if broadcast notice is used in lieu of a notice posted
590 physically on the condominium property, the notice and agenda
591 must be broadcast at least four times every broadcast hour of
592 each day that a posted notice is otherwise required under this
593 section. When broadcast notice is provided, the notice and
594 agenda must be broadcast in a manner and for a sufficient
595 continuous length of time so as to allow an average reader to
596 observe the notice and read and comprehend the entire content of
597 the notice and the agenda. Unless a unit owner waives in writing
598 the right to receive notice of the annual meeting, such notice
599 shall be hand delivered, mailed, or electronically transmitted
600 to each unit owner. Notice for meetings and notice for all other
601 purposes shall be mailed to each unit owner at the address last
602 furnished to the association by the unit owner, or hand
603 delivered to each unit owner. However, if a unit is owned by
604 more than one person, the association shall provide notice, for
605 meetings and all other purposes, to that one address which the
606 developer initially identifies for that purpose and thereafter
607 as one or more of the owners of the unit shall so advise the
608 association in writing, or if no address is given or the owners
609 of the unit do not agree, to the address provided on the deed of

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610 record. An officer of the association, or the manager or other
611 person providing notice of the association meeting, shall
612 provide an affidavit or United States Postal Service certificate
613 of mailing, to be included in the official records of the
614 association affirming that the notice was mailed or hand
615 delivered, in accordance with this provision.

616 3. The members of the board shall be elected by written
617 ballot or voting machine. Proxies shall in no event be used in
618 electing the board, either in general elections or elections to
619 fill vacancies caused by recall, resignation, or otherwise,
620 unless otherwise provided in this chapter. Not less than 60 days
621 before a scheduled election, the association shall mail,
622 deliver, or electronically transmit, whether by separate
623 association mailing or included in another association mailing,
624 delivery, or transmission, including regularly published
625 newsletters, to each unit owner entitled to a vote, a first
626 notice of the date of the election ~~along with a certification~~
627 ~~form provided by the division attesting that he or she has read~~
628 ~~and understands, to the best of his or her ability, the~~
629 ~~governing documents of the association and the provisions of~~
630 ~~this chapter and any applicable rules.~~ Any unit owner or other
631 eligible person desiring to be a candidate for the board must
632 give written notice to the association not less than 40 days
633 before a scheduled election. Together with the written notice
634 and agenda as set forth in subparagraph 2., the association
635 shall mail, deliver, or electronically transmit a second notice
636 of the election to all unit owners entitled to vote therein,
637 together with a ballot which shall list all candidates. Upon
638 request of a candidate, the association shall include an

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639 information sheet, no larger than 8 1/2 inches by 11 inches,
640 which must be furnished by the candidate not less than 35 days
641 before the election, ~~along with the signed certification form~~
642 ~~provided for in this subparagraph,~~ to be included with the
643 mailing, delivery, or transmission of the ballot, with the costs
644 of mailing, delivery, or electronic transmission and copying to
645 be borne by the association. The association is not liable for
646 the contents of the information sheets prepared by the
647 candidates. In order to reduce costs, the association may print
648 or duplicate the information sheets on both sides of the paper.
649 The division shall by rule establish voting procedures
650 consistent with the provisions contained herein, including rules
651 establishing procedures for giving notice by electronic
652 transmission and rules providing for the secrecy of ballots.
653 Elections shall be decided by a plurality of those ballots cast.
654 There shall be no quorum requirement; however, at least 20
655 percent of the eligible voters must cast a ballot in order to
656 have a valid election of members of the board. No unit owner
657 shall permit any other person to vote his or her ballot, and any
658 such ballots improperly cast shall be deemed invalid, provided
659 any unit owner who violates this provision may be fined by the
660 association in accordance with s. 718.303. A unit owner who
661 needs assistance in casting the ballot for the reasons stated in
662 s. 101.051 may obtain assistance in casting the ballot. The
663 regular election shall occur on the date of the annual meeting.
664 The provisions of this subparagraph shall not apply to timeshare
665 condominium associations. Notwithstanding the provisions of this
666 subparagraph, an election is not required unless more candidates
667 file notices of intent to run or are nominated than board

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668 vacancies exist.

669 4. Any approval by unit owners called for by this chapter
670 or the applicable declaration or bylaws, including, but not
671 limited to, the approval requirement in s. 718.111(8), shall be
672 made at a duly noticed meeting of unit owners and shall be
673 subject to all requirements of this chapter or the applicable
674 condominium documents relating to unit owner decisionmaking,
675 except that unit owners may take action by written agreement,
676 without meetings, on matters for which action by written
677 agreement without meetings is expressly allowed by the
678 applicable bylaws or declaration or any statute that provides
679 for such action.

680 5. Unit owners may waive notice of specific meetings if
681 allowed by the applicable bylaws or declaration or any statute.
682 If authorized by the bylaws, notice of meetings of the board of
683 administration, unit owner meetings, except unit owner meetings
684 called to recall board members under paragraph (j), and
685 committee meetings may be given by electronic transmission to
686 unit owners who consent to receive notice by electronic
687 transmission.

688 6. Unit owners shall have the right to participate in
689 meetings of unit owners with reference to all designated agenda
690 items. However, the association may adopt reasonable rules
691 governing the frequency, duration, and manner of unit owner
692 participation.

693 7. Any unit owner may tape record or videotape a meeting of
694 the unit owners subject to reasonable rules adopted by the
695 division.

696 8. Unless otherwise provided in the bylaws, any vacancy

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697 occurring on the board before the expiration of a term may be
698 filled by the affirmative vote of the majority of the remaining
699 directors, even if the remaining directors constitute less than
700 a quorum, or by the sole remaining director. In the alternative,
701 a board may hold an election to fill the vacancy, in which case
702 the election procedures must conform to the requirements of
703 subparagraph 3. unless the association governs 10 or fewer units
704 ~~or less~~ and has opted out of the statutory election process, in
705 which case the bylaws of the association control. Unless
706 otherwise provided in the bylaws, a board member appointed or
707 elected under this section shall fill the vacancy for the
708 unexpired term of the seat being filled. Filling vacancies
709 created by recall is governed by paragraph (j) and rules adopted
710 by the division.

711 9. Notwithstanding subparagraphs (b)2. and (d)3., an
712 association of 10 or fewer units may, by the affirmative vote of
713 a majority of the total voting interests, provide for different
714 voting and election procedures in its bylaws, which vote may be
715 by a proxy specifically delineating the different voting and
716 election procedures. The different voting and election
717 procedures may provide for elections to be conducted by limited
718 or general proxy.

719 (h) *Amendment of bylaws.*—

720 1. The method by which the bylaws may be amended consistent
721 with the provisions of this chapter shall be stated. If the
722 bylaws fail to provide a method of amendment, the bylaws may be
723 amended if the amendment is approved by the owners of not less
724 than two-thirds of the voting interests.

725 2. No bylaw shall be revised or amended by reference to its

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726 title or number only. Proposals to amend existing bylaws shall
727 contain the full text of the bylaws to be amended; new words
728 shall be inserted in the text underlined, and words to be
729 deleted shall be lined through with hyphens. However, if the
730 proposed change is so extensive that this procedure would
731 hinder, rather than assist, the understanding of the proposed
732 amendment, it is not necessary to use underlining and hyphens as
733 indicators of words added or deleted, but, instead, a notation
734 must be inserted immediately preceding the proposed amendment in
735 substantially the following language: "Substantial rewording of
736 bylaw. See bylaw for present text."

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

739 4. If the bylaws provide for amendment by the board of
740 administration, no bylaw may be amended unless it is heard and
741 noticed at two consecutive meetings of the board of
742 administration which are at least 1 week apart.

743 (o) *Director or officer offenses.*—A director or officer
744 charged by information or indictment with a felony theft or
745 embezzlement offense involving the association's funds or
746 property shall be removed from office, creating a vacancy in the
747 office to be filled according to law. While such director or
748 officer has such criminal charge pending in the state or federal
749 court system, he or she may not be appointed or elected to a
750 position as a director or officer. However, should the charges
751 be resolved without a finding of guilt, the director or officer
752 shall be reinstated for the remainder of his or her term of
753 office, if any.

754 (p) Qualification of directors.—In addition to any other

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755 requirement for office in statute, a person running for, seeking
756 appointment to, or serving as a director of the board must meet
757 the following qualifications:

758 1. In a condominium association of 10 or more units, only
759 one individual coowner of a unit may serve on the board of
760 administration.

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

764 3. A person who has been convicted of any felony in this
765 state or in a United States District or Territorial Court, or
766 who has been convicted of any offense in another jurisdiction
767 which would be considered a felony if committed in this state,
768 is not eligible for board membership unless such felon's civil
769 rights have been restored for a period of no less than 5 years
770 as of the date on which such person seeks election to the board.

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

774 5. Within 30 days after being elected or appointed to the
775 board of administration, a director must certify in writing to
776 the secretary of the association that he or she has read this
777 part and part III and the association's declaration of
778 condominium, articles of incorporation, bylaws, and current
779 written policies. The director shall further certify that he or
780 she will work to uphold such documents and policies to the best
781 of his or her ability and that he or she will faithfully
782 discharge his or her fiduciary responsibility to the
783 association's members. If the division finds that a director has

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784 falsely certified that he or she has read the required statutes
785 and documents, the division shall order the director removed
786 from the board and shall order the director to reimburse the
787 division for the cost of prosecution and hearing.

788 6. After turnover of the association pursuant to s.
789 718.301(2), a director must:

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

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

794
795 These qualifications shall operate on a continuing basis, and
796 upon the failure of a director at any time to meet a
797 qualification, the director shall be removed from office and
798 that office shall be deemed vacant. However, in the case of a
799 timeshare condominium association, the bylaws of the association
800 shall govern the terms, expiration of terms, and staggered terms
801 of board members, and the eligibility of coowners to serve on
802 the board of administration shall not be restricted except in
803 the manner provided in the bylaws of the timeshare condominium
804 association.

805 (q) *Borrowing.*—The borrowing of funds or committing to a
806 line of credit by the board of administration shall be
807 considered a special assessment, and any meeting of the board of
808 administration to discuss such matters must be noticed as
809 provided in paragraph (c). The board may not borrow funds or
810 enter into a line of credit or borrow funds for any purpose
811 unless the specific use of the funds from the loan or line of
812 credit is set forth in the notice of meeting with the same

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813 specificity as required for a special assessment or unless the
814 borrowing or line of credit has received the prior approval of
815 at least two-thirds of the voting interests of the association.

816 Section 6. Paragraph (a) of subsection (5) of section
817 718.113, Florida Statutes, is amended to read:

818 718.113 Maintenance; limitation upon improvement; display
819 of flag; hurricane shutters; display of religious decorations.-

820 (5) Each board of administration shall adopt hurricane
821 shutter specifications for each building within each condominium
822 operated by the association which shall include color, style,
823 and other factors deemed relevant by the board. All
824 specifications adopted by the board shall comply with the
825 applicable building code.

826 (a) The board may, subject to the provisions of s.
827 718.3026, and the approval of a majority of voting interests of
828 the condominium, install hurricane shutters or hurricane
829 protection that complies with or exceeds the applicable building
830 code, or both, except that a vote of the owners is not required
831 if the maintenance, repair, and replacement of hurricane
832 shutters or other forms of hurricane protection are the
833 responsibility of the association pursuant to the declaration of
834 condominium. However, where hurricane protection or laminated
835 glass or window film architecturally designed to function as
836 hurricane protection which complies with or exceeds the current
837 applicable building code has been previously installed, the
838 board may not install hurricane shutters or other hurricane
839 protection. Code-compliant impact glass may be installed by the
840 association as hurricane protection if the area in which the
841 glass is to be installed is an area that is the responsibility

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842 of the association. If a unit owner installed code-compliant
843 impact glass prior to the association voting to install such
844 glass, and such glass and the frame thereof complies with the
845 current applicable building codes and is otherwise in good
846 repair, the unit owner shall not be required to pay the unit
847 owner's pro rata share of the cost of installing code-compliant
848 impact glass to the condominium association, notwithstanding s.
849 718.116(9).

850 Section 7. Subsections (11) and (12) are added to section
851 718.116, Florida Statutes, to read:

852 718.116 Assessments; liability; lien and priority;
853 interest; collection.—

854 (11) During the pendency of any foreclosure action of a
855 condominium unit, if the unit is occupied by a tenant and the
856 unit owner is delinquent in the payment of regular assessments,
857 the association may demand that the tenant pay to the
858 association the future regular assessments related to the
859 condominium unit. The demand shall be continuing in nature, and
860 upon demand the tenant shall continue to pay the regular
861 assessments to the association until the association releases
862 the tenant or the tenant discontinues tenancy in the unit. The
863 association shall mail written notice to the unit owner of the
864 association's demand that the tenant pay regular assessments to
865 the association. The tenant shall not be liable for increases in
866 the amount of the regular assessments due unless the tenant was
867 reasonably notified of the increase prior to the day that the
868 rent is due. The tenant shall be given a credit against rents
869 due to the unit owner in the amount of assessments paid to the
870 association. The association shall, upon request, provide the

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871 tenant with written receipts for payments made. The association
872 may issue notices under s. 83.56 and may sue for eviction under
873 ss. 83.59-83.625 as if the association were a landlord under
874 part II of chapter 83 should the tenant fail to pay an
875 assessment. However, the association shall not otherwise be
876 considered a landlord under chapter 83 and shall specifically
877 not have any duty under s. 83.51. The tenant shall not, by
878 virtue of payment of assessments, have any of the rights of a
879 unit owner to vote in any election or to examine the books and
880 records of the association. A court may supersede the effect of
881 this subsection by appointing a receiver.

882 (12) (a) A notice of delinquency sent to a unit owner shall
883 provide an overall total of assessments claimed and shall
884 specify each assessment or charge that is claimed by the
885 association, listing for each assessment or charge the date of
886 the assessment or charge, the principal balance owed for the
887 assessment or charge, and affiliated late fees or collection
888 charges.

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

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

896 718.1265 Association emergency powers.—

897 (2) The special powers authorized under subsection (1)
898 shall be limited to that time reasonably necessary to protect
899 the health, safety, and welfare of the association and the unit

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900 owners and the unit owners' family members, tenants, guests,
901 agents, or invitees and shall be reasonably necessary to
902 mitigate further damage and make emergency repairs.

903 Additionally, unless 20 percent or more of the units are made
904 uninhabitable by the emergency, the special powers authorized
905 under subsection (1) may only be exercised during the term of
906 the Governor's executive order or proclamation declaring the
907 state of emergency in the locale in which the condominium is
908 located.

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

911 718.301 Transfer of association control; claims of defect
912 by association.—

913 (1) When unit owners other than the developer own 15
914 percent or more of the units in a condominium that will be
915 operated ultimately by an association, the unit owners other
916 than the developer shall be entitled to elect no less than one-
917 third of the members of the board of administration of the
918 association. Unit owners other than the developer are entitled
919 to elect not less than a majority of the members of the board of
920 administration of an association:

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

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

927 (c) When all the units that will be operated ultimately by
928 the association have been completed, some of them have been

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929 conveyed to purchasers, and none of the others are being offered
930 for sale by the developer in the ordinary course of business;

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

934 (e) When the developer files a petition seeking protection
935 in bankruptcy;

936 (f) When a receiver for the developer is appointed by a
937 circuit court and is not discharged within 30 days after such
938 appointment, unless the court determines within 30 days after
939 appointment of the receiver that transfer of control would be
940 detrimental to the association or its members; or

941 (g) Seven years after recordation of the declaration of
942 condominium; or, in the case of an association which may
943 ultimately operate more than one condominium, 7 years after
944 recordation of the declaration for the first condominium it
945 operates; or, in the case of an association operating a phase
946 condominium created pursuant to s. 718.403, 7 years after
947 recordation of the declaration creating the initial phase,
948
949 whichever occurs first. The developer is entitled to elect at
950 least one member of the board of administration of an
951 association as long as the developer holds for sale in the
952 ordinary course of business at least 5 percent, in condominiums
953 with fewer than 500 units, and 2 percent, in condominiums with
954 more than 500 units, of the units in a condominium operated by
955 the association. Following the time the developer relinquishes
956 control of the association, the developer may exercise the right
957 to vote any developer-owned units in the same manner as any

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958 other unit owner except for purposes of reacquiring control of
959 the association or selecting the majority members of the board
960 of administration.

961 Section 10. Section 718.303, Florida Statutes, is amended
962 to read:

963 718.303 Obligations of owners and occupants; waiver; levy
964 of finances, suspension of use or voting rights, and other
965 nonexclusive remedies in law or equity ~~fine against unit~~ by an
966 association.-

967 (1) Each unit owner, each tenant and other invitee, and
968 each association shall be governed by, and shall comply with the
969 provisions of, this chapter, the declaration, the documents
970 creating the association, and the association bylaws and the
971 provisions thereof shall be deemed expressly incorporated into
972 any lease of a unit. Actions for damages or for injunctive
973 relief, or both, for failure to comply with these provisions may
974 be brought by the association or by a unit owner against:

975 (a) The association.

976 (b) A unit owner.

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

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

982 (e) Any tenant leasing a unit, and any other invitee
983 occupying a unit.

984

985 The prevailing party in any such action or in any action in
986 which the purchaser claims a right of voidability based upon

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987 contractual provisions as required in s. 718.503(1)(a) is
988 entitled to recover reasonable attorney's fees. A unit owner
989 prevailing in an action between the association and the unit
990 owner under this section, in addition to recovering his or her
991 reasonable attorney's fees, may recover additional amounts as
992 determined by the court to be necessary to reimburse the unit
993 owner for his or her share of assessments levied by the
994 association to fund its expenses of the litigation. This relief
995 does not exclude other remedies provided by law. Actions arising
996 under this subsection shall not be deemed to be actions for
997 specific performance.

998 (2) A provision of this chapter may not be waived if the
999 waiver would adversely affect the rights of a unit owner or the
1000 purpose of the provision, except that unit owners or members of
1001 a board of administration may waive notice of specific meetings
1002 in writing if provided by the bylaws. Any instruction given in
1003 writing by a unit owner or purchaser to an escrow agent may be
1004 relied upon by an escrow agent, whether or not such instruction
1005 and the payment of funds thereunder might constitute a waiver of
1006 any provision of this chapter.

1007 (3) If a unit owner is delinquent for more than 90 days in
1008 the payment of regular or special assessments or the declaration
1009 or bylaws so provide, the association may suspend, for a
1010 reasonable time, the right of a unit owner or a unit's occupant,
1011 licensee, or invitee to use common elements, common facilities,
1012 or any other association property. This subsection does not
1013 apply to limited common elements intended to be used only by
1014 that unit, common elements that must be used to access the unit,
1015 utility services provided to the unit, parking spaces, or

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1016 elevators. The association may also levy reasonable fines
1017 ~~against a unit~~ for the failure of the owner of the unit, or its
1018 occupant, licensee, or invitee, to comply with any provision of
1019 the declaration, the association bylaws, or reasonable rules of
1020 the association. No fine will become a lien against a unit. A ~~No~~
1021 fine may not exceed \$100 per violation. However, a fine may be
1022 levied on the basis of each day of a continuing violation, with
1023 a single notice and opportunity for hearing, provided that no
1024 such fine shall in the aggregate exceed \$1,000. A ~~No~~ fine may
1025 not be levied and a suspension may not be imposed unless the
1026 association first gives ~~except after giving~~ reasonable notice
1027 and opportunity for a hearing to the unit owner and, if
1028 applicable, its occupant, licensee, or invitee. The hearing must
1029 be held before a committee of other unit owners who are neither
1030 board members nor persons residing in a board member's
1031 household. If the committee does not agree with the fine or
1032 suspension, the fine or suspension may not be levied or imposed.
1033 ~~The provisions of this subsection do not apply to unoccupied~~
1034 ~~units.~~

1035 (4) The notice and hearing requirements of subsection (3)
1036 do not apply to the imposition of suspensions or fines against a
1037 unit owner or a unit's occupant, licensee, or invitee because of
1038 the failure to pay any amounts due the association. If such a
1039 fine or suspension is imposed, the association must levy the
1040 fine or impose a reasonable suspension at a properly noticed
1041 board meeting, and after the imposition of such fine or
1042 suspension, the association must notify the unit owner and, if
1043 applicable, the unit's occupant, licensee, or invitee by mail or
1044 hand delivery.

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1045 Section 11. Subsection (1) of section 718.501, Florida
1046 Statutes, is amended, and subsection (3) is added to that
1047 section, to read:

1048 718.501 Authority, responsibility, and duties of Division
1049 of Florida Condominiums, Timeshares, and Mobile Homes.—

1050 (1) The Division of Florida Condominiums, Timeshares, and
1051 Mobile Homes of the Department of Business and Professional
1052 Regulation, referred to as the "division" in this part, has the
1053 power to enforce and ensure compliance with the provisions of
1054 this chapter and rules relating to the development,
1055 construction, sale, lease, ownership, operation, and management
1056 of residential condominium units. In performing its duties, the
1057 division has complete jurisdiction to investigate complaints and
1058 enforce compliance with the provisions of this chapter with
1059 respect to associations that are still under developer control
1060 and complaints against developers involving improper turnover or
1061 failure to turnover, pursuant to s. 718.301. However, after
1062 turnover has occurred, the division shall only have jurisdiction
1063 to investigate complaints related to financial issues, failure
1064 to maintain common elements, elections, and unit owner access to
1065 association records pursuant to s. 718.111(12).

1066 (a)1. The division may make necessary public or private
1067 investigations within or outside this state to determine whether
1068 any person has violated this chapter or any rule or order
1069 hereunder, to aid in the enforcement of this chapter, or to aid
1070 in the adoption of rules or forms hereunder.

1071 2. The division may submit any official written report,
1072 worksheet, or other related paper, or a duly certified copy
1073 thereof, compiled, prepared, drafted, or otherwise made by and

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1074 duly authenticated by a financial examiner or analyst to be
1075 admitted as competent evidence in any hearing in which the
1076 financial examiner or analyst is available for cross-examination
1077 and attests under oath that such documents were prepared as a
1078 result of an examination or inspection conducted pursuant to
1079 this chapter.

1080 (b) The division may require or permit any person to file a
1081 statement in writing, under oath or otherwise, as the division
1082 determines, as to the facts and circumstances concerning a
1083 matter to be investigated.

1084 (c) For the purpose of any investigation under this
1085 chapter, the division director or any officer or employee
1086 designated by the division director may administer oaths or
1087 affirmations, subpoena witnesses and compel their attendance,
1088 take evidence, and require the production of any matter which is
1089 relevant to the investigation, including the existence,
1090 description, nature, custody, condition, and location of any
1091 books, documents, or other tangible things and the identity and
1092 location of persons having knowledge of relevant facts or any
1093 other matter reasonably calculated to lead to the discovery of
1094 material evidence. Upon the failure by a person to obey a
1095 subpoena or to answer questions propounded by the investigating
1096 officer and upon reasonable notice to all persons affected
1097 thereby, the division may apply to the circuit court for an
1098 order compelling compliance.

1099 (d) Notwithstanding any remedies available to unit owners
1100 and associations, if the division has reasonable cause to
1101 believe that a violation of any provision of this chapter or
1102 related rule has occurred, the division may institute

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1103 enforcement proceedings in its own name against any developer,
1104 association, officer, or member of the board of administration,
1105 or its assignees or agents, as follows:

1106 1. The division may permit a person whose conduct or
1107 actions may be under investigation to waive formal proceedings
1108 and enter into a consent proceeding whereby orders, rules, or
1109 letters of censure or warning, whether formal or informal, may
1110 be entered against the person.

1111 2. The division may issue an order requiring the developer,
1112 association, ~~developer-designated~~ officer, or ~~developer-~~
1113 ~~designated~~ member of the board of administration, ~~developer-~~
1114 ~~designated~~ assignees or agents, community association manager,
1115 or community association management firm to cease and desist
1116 from the unlawful practice and take such affirmative action as
1117 in the judgment of the division will carry out the purposes of
1118 this chapter. If the division finds that a developer,
1119 association, officer, or member of the board of administration,
1120 or its assignees or agents, is violating or is about to violate
1121 any provision of this chapter, any rule adopted or order issued
1122 by the division, or any written agreement entered into with the
1123 division, and presents an immediate danger to the public
1124 requiring an immediate final order, it may issue an emergency
1125 cease and desist order reciting with particularity the facts
1126 underlying such findings. The emergency cease and desist order
1127 is effective for 90 days. If the division begins nonemergency
1128 cease and desist proceedings, the emergency cease and desist
1129 order remains effective until the conclusion of the proceedings
1130 under ss. 120.569 and 120.57.

1131 3. If a developer fails to pay any restitution determined

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1132 by the division to be owed, plus any accrued interest at the
1133 highest rate permitted by law, within 30 days after expiration
1134 of any appellate time period of a final order requiring payment
1135 of restitution or the conclusion of any appeal thereof,
1136 whichever is later, the division shall bring an action in
1137 circuit or county court on behalf of any association, class of
1138 unit owners, lessees, or purchasers for restitution, declaratory
1139 relief, injunctive relief, or any other available remedy. The
1140 division may also temporarily revoke its acceptance of the
1141 filing for the developer to which the restitution relates until
1142 payment of restitution is made.

1143 4. The division may petition the court for the appointment
1144 of a receiver or conservator. If appointed, the receiver or
1145 conservator may take action to implement the court order to
1146 ensure the performance of the order and to remedy any breach
1147 thereof. In addition to all other means provided by law for the
1148 enforcement of an injunction or temporary restraining order, the
1149 circuit court may impound or sequester the property of a party
1150 defendant, including books, papers, documents, and related
1151 records, and allow the examination and use of the property by
1152 the division and a court-appointed receiver or conservator.

1153 5. The division may apply to the circuit court for an order
1154 of restitution whereby the defendant in an action brought
1155 pursuant to subparagraph 4. shall be ordered to make restitution
1156 of those sums shown by the division to have been obtained by the
1157 defendant in violation of this chapter. Such restitution shall,
1158 at the option of the court, be payable to the conservator or
1159 receiver appointed pursuant to subparagraph 4. or directly to
1160 the persons whose funds or assets were obtained in violation of

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1161 this chapter.

1162 6. The division may impose a civil penalty against a
1163 developer or association, or its assignee or agent, for any
1164 violation of this chapter or a rule adopted under this chapter.
1165 The division may impose a civil penalty individually against any
1166 officer or board member who willfully and knowingly violates a
1167 provision of this chapter, adopted rule, or a final order of the
1168 division; may order the removal of such individual as an officer
1169 or from the board of administration or as an officer of the
1170 association; and may prohibit such individual from serving as an
1171 officer or on the board of a community association for a period
1172 of time. The term "willfully and knowingly" means that the
1173 division informed the officer or board member that his or her
1174 action or intended action violates this chapter, a rule adopted
1175 under this chapter, or a final order of the division and that
1176 the officer or board member refused to comply with the
1177 requirements of this chapter, a rule adopted under this chapter,
1178 or a final order of the division. The division, prior to
1179 initiating formal agency action under chapter 120, shall afford
1180 the officer or board member an opportunity to voluntarily comply
1181 with this chapter, a rule adopted under this chapter, or a final
1182 order of the division. An officer or board member who complies
1183 within 10 days is not subject to a civil penalty. A penalty may
1184 be imposed on the basis of each day of continuing violation, but
1185 in no event shall the penalty for any offense exceed \$5,000. By
1186 January 1, 1998, the division shall adopt, by rule, penalty
1187 guidelines applicable to possible violations or to categories of
1188 violations of this chapter or rules adopted by the division. The
1189 guidelines must specify a meaningful range of civil penalties

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1190 for each such violation of the statute and rules and must be
1191 based upon the harm caused by the violation, the repetition of
1192 the violation, and upon such other factors deemed relevant by
1193 the division. For example, the division may consider whether the
1194 violations were committed by a developer or owner-controlled
1195 association, the size of the association, and other factors. The
1196 guidelines must designate the possible mitigating or aggravating
1197 circumstances that justify a departure from the range of
1198 penalties provided by the rules. It is the legislative intent
1199 that minor violations be distinguished from those which endanger
1200 the health, safety, or welfare of the condominium residents or
1201 other persons and that such guidelines provide reasonable and
1202 meaningful notice to the public of likely penalties that may be
1203 imposed for proscribed conduct. This subsection does not limit
1204 the ability of the division to informally dispose of
1205 administrative actions or complaints by stipulation, agreed
1206 settlement, or consent order. All amounts collected shall be
1207 deposited with the Chief Financial Officer to the credit of the
1208 Division of Florida Condominiums, Timeshares, and Mobile Homes
1209 Trust Fund. If a developer fails to pay the civil penalty and
1210 the amount deemed to be owed to the association, the division
1211 shall issue an order directing that such developer cease and
1212 desist from further operation until such time as the civil
1213 penalty is paid or may pursue enforcement of the penalty in a
1214 court of competent jurisdiction. If an association fails to pay
1215 the civil penalty, the division shall pursue enforcement in a
1216 court of competent jurisdiction, and the order imposing the
1217 civil penalty or the cease and desist order will not become
1218 effective until 20 days after the date of such order. Any action

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1219 commenced by the division shall be brought in the county in
1220 which the division has its executive offices or in the county
1221 where the violation occurred.

1222 7. If a unit owner presents the division with proof that
1223 the unit owner has requested access to official records in
1224 writing by certified mail, and that after 10 days the unit owner
1225 again made the same request for access to official records in
1226 writing by certified mail, and that more than 10 days has
1227 elapsed since the second request and the association has still
1228 failed or refused to provide access to official records as
1229 required by this chapter, the division shall issue a subpoena
1230 requiring production of the requested records where the records
1231 are kept pursuant to s. 718.112.

1232 8. In addition to subparagraph 6., the division may seek
1233 the imposition of a civil penalty through the circuit court for
1234 any violation for which the division may issue a notice to show
1235 cause under paragraph (r). The civil penalty shall be at least
1236 \$500 but no more than \$5,000 for each violation. The court may
1237 also award to the prevailing party court costs and reasonable
1238 attorney's fees and, if the division prevails, may also award
1239 reasonable costs of investigation.

1240 9. Notwithstanding subparagraph 6., when the division finds
1241 that an officer or director has intentionally falsified
1242 association records with the intent to conceal material facts
1243 from the division, the board, or unit owners, the division shall
1244 prohibit the officer or director from acting as an officer or
1245 director of any condominium or cooperative association for at
1246 least 1 year.

1247 10. When the division finds that any person has derived an

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1248 improper personal benefit from a condominium association, the
1249 division shall order the person to pay restitution to the
1250 association and shall order the person to pay to the division
1251 the costs of investigation and prosecution.

1252 (e) The division may prepare and disseminate a prospectus
1253 and other information to assist prospective owners, purchasers,
1254 lessees, and developers of residential condominiums in assessing
1255 the rights, privileges, and duties pertaining thereto.

1256 (f) The division has authority to adopt rules pursuant to
1257 ss. 120.536(1) and 120.54 to implement and enforce the
1258 provisions of this chapter.

1259 (g) The division shall establish procedures for providing
1260 notice to an association and the developer during the period
1261 where the developer controls the association when the division
1262 is considering the issuance of a declaratory statement with
1263 respect to the declaration of condominium or any related
1264 document governing in such condominium community.

1265 (h) The division shall furnish each association which pays
1266 the fees required by paragraph (2)(a) a copy of this act,
1267 subsequent changes to this act on an annual basis, an amended
1268 version of this act as it becomes available from the Secretary
1269 of State's office on a biennial basis, and the rules adopted
1270 thereto on an annual basis.

1271 (i) The division shall annually provide each association
1272 with a summary of declaratory statements and formal legal
1273 opinions relating to the operations of condominiums which were
1274 rendered by the division during the previous year.

1275 (j) The division shall provide training and educational
1276 programs for condominium association board members and unit

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1277 owners. The training may, in the division's discretion, include
1278 web-based electronic media, and live training and seminars in
1279 various locations throughout the state. The division shall have
1280 the authority to review and approve education and training
1281 programs for board members and unit owners offered by providers
1282 and shall maintain a current list of approved programs and
1283 providers and shall make such list available to board members
1284 and unit owners in a reasonable and cost-effective manner.

1285 (k) The division shall maintain a toll-free telephone
1286 number accessible to condominium unit owners.

1287 (l) The division shall develop a program to certify both
1288 volunteer and paid mediators to provide mediation of condominium
1289 disputes. The division shall provide, upon request, a list of
1290 such mediators to any association, unit owner, or other
1291 participant in arbitration proceedings under s. 718.1255
1292 requesting a copy of the list. The division shall include on the
1293 list of volunteer mediators only the names of persons who have
1294 received at least 20 hours of training in mediation techniques
1295 or who have mediated at least 20 disputes. In order to become
1296 initially certified by the division, paid mediators must be
1297 certified by the Supreme Court to mediate court cases in county
1298 or circuit courts. However, the division may adopt, by rule,
1299 additional factors for the certification of paid mediators,
1300 which factors must be related to experience, education, or
1301 background. Any person initially certified as a paid mediator by
1302 the division must, in order to continue to be certified, comply
1303 with the factors or requirements imposed by rules adopted by the
1304 division.

1305 (m) When a complaint is made, the division shall conduct

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1306 its inquiry with due regard to the interests of the affected
1307 parties. Within 30 days after receipt of a complaint, the
1308 division shall acknowledge the complaint in writing and notify
1309 the complainant whether the complaint is within the jurisdiction
1310 of the division and whether additional information is needed by
1311 the division from the complainant. The division shall conduct
1312 its investigation and shall, within 90 days after receipt of the
1313 original complaint or of timely requested additional
1314 information, take action upon the complaint. However, the
1315 failure to complete the investigation within 90 days does not
1316 prevent the division from continuing the investigation,
1317 accepting or considering evidence obtained or received after 90
1318 days, or taking administrative action if reasonable cause exists
1319 to believe that a violation of this chapter or a rule of the
1320 division has occurred. If an investigation is not completed
1321 within the time limits established in this paragraph, the
1322 division shall, on a monthly basis, notify the complainant in
1323 writing of the status of the investigation. When reporting its
1324 action to the complainant, the division shall inform the
1325 complainant of any right to a hearing pursuant to ss. 120.569
1326 and 120.57.

1327 (n) Condominium association directors, officers, and
1328 employees; condominium developers; community association
1329 managers; and community association management firms have an
1330 ongoing duty to reasonably cooperate with the division in any
1331 investigation pursuant to this section. The division shall refer
1332 to local law enforcement authorities any person whom the
1333 division believes has altered, destroyed, concealed, or removed
1334 any record, document, or thing required to be kept or maintained

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1335 by this chapter with the purpose to impair its verity or
1336 availability in the department's investigation.

1337 (o) The division may:

- 1338 1. Contract with agencies in this state or other
- 1339 jurisdictions to perform investigative functions; or
- 1340 2. Accept grants-in-aid from any source.

1341 (p) The division shall cooperate with similar agencies in
1342 other jurisdictions to establish uniform filing procedures and
1343 forms, public offering statements, advertising standards, and
1344 rules and common administrative practices.

1345 (q) The division shall consider notice to a developer to be
1346 complete when it is delivered to the developer's address
1347 currently on file with the division.

1348 (r) In addition to its enforcement authority, the division
1349 may issue a notice to show cause, which shall provide for a
1350 hearing, upon written request, in accordance with chapter 120.

1351 (s) The division shall submit to the Governor, the
1352 President of the Senate, the Speaker of the House of
1353 Representatives, and the chairs of the legislative
1354 appropriations committees an annual report that includes, but
1355 need not be limited to, the number of training programs provided
1356 for condominium association board members and unit owners, the
1357 number of complaints received by type, the number and percent of
1358 complaints acknowledged in writing within 30 days and the number
1359 and percent of investigations acted upon within 90 days in
1360 accordance with paragraph (m), and the number of investigations
1361 exceeding the 90-day requirement. The annual report shall also
1362 include an evaluation of the division's core business processes
1363 and make recommendations for improvements, including statutory

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1364 changes. The report shall be submitted by September 30 following
1365 the end of the fiscal year.

1366 (3) The division shall create a booklet of the laws that a
1367 director must read as required by s. 718.112(2) (p)5. The booklet
1368 shall be available for free download from the division's
1369 website. The division may provide a printed version to directors
1370 for free or for a cost not to exceed the division's actual cost
1371 of production and mailing.

1372 Section 12. Subsection (9) of section 718.5012, Florida
1373 Statutes, is amended to read:

1374 718.5012 Ombudsman; powers and duties.—The ombudsman shall
1375 have the powers that are necessary to carry out the duties of
1376 his or her office, including the following specific powers:

1377 (9) To assist with the resolution of disputes between unit
1378 owners and the association or between unit owners when the
1379 dispute is not within the jurisdiction of the division to
1380 resolve or the division has declined to resolve a dispute.

1381 Section 13. Section 718.50151, Florida Statutes, is amended
1382 to read:

1383 718.50151 Community Association ~~Living~~ Study Council;
1384 membership functions.—

1385 (1) There is created the Community Association ~~Living~~ Study
1386 Council. The council shall consist of seven appointed members.
1387 Two members shall be appointed by the President of the Senate,
1388 two members shall be appointed by the Speaker of the House of
1389 Representatives, and three members shall be appointed by the
1390 Governor. ~~One member that is appointed by the Governor may~~
1391 ~~represent timeshare condominiums.~~ The council shall be created
1392 as of October 1 every 5 years, commencing October 1, 2008, and

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1393 shall exist for a 6-month term. The director of the division
1394 shall appoint an ex officio nonvoting member. The Legislature
1395 intends that the persons appointed represent a cross-section of
1396 persons experienced ~~interested~~ in community association issues.
1397 The council shall be located within the division for
1398 administrative purposes. Members of the council shall serve
1399 without compensation but are entitled to receive per diem and
1400 travel expenses pursuant to s. 112.061 while on official
1401 business.

1402 (2) The functions of the council shall be to:

1403 (a) Receive, from the public, input regarding issues of
1404 concern with respect to community association living, including
1405 living in condominiums, cooperatives, and homeowners'
1406 associations. The council shall make recommendations for changes
1407 in the law related to community association living. The issues
1408 that the council shall consider include, but are not limited to,
1409 the rights and responsibilities of the unit owners in relation
1410 to the rights and responsibilities of the association.

1411 (b) Review, evaluate, and advise the division concerning
1412 revisions and adoption of rules affecting condominiums and
1413 cooperatives.

1414 (c) Recommend improvements, if needed, in the education
1415 programs offered by the division.

1416 (d) Review, evaluate, and advise the Legislature concerning
1417 revisions and improvements to the laws relating to condominiums,
1418 cooperatives, and homeowners' associations.

1419 (3) The council may elect a chair and vice chair and such
1420 other officers as it may deem advisable. The council shall meet
1421 at the call of its chair, at the request of a majority of its

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1422 membership, at the request of the division, or at such times as
1423 it may prescribe. A majority of the members of the council shall
1424 constitute a quorum. Council action may be taken by vote of a
1425 majority of the voting members who are present at a meeting
1426 where there is a quorum.

1427 Section 14. Subsections (11) and (26) of section 719.103,
1428 Florida Statutes, are amended to read:

1429 719.103 Definitions.—As used in this chapter:

1430 (11) "Conspicuous type" means bold type in capital letters
1431 no smaller than the largest type, exclusive of headings, on the
1432 page on which it appears and, in all cases, at least 10-point
1433 type. When conspicuous type is required, it must be separated on
1434 all sides from other type and print. Conspicuous type may be
1435 used in a contract for purchase and sale of a unit, a lease of a
1436 unit for more than 5 years, or a prospectus or offering circular
1437 only when required by law.

1438 (26) "Unit owner," ~~or~~ "owner of a unit," or "shareholder"
1439 means the person holding a share in the cooperative association
1440 and a lease or other muniment of title or possession of a unit
1441 that is granted by the association as the owner of the
1442 cooperative property.

1443 Section 15. Section 719.104, Florida Statutes, is amended
1444 to read:

1445 719.104 The association Cooperatives; ~~access to units;~~
1446 ~~records; financial reports; assessments; purchase of leases.—~~

1447 (1) RIGHT OF ACCESS TO UNITS.—The association has the
1448 irrevocable right of access to each unit from time to time
1449 during reasonable hours when necessary for the maintenance,
1450 repair, or replacement of any structural components of the

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1451 building or of any mechanical, electrical, or plumbing elements
1452 necessary to prevent damage to the building or to another unit.
1453 Except in cases of emergency, the association must give the
1454 shareholder advance written notice of not less than 24 hours of
1455 its intent to access the unit and such access must be by two
1456 persons, one of whom must be a member of the board of
1457 administration or a manager or employee of the association and
1458 one of whom must be an authorized representative of the
1459 association. The identity of the authorized representative
1460 seeking access to the unit must be provided to the unit owner
1461 prior to entering the unit.

1462 (2) OFFICIAL RECORDS.—

1463 (a) From the inception of the association, the association
1464 shall maintain a copy of each of the following, where
1465 applicable, which shall constitute the official records of the
1466 association:

1467 1. The plans, permits, warranties, and other items provided
1468 by the developer pursuant to s. 719.301(4).

1469 2. A photocopy of the cooperative documents.

1470 3. A copy of the current rules of the association.

1471 4. A book or books containing the minutes of all meetings
1472 of the association, of the board of directors, and of the
1473 shareholders ~~unit owners~~, which minutes shall be retained for a
1474 period of not less than 7 years.

1475 5. A current roster of all shareholders ~~unit owners~~ and
1476 their mailing addresses, unit identifications, voting
1477 certifications, and, if known, telephone numbers. The
1478 association shall also maintain the electronic mailing addresses
1479 and the numbers designated by shareholders ~~unit owners~~ for

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1480 receiving notice sent by electronic transmission of those
1481 shareholders ~~unit-owners~~ consenting to receive notice by
1482 electronic transmission. The electronic mailing addresses and
1483 numbers provided by shareholders ~~unit-owners~~ to receive notice
1484 by electronic transmission shall be removed from association
1485 records when consent to receive notice by electronic
1486 transmission is revoked. However, the association is not liable
1487 for an erroneous disclosure of the electronic mail address or
1488 the number for receiving electronic transmission of notices.

1489 6. All current insurance policies of the association.

1490 7. A current copy of any management agreement, lease, or
1491 other contract to which the association is a party or under
1492 which the association or the shareholders ~~unit-owners~~ have an
1493 obligation or responsibility.

1494 8. Bills of sale or transfer for all property owned by the
1495 association.

1496 9. Accounting records for the association and separate
1497 accounting records for each unit it operates, according to good
1498 accounting practices. Any person who knowingly or intentionally
1499 defaces or destroys accounting records required to be maintained
1500 by this chapter, or who knowingly or intentionally fails to
1501 create or maintain accounting records required to be maintained
1502 by this chapter, is personally subject to a civil penalty
1503 pursuant to s. 719.501(1)(d). All accounting records shall be
1504 maintained for a period of not less than 7 years. The accounting
1505 records shall include, but not be limited to:

1506 a. Accurate, itemized, and detailed records of all receipts
1507 and expenditures.

1508 b. A current account and a monthly, bimonthly, or quarterly

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1509 statement of the account for each unit designating the name of
1510 the shareholder ~~unit owner~~, the due date and amount of each
1511 assessment, the amount paid upon the account, and the balance
1512 due.

1513 c. All audits, reviews, accounting statements, and
1514 financial reports of the association.

1515 d. All contracts for work to be performed. Bids for work to
1516 be performed shall also be considered official records and shall
1517 be maintained ~~for a period of 1 year~~.

1518 10. Ballots, sign-in sheets, voting proxies, and all other
1519 papers relating to voting by shareholders ~~unit owners~~, which
1520 shall be maintained for a period of 1 year after the date of the
1521 election, vote, or meeting to which the document relates.

1522 11. All rental records where the association is acting as
1523 agent for the rental of units.

1524 12. A copy of the current question and answer sheet as
1525 described in s. 719.504.

1526 13. All other records of the association not specifically
1527 included in the foregoing which are related to the operation of
1528 the association.

1529 (b) The official records of the association shall be
1530 maintained within the state for at least 7 years. The records of
1531 the association shall be made available to a shareholder ~~unit~~
1532 ~~owner~~ within 5 working days after receipt of written request by
1533 the board or its designee. This paragraph may be complied with
1534 by having a copy of the official records available for
1535 inspection or copying on the cooperative property.

1536 (c) The official records of the association shall be open
1537 to inspection by any association member or the authorized

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1538 representative of such member at all reasonable times. Failure
1539 to permit inspection of the association records as provided
1540 herein entitles any person prevailing in an enforcement action
1541 to recover reasonable attorney's fees from the person in control
1542 of the records who, directly or indirectly, knowingly denies
1543 access to the records for inspection. The right to inspect the
1544 records includes the right to make or obtain copies, at the
1545 reasonable expense, if any, of the association member. The
1546 association may adopt reasonable rules regarding the frequency,
1547 time, location, notice, and manner of record inspections and
1548 copying. The failure of an association to provide the records
1549 within 10 working days after receipt of a written request
1550 creates a rebuttable presumption that the association willfully
1551 failed to comply with this paragraph. A shareholder ~~unit-owner~~
1552 who is denied access to official records is entitled to the
1553 actual damages or minimum damages for the association's willful
1554 failure to comply with this paragraph. The minimum damages shall
1555 be \$50 per calendar day up to 10 days, the calculation to begin
1556 on the 11th day after receipt of the written request. Any person
1557 who knowingly or intentionally defaces or destroys records that
1558 are required by this chapter, or knowingly or intentionally
1559 fails to create or maintain records that are required by this
1560 chapter, is personally subject to a civil penalty pursuant to s.
1561 719.501(1)(d). The association shall maintain an adequate number
1562 of copies of the cooperative documents ~~declaration~~, articles of
1563 incorporation, bylaws, and rules, and all amendments to each of
1564 the foregoing, as well as the question and answer sheet provided
1565 for in s. 719.504, on the cooperative property to ensure their
1566 availability to shareholders ~~unit-owners~~ and prospective

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1567 purchasers, and may charge its actual costs for preparing and
1568 furnishing these documents to those requesting the same.

1569 Notwithstanding the provisions of this paragraph, the following
1570 records shall not be accessible to shareholders ~~unit owners~~:

1571 1. A record that was prepared by an association attorney or
1572 prepared at the attorney's express direction; that reflects a
1573 mental impression, conclusion, litigation strategy, or legal
1574 theory of the attorney or the association; or that was prepared
1575 exclusively for civil or criminal litigation or for adversarial
1576 administrative proceedings or in anticipation of imminent civil
1577 or criminal litigation or imminent adversarial administrative
1578 proceedings, until the conclusion of the litigation or
1579 adversarial administrative proceedings.

1580 2. Information obtained by an association in connection
1581 with the approval of the lease, sale, or other transfer of a
1582 unit.

1583 3. Medical records of shareholders ~~unit owners~~.

1584 4. Social security numbers, driver's license numbers,
1585 credit card numbers, and other personal identifying information
1586 of any person.

1587 (d) The association or its authorized agent shall not be
1588 required to provide a prospective purchaser or lienholder with
1589 information about the cooperative or association other than the
1590 information or documents required by this chapter to be made
1591 available or disclosed. The association or its authorized agent
1592 shall be entitled to charge a reasonable fee to the prospective
1593 purchaser, lienholder, or the current shareholder ~~unit owner~~ for
1594 its time in providing good faith responses to requests for
1595 information by or on behalf of a prospective purchaser or

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1596 lienholder, other than that required by law, provided that such
1597 fee shall not exceed \$150 plus the reasonable cost of
1598 photocopying and any attorney's fees incurred by the association
1599 in connection with the association's response. An association
1600 and its authorized agent are not liable for providing such
1601 information in good faith pursuant to a written request if the
1602 person providing the information includes a written statement in
1603 substantially the following form: "The responses herein are made
1604 in good faith and to the best of my ability as to their
1605 accuracy."

1606 (3) INSURANCE.—The association shall use its best efforts
1607 to obtain and maintain adequate insurance to protect the
1608 association property. The association may also obtain and
1609 maintain liability insurance for directors and officers,
1610 insurance for the benefit of association employees, and flood
1611 insurance. A copy of each policy of insurance in effect shall be
1612 made available for inspection by unit owners at reasonable
1613 times.

1614 (a) Windstorm insurance coverage for a group of no fewer
1615 than three communities created and operating under chapter 718,
1616 this chapter, chapter 720, or chapter 721 may be obtained and
1617 maintained for the communities if the insurance coverage is
1618 sufficient to cover an amount equal to the probable maximum loss
1619 for the communities for a 250-year windstorm event. Such
1620 probable maximum loss must be determined through the use of a
1621 competent model that has been accepted by the Florida Commission
1622 on Hurricane Loss Projection Methodology. Such insurance
1623 coverage is deemed adequate windstorm insurance for the purposes
1624 of this section.

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1625 (b) An association or group of associations may self-insure
1626 against claims against the association, the association
1627 property, and the cooperative property required to be insured by
1628 an association, upon compliance with the applicable provisions
1629 of ss. 624.460-624.488, which shall be considered adequate
1630 insurance for purposes of this section.

1631 (4) FINANCIAL REPORTING REPORT.—Within 90 days after the
1632 end of the fiscal year, or annually by a date provided in the
1633 bylaws, the association shall prepare and complete, or by
1634 contract have prepared and completed, a financial report for the
1635 preceding fiscal year. Within 21 days after the final financial
1636 report is completed by the association or received from the
1637 third party, but not later than 120 days after the end of the
1638 fiscal year or other date as provided in the bylaws, the
1639 association shall mail to each shareholder at the address last
1640 furnished to the association by the shareholder, or hand deliver
1641 to each shareholder, a copy of the financial report or a notice
1642 that a copy of the financial report will be mailed or hand
1643 delivered to the shareholder, without charge, upon receipt of a
1644 written request from the shareholder. The division shall adopt
1645 rules setting forth uniform accounting principles and standards
1646 to be used by all associations. The rules shall include, but not
1647 be limited to, uniform accounting principles and standards for
1648 stating the disclosure of at least a summary of the reserves,
1649 including information as to whether such reserves are being
1650 funded at a level sufficient to prevent the need for a special
1651 assessment and, if not, the amount of assessments necessary to
1652 bring the reserves up to the level necessary to avoid a special
1653 assessment. The person preparing the financial reports shall be

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1654 entitled to rely on an inspection report prepared for or
1655 provided to the association to meet the fiscal and fiduciary
1656 standards of this chapter. In adopting such rules, the division
1657 shall consider the number of members and annual revenues of an
1658 association. Financial reports shall be prepared as follows:
1659 (a) An association that meets the criteria of this
1660 paragraph shall prepare or cause to be prepared a complete set
1661 of financial statements in accordance with generally accepted
1662 accounting principles. The financial statements shall be based
1663 upon the association's total annual revenues, as follows:
1664 1. An association with total annual revenues of \$100,000 or
1665 more, but less than \$200,000, shall prepare compiled financial
1666 statements.
1667 2. An association with total annual revenues of at least
1668 \$200,000, but less than \$400,000, shall prepare reviewed
1669 financial statements.
1670 3. An association with total annual revenues of \$400,000 or
1671 more shall prepare audited financial statements.
1672 (b)1. An association with total annual revenues of less
1673 than \$100,000 shall prepare a report of cash receipts and
1674 expenditures.
1675 2. An association that operates fewer than 50 units,
1676 regardless of the association's annual revenues, shall prepare a
1677 report of cash receipts and expenditures in lieu of financial
1678 statements required by paragraph (a).
1679 3. A report of cash receipts and disbursements must
1680 disclose the amount of receipts by accounts and receipt
1681 classifications and the amount of expenses by accounts and
1682 expense classifications, including, but not limited to, the

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1683 following, as applicable: costs for security, professional and
1684 management fees and expenses, taxes, costs for recreation
1685 facilities, expenses for refuse collection and utility services,
1686 expenses for lawn care, costs for building maintenance and
1687 repair, insurance costs, administration and salary expenses, and
1688 reserves accumulated and expended for capital expenditures,
1689 deferred maintenance, and any other category for which the
1690 association maintains reserves.

1691 (c) An association may prepare or cause to be prepared,
1692 without a meeting of or approval by the shareholders:

1693 1. Compiled, reviewed, or audited financial statements, if
1694 the association is required to prepare a report of cash receipts
1695 and expenditures;

1696 2. Reviewed or audited financial statements, if the
1697 association is required to prepare compiled financial
1698 statements; or

1699 3. Audited financial statements, if the association is
1700 required to prepare reviewed financial statements.

1701 (d) If approved by a majority of the voting interests
1702 present at a properly called meeting of the association, an
1703 association may prepare or cause to be prepared:

1704 1. A report of cash receipts and expenditures in lieu of a
1705 compiled, reviewed, or audited financial statement;

1706 2. A report of cash receipts and expenditures or a compiled
1707 financial statement in lieu of a reviewed or audited financial
1708 statement; or

1709 3. A report of cash receipts and expenditures, a compiled
1710 financial statement, or a reviewed financial statement in lieu
1711 of an audited financial statement.

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1712
1713 Such meeting and approval must occur prior to the end of the
1714 fiscal year and is effective only for the fiscal year in which
1715 the vote is taken, except that the approval also may be
1716 effective for the following fiscal year. With respect to an
1717 association to which the developer has not turned over control
1718 of the association, all shareholders, including the developer,
1719 may vote on issues related to the preparation of financial
1720 reports for the first 2 fiscal years of the association's
1721 operation, beginning with the fiscal year in which the
1722 cooperative documents are recorded. Thereafter, all shareholders
1723 except the developer may vote on such issues until control is
1724 turned over to the association by the developer. Any audit or
1725 review prepared under this section shall be paid for by the
1726 developer if done prior to turnover of control of the
1727 association. An association may not waive the financial
1728 reporting requirements of this subsection for more than 3
1729 consecutive years.

1730 ~~(a) Within 60 days following the end of the fiscal or~~
1731 ~~calendar year or annually on such date as is otherwise provided~~
1732 ~~in the bylaws of the association, the board of administration of~~
1733 ~~the association shall mail or furnish by personal delivery to~~
1734 ~~each unit owner a complete financial report of actual receipts~~
1735 ~~and expenditures for the previous 12 months, or a complete set~~
1736 ~~of financial statements for the preceding fiscal year prepared~~
1737 ~~in accordance with generally accepted accounting procedures. The~~
1738 ~~report shall show the amounts of receipts by accounts and~~
1739 ~~receipt classifications and shall show the amounts of expenses~~
1740 ~~by accounts and expense classifications including, if~~

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1741 ~~applicable, but not limited to, the following:~~

1742 ~~1. Costs for security;~~

1743 ~~2. Professional and management fees and expenses;~~

1744 ~~3. Taxes;~~

1745 ~~4. Costs for recreation facilities;~~

1746 ~~5. Expenses for refuse collection and utility services;~~

1747 ~~6. Expenses for lawn care;~~

1748 ~~7. Costs for building maintenance and repair;~~

1749 ~~8. Insurance costs;~~

1750 ~~9. Administrative and salary expenses; and~~

1751 ~~10. Reserves for capital expenditures, deferred~~

1752 ~~maintenance, and any other category for which the association~~
1753 ~~maintains a reserve account or accounts.~~

1754 ~~(b) The division shall adopt rules that may require that~~
1755 ~~the association deliver to the unit owners, in lieu of the~~
1756 ~~financial report required by this section, a complete set of~~
1757 ~~financial statements for the preceding fiscal year. The~~
1758 ~~financial statements shall be delivered within 90 days following~~
1759 ~~the end of the previous fiscal year or annually on such other~~
1760 ~~date as provided in the bylaws. The rules of the division may~~
1761 ~~require that the financial statements be compiled, reviewed, or~~
1762 ~~audited, and the rules shall take into consideration the~~
1763 ~~criteria set forth in s. 719.501(1)(j). The requirement to have~~
1764 ~~the financial statements compiled, reviewed, or audited does not~~
1765 ~~apply to associations if a majority of the voting interests of~~
1766 ~~the association present at a duly called meeting of the~~
1767 ~~association have determined for a fiscal year to waive this~~
1768 ~~requirement. In an association in which turnover of control by~~
1769 ~~the developer has not occurred, the developer may vote to waive~~

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1770 ~~the audit requirement for the first 2 years of the operation of~~
1771 ~~the association, after which time waiver of an applicable audit~~
1772 ~~requirement shall be by a majority of voting interests other~~
1773 ~~than the developer. The meeting shall be held prior to the end~~
1774 ~~of the fiscal year, and the waiver shall be effective for only~~
1775 ~~one fiscal year. This subsection does not apply to a cooperative~~
1776 ~~that consists of 50 or fewer units.~~

1777 (5) ASSESSMENTS.—The association has the power to make and
1778 collect assessments and to lease, maintain, repair, and replace
1779 the common areas. However, the association may not charge a use
1780 fee against a shareholder ~~the unit owner~~ for the use of common
1781 areas unless otherwise provided for in the cooperative documents
1782 or by a majority vote of the association or unless the charges
1783 relate to expenses incurred by a shareholder ~~an owner~~ having
1784 exclusive use of common areas.

1785 (6) PURCHASE OF LEASES.—The association has the power to
1786 purchase any land or recreation lease upon the approval of such
1787 voting interest as is required by the cooperative documents. If
1788 the cooperative documents make no provision for acquisition of
1789 the land or recreational lease, the vote required is that
1790 required to amend the cooperative documents to permit the
1791 acquisition.

1792 (7) COMMINGLING.—All funds shall be maintained separately
1793 in the association's name. Reserve and operating funds of the
1794 association shall not be commingled unless combined for
1795 investment purposes. This subsection is not meant to prohibit
1796 prudent investment of association funds even if combined with
1797 operating or other reserve funds of the same association, but
1798 such funds must be accounted for separately, and the combined

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1799 account balance may not, at any time, be less than the amount
1800 identified as reserve funds in the combined account. No manager
1801 or business entity required to be licensed or registered under
1802 s. 468.432, or an agent, employee, officer, or director of a
1803 cooperative association may commingle any association funds with
1804 his or her own funds or with the funds of any other cooperative
1805 association or community association as defined in s. 468.431.

1806 (8) CORPORATE ENTITY.—

1807 (a) The operation of the cooperative shall be by the
1808 association, which must be a Florida corporation not for profit.
1809 The shareholders shall be members of the association. The
1810 officers and directors of the association have a fiduciary
1811 relationship to the shareholders ~~unit-owners~~. It is the intent
1812 of the Legislature that nothing in this paragraph shall be
1813 construed as providing for or removing a requirement of a
1814 fiduciary relationship between any manager employed by the
1815 association and the shareholders. An officer, director, or
1816 manager may not solicit, offer to accept, or accept any thing or
1817 service of value for which consideration has not been provided
1818 for his or her own benefit or that of his or her immediate
1819 family, from any person providing or proposing to provide goods
1820 or services to the association. Any such officer, director, or
1821 manager who knowingly solicits, offers to accept, or accepts any
1822 thing or service of value is subject to a civil penalty pursuant
1823 to s. 719.501(1)(d). However, this paragraph does not prohibit
1824 an officer, director, or manager from accepting services or
1825 items received in connection with trade fairs or education
1826 programs.

1827 (b) A director of the association who is present at a

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1828 meeting of its board at which action on any corporate matter is
1829 taken is presumed to have assented to the action taken unless
1830 the director votes against such action or abstains from voting
1831 ~~in respect thereto because of an asserted conflict of interest.~~
1832 A director of the association who abstains from voting on any
1833 action taken on any corporate matter shall be presumed to have
1834 taken no position with regard to the action. Directors may not
1835 vote by proxy or by secret ballot at board meetings, except that
1836 officers may be elected by secret ballot. A vote or abstention
1837 for each member present shall be recorded in the minutes.

1838 (c) A shareholder ~~unit owner~~ does not have any authority to
1839 act for the association by reason of being a shareholder ~~unit~~
1840 ~~owner~~.

1841 (d) As required by s. 617.0830, an officer, director, or
1842 agent shall discharge his or her duties in good faith, with the
1843 care an ordinarily prudent person in a like position would
1844 exercise under similar circumstances, and in a manner he or she
1845 reasonably believes to be in the interests of the association.
1846 An officer, director, or agent shall be liable for monetary
1847 damages as provided in s. 617.0834 if the officer, director, or
1848 agent breached or failed to perform his or her duties and the
1849 breach of, or failure to perform, those duties constitutes a
1850 violation of criminal law as provided in s. 617.0834;
1851 constitutes a transaction from which the officer or director
1852 derived an improper personal benefit, either directly or
1853 indirectly; or constitutes recklessness or an act or omission
1854 that was in bad faith, with malicious purpose, or in a manner
1855 exhibiting wanton and willful disregard of human rights, safety,
1856 or property.

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1857 (9) EASEMENTS.—Unless prohibited by the cooperative
1858 documents, the board of administration has the authority,
1859 without the joinder of any shareholder ~~unit owner~~, to grant,
1860 modify, or move any easement, if the easement constitutes part
1861 of or crosses the common areas or association property. This
1862 subsection does not authorize the board of administration to
1863 modify, move, or vacate any easement created in whole or in part
1864 for the use or benefit of anyone other than the shareholders
1865 ~~unit owners~~, or crossing the property of anyone other than the
1866 shareholders ~~unit owners~~, without the consent or approval of
1867 those other persons having the use or benefit of the easement,
1868 as required by law or by the instrument creating the easement.

1869 (10) POWERS AND DUTIES.—The powers and duties of the
1870 association include those set forth in this section and, except
1871 as expressly limited or restricted in this chapter, those set
1872 forth in the articles of incorporation and bylaws and chapters
1873 607 and 617, as applicable.

1874 (11) NOTIFICATION OF DIVISION.—When the board of directors
1875 intends to dissolve or merge the cooperative association, the
1876 board shall so notify the division before taking any action to
1877 dissolve or merge the cooperative association.

1878 (12) POWER TO MANAGE COOPERATIVE PROPERTY AND TO CONTRACT,
1879 SUE, BE SUED, AND BORROW MONEY.—

1880 (a) The association may contract, sue, or be sued with
1881 respect to the exercise or nonexercise of its powers. For these
1882 purposes, the powers of the association include, but are not
1883 limited to, the maintenance, management, and operation of the
1884 cooperative property.

1885 (b) After control of the association is obtained by

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1886 shareholders other than the developer, the association may
1887 institute, maintain, settle, or appeal actions or hearings in
1888 its name on behalf of all shareholders concerning matters of
1889 common interest to most or all shareholders, including, but not
1890 limited to, the common areas; the roof and structural components
1891 of a building or other improvements; mechanical, electrical, and
1892 plumbing elements serving an improvement or a building;
1893 representations of the developer pertaining to any existing or
1894 proposed commonly used facilities; and protests of ad valorem
1895 taxes on commonly used facilities and units; and the association
1896 may defend actions in eminent domain or bring inverse
1897 condemnation actions.

1898 (c) If the association has the authority to maintain a
1899 class action, the association may be joined in an action as
1900 representative of that class with reference to litigation and
1901 disputes involving the matters for which the association could
1902 bring a class action. Nothing in this paragraph limits any
1903 statutory or common-law right of any individual shareholder or
1904 class of shareholders to bring any action without participation
1905 by the association which may otherwise be available.

1906 (13) TITLE TO PROPERTY.—

1907 (a) The association has the power to acquire title to
1908 property or otherwise hold, convey, lease, and mortgage
1909 association property for the use and benefit of its
1910 shareholders. The power to acquire personal property shall be
1911 exercised by the board of directors. Except as otherwise
1912 provided in subsections (6) and (14), an association may not
1913 acquire, convey, lease, or mortgage association real property
1914 except in the manner provided in the cooperative documents, and

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1915 if the cooperative documents do not specify the procedure, then
1916 approval of 75 percent of the total voting interests shall be
1917 required.

1918 (b) Subject to the provisions of s. 719.106(1)(m), the
1919 association, through its board, has the limited power to convey
1920 a portion of the common areas to a condemning authority for the
1921 purposes of providing utility easements, right-of-way expansion,
1922 or other public purposes, whether negotiated or as a result of
1923 eminent domain proceedings.

1924 (14) PURCHASE OF UNITS.—The association has the power,
1925 unless prohibited by the cooperative documents, to purchase
1926 units in the cooperative and to acquire and hold, lease,
1927 mortgage, and convey the units. There shall be no limitation on
1928 the association's right to purchase a unit at a foreclosure sale
1929 resulting from the association's foreclosure of its lien for
1930 unpaid assessments or to take title by deed in lieu of
1931 foreclosure.

1932 (15) MEETINGS.—Regular meetings of the board of directors
1933 shall be held at such time and place as provided in the bylaws
1934 until the first regular meeting of the board held on or after
1935 October 1, 2010. Thereafter, the location and time for regular
1936 meetings of the board shall be determined by a majority vote of
1937 the shareholders at the next regular meeting held on or after
1938 October 1, 2010. Once the time and place for regular meetings of
1939 the board have been selected, neither may be changed unless
1940 approved by a majority vote of the shareholders. Regular
1941 meetings of the board of directors held on weekdays may be held
1942 no earlier than 6 p.m. local time.

1943 (16) LIMIT ON EXPENDITURES AND CONTRIBUTIONS.—It shall be

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1944 unlawful for an association to make any expenditure of
1945 association funds or to make any in-kind contribution of
1946 association assets which does not relate to the purposes for
1947 which the association is organized.

1948 (a) The association shall not make any contribution to a
1949 campaign or committee of continuous existence governed by
1950 chapter 105 or chapter 106.

1951 (b) The association shall not make any contribution to a
1952 charitable organization if the association does not receive a
1953 direct benefit from the organization.

1954 (c) Members of the board of administration shall be jointly
1955 and severely liable to reimburse the association for any
1956 contribution, expenditure, or in-kind contribution made in
1957 violation of this subsection.

1958 Section 16. Section 719.106, Florida Statutes, is amended
1959 to read:

1960 719.106 Bylaws; cooperative ownership.—

1961 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
1962 documents shall provide for the following, and if they do not,
1963 they shall be deemed to include the following:

1964 (a) *Administration.*—

1965 1. The form of administration of the association shall be
1966 described, indicating the titles of the officers and board of
1967 administration and specifying the powers, duties, manner of
1968 selection and removal, and compensation, if any, of officers and
1969 board members. In the absence of such a provision, the board of
1970 administration shall be composed of five members, except in the
1971 case of cooperatives having five or fewer units, in which case
1972 in not-for-profit corporations, the board shall consist of not

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1973 fewer than three members. In the absence of provisions to the
1974 contrary, the board of administration shall have a president, a
1975 secretary, and a treasurer, who shall perform the duties of
1976 those offices customarily performed by officers of corporations.
1977 Unless prohibited in the bylaws, the board of administration may
1978 appoint other officers and grant them those duties it deems
1979 appropriate. Unless otherwise provided in the bylaws, the
1980 officers shall serve without compensation and at the pleasure of
1981 the board. Unless otherwise provided in the bylaws, the members
1982 of the board shall serve without compensation.

1983 2. When a shareholder ~~unit-owner~~ files a written inquiry by
1984 certified mail with the board of administration, the board shall
1985 respond in writing to the shareholder ~~unit-owner~~ within 30 days
1986 of receipt of the inquiry. The board's response shall either
1987 give a substantive response to the inquirer, notify the inquirer
1988 that a legal opinion has been requested, or notify the inquirer
1989 that advice has been requested from the division. If the board
1990 requests advice from the division, the board shall, within 10
1991 days of its receipt of the advice, provide in writing a
1992 substantive response to the inquirer. If a legal opinion is
1993 requested, the board shall, within 60 days after the receipt of
1994 the inquiry, provide in writing a substantive response to the
1995 inquirer. The failure to provide a substantive response to the
1996 inquirer as provided herein precludes the board from recovering
1997 attorney's fees and costs in any subsequent litigation,
1998 administrative proceeding, or arbitration arising out of the
1999 inquiry. The association may, through its board of
2000 administration, adopt reasonable rules and regulations regarding
2001 the frequency and manner of responding to the shareholders' ~~unit~~

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2002 ~~owners'~~ inquiries, one of which may be that the association is
2003 obligated to respond to only one written inquiry per unit in any
2004 given 30-day period. In such case, any additional inquiry or
2005 inquiries must be responded to in the subsequent 30-day period,
2006 or periods, as applicable.

2007 (b) *Quorum; voting requirements; proxies.*—

2008 1. Unless otherwise provided in the bylaws, the percentage
2009 of voting interests required to constitute a quorum at a meeting
2010 of the members shall be a majority of voting interests, and
2011 decisions shall be made by owners of a majority of the voting
2012 interests. Unless otherwise provided in this chapter, or in the
2013 articles of incorporation, bylaws, or other cooperative
2014 documents, and except as provided in subparagraph (d)1.,
2015 decisions shall be made by owners of a majority of the voting
2016 interests represented at a meeting at which a quorum is present.

2017 2. Except as specifically otherwise provided herein, after
2018 January 1, 1992, shareholders ~~unit owners~~ may not vote by
2019 general proxy, but may vote by limited proxies substantially
2020 conforming to a limited proxy form adopted by the division.
2021 Limited proxies and general proxies may be used to establish a
2022 quorum. Limited proxies shall be used for votes taken to waive
2023 or reduce reserves in accordance with subparagraph (j)2., for
2024 votes taken to waive the financial reporting requirements of s.
2025 719.104(4) ~~(b)~~, for votes taken to amend the articles of
2026 incorporation or bylaws pursuant to this section, and for any
2027 other matter for which this chapter requires or permits a vote
2028 of the shareholders ~~unit owners~~. Except as provided in paragraph
2029 (d), after January 1, 1992, no proxy, limited or general, shall
2030 be used in the election of board members. General proxies may be

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2031 used for other matters for which limited proxies are not
2032 required, and may also be used in voting for nonsubstantive
2033 changes to items for which a limited proxy is required and
2034 given. Notwithstanding the provisions of this section,
2035 shareholders ~~unit owners~~ may vote in person at shareholder ~~unit~~
2036 ~~owner~~ meetings. Nothing contained herein shall limit the use of
2037 general proxies or require the use of limited proxies or require
2038 the use of limited proxies for any agenda item or election at
2039 any meeting of a timeshare cooperative.

2040 3. Any proxy given shall be effective only for the specific
2041 meeting for which originally given and any lawfully adjourned
2042 meetings thereof. In no event shall any proxy be valid for a
2043 period longer than 90 days after the date of the first meeting
2044 for which it was given. Every proxy shall be revocable at any
2045 time at the pleasure of the shareholder ~~unit owner~~ executing it.

2046 4. A member of the board of administration or a committee
2047 may submit in writing his or her agreement or disagreement with
2048 any action taken at a meeting that the member did not attend.
2049 This agreement or disagreement may not be used as a vote for or
2050 against the action taken and may not be used for the purposes of
2051 creating a quorum.

2052 5. When some or all of the board or committee members meet
2053 by telephone conference, those board or committee members
2054 attending by telephone conference may be counted toward
2055 obtaining a quorum and may vote by telephone. A telephone
2056 speaker shall be utilized so that the conversation of those
2057 board or committee members attending by telephone may be heard
2058 by the board or committee members attending in person, as well
2059 as by shareholders ~~unit owners~~ present at a meeting.

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2060 (c) *Board of administration meetings.*—Meetings of the board
2061 of administration at which a quorum of the members is present
2062 shall be open to all shareholders ~~unit owners~~. Any shareholder
2063 ~~unit owner~~ may tape record or videotape meetings of the board of
2064 administration. The right to attend such meetings includes the
2065 right to speak at such meetings with reference to all designated
2066 agenda items. The division shall adopt reasonable rules
2067 governing the tape recording and videotaping of the meeting. The
2068 association may adopt reasonable written rules governing the
2069 frequency, duration, and manner of shareholder ~~unit owner~~
2070 statements. Adequate notice of all meetings shall be posted in a
2071 conspicuous place upon the cooperative property at least 48
2072 continuous hours preceding the meeting, except in an emergency.
2073 If 20 percent of the voting interests petition the board to
2074 address an item of business, the board shall at its next regular
2075 board meeting or at a special meeting of the board, but not
2076 later than 60 days after the receipt of the petition, place the
2077 item on the agenda. Any item not included on the notice may be
2078 taken up on an emergency basis by at least a majority plus one
2079 of the members of the board. Such emergency action shall be
2080 noticed and ratified at the next regular meeting of the board.
2081 However, written notice of any meeting at which nonemergency
2082 special assessments, or at which amendment to rules regarding
2083 unit use, will be considered shall be mailed, delivered, or
2084 electronically transmitted to the shareholders ~~unit owners~~ and
2085 posted conspicuously on the cooperative property not less than
2086 14 days prior to the meeting. Evidence of compliance with this
2087 14-day notice shall be made by an affidavit executed by the
2088 person providing the notice and filed among the official records

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2089 of the association. Upon notice to the shareholders ~~unit owners~~,
2090 the board shall by duly adopted rule designate a specific
2091 location on the cooperative property upon which all notices of
2092 board meetings shall be posted. In lieu of or in addition to the
2093 physical posting of notice of any meeting of the board of
2094 administration on the cooperative property, the association may,
2095 by reasonable rule, adopt a procedure for conspicuously posting
2096 and repeatedly broadcasting the notice and the agenda on a
2097 closed-circuit cable television system serving the cooperative
2098 association. However, if broadcast notice is used in lieu of a
2099 notice posted physically on the cooperative property, the notice
2100 and agenda must be broadcast at least four times every broadcast
2101 hour of each day that a posted notice is otherwise required
2102 under this section. When broadcast notice is provided, the
2103 notice and agenda must be broadcast in a manner and for a
2104 sufficient continuous length of time so as to allow an average
2105 reader to observe the notice and read and comprehend the entire
2106 content of the notice and the agenda. Notice of any meeting in
2107 which regular or special assessments against shareholders ~~unit~~
2108 ~~owners~~ are to be considered for any reason shall specifically
2109 state ~~contain a statement~~ that assessments will be considered
2110 and the nature of, the actual cost of, and a description of the
2111 purposes for ~~any~~ such assessments. Meetings of a committee to
2112 take final action on behalf of the board or to make
2113 recommendations to the board regarding the association budget
2114 are subject to the provisions of this paragraph. Meetings of a
2115 committee that does not take final action on behalf of the board
2116 or make recommendations to the board regarding the association
2117 budget are subject to the provisions of this section, unless

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2118 those meetings are exempted from this section by the bylaws of
2119 the association. Notwithstanding any other law to the contrary,
2120 the requirement that board meetings and committee meetings be
2121 open to the shareholders ~~unit owners~~ is inapplicable to meetings
2122 between the board or a committee and the association's attorney,
2123 with respect to proposed or pending litigation, when the meeting
2124 is held for the purpose of seeking or rendering legal advice.

2125 (d) *Shareholder meetings.*—There shall be an annual meeting
2126 of the shareholders held at the location provided in the
2127 association bylaws and, if the bylaws are silent as to the
2128 location, the meeting shall be held within 45 miles of the
2129 cooperative property. However, such distance requirement does
2130 not apply to an association governing a timeshare cooperative.
2131 All members of the board of administration shall be elected at
2132 the first annual meeting after July 1, 2010, and annually
2133 thereafter, except that if ~~unless~~ the bylaws provide for
2134 staggered election terms of no more than 2 years, the
2135 association board members may serve 2-year staggered terms. If
2136 no person is interested in or demonstrates an intention to run
2137 for the position of a board member whose term has expired, the
2138 board member whose term has expired shall be automatically
2139 reappointed to the board of administration and need not stand
2140 for reelection ~~or for their election at another meeting~~. Any
2141 shareholder ~~unit owner~~ desiring to be a candidate for board
2142 membership must ~~shall~~ comply with subparagraph 1. The bylaws
2143 shall provide the method for calling meetings, including annual
2144 meetings. Written notice, which notice shall incorporate an
2145 identification of agenda items, shall be given to each
2146 shareholder ~~unit owner~~ at least 14 days prior to the annual

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2147 meeting and shall be posted in a conspicuous place on the
2148 cooperative property at least 14 continuous days preceding the
2149 annual meeting. Upon notice to the shareholders ~~unit-owners~~, the
2150 board shall by duly adopted rule designate a specific location
2151 on the cooperative property upon which all notice of shareholder
2152 ~~unit-owner~~ meetings shall be posted. In lieu of or in addition
2153 to the physical posting of notice of any meeting of the
2154 shareholders on the cooperative property, the association may,
2155 by reasonable rule, adopt a procedure for conspicuously posting
2156 and repeatedly broadcasting the notice and the agenda on a
2157 closed-circuit cable television system serving the cooperative
2158 association. However, if broadcast notice is used in lieu of a
2159 notice posted physically on the cooperative property, the notice
2160 and agenda must be broadcast at least four times every broadcast
2161 hour of each day that a posted notice is otherwise required
2162 under this section. When broadcast notice is provided, the
2163 notice and agenda must be broadcast in a manner and for a
2164 sufficient continuous length of time so as to allow an average
2165 reader to observe the notice and read and comprehend the entire
2166 content of the notice and the agenda. Unless a shareholder ~~unit~~
2167 ~~owner~~ waives in writing the right to receive notice of the
2168 annual meeting, the notice of the annual meeting shall be sent
2169 by mail, hand delivered, or electronically transmitted to each
2170 shareholder ~~unit-owner~~. An officer of the association shall
2171 provide an affidavit or United States Postal Service certificate
2172 of mailing, to be included in the official records of the
2173 association, affirming that notices of the association meeting
2174 were mailed, hand delivered, or electronically transmitted, in
2175 accordance with this provision, to each shareholder ~~unit-owner~~

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2176 at the address last furnished to the association.

2177 1. After January 1, 1992, the board of administration shall
2178 be elected by written ballot or voting machine. Proxies shall in
2179 no event be used in electing the board of administration, either
2180 in general elections or elections to fill vacancies caused by
2181 recall, resignation, or otherwise unless otherwise provided in
2182 this chapter. Not less than 60 days before a scheduled election,
2183 the association shall mail, deliver, or transmit, whether by
2184 separate association mailing, delivery, or electronic
2185 transmission or included in another association mailing,
2186 delivery, or electronic transmission, including regularly
2187 published newsletters, to each shareholder ~~unit-owner~~ entitled
2188 to vote, a first notice of the date of the election. Any
2189 shareholder ~~unit-owner~~ or other eligible person desiring to be a
2190 candidate for the board of administration shall give written
2191 notice to the association not less than 40 days before a
2192 scheduled election. Together with the written notice and agenda
2193 as set forth in this section, the association shall mail,
2194 deliver, or electronically transmit a second notice of election
2195 to all shareholders ~~unit-owners~~ entitled to vote therein,
2196 together with a ballot which shall list all candidates. Upon
2197 request of a candidate, the association shall include an
2198 information sheet, no larger than 8 1/2 inches by 11 inches,
2199 which must be furnished by the candidate not less than 35 days
2200 prior to the election, to be included with the mailing,
2201 delivery, or electronic transmission of the ballot, with the
2202 costs of mailing, delivery, or transmission and copying to be
2203 borne by the association. The association has no liability for
2204 the contents of the information sheets provided by the

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2205 candidates. In order to reduce costs, the association may print
2206 or duplicate the information sheets on both sides of the paper.
2207 The division shall by rule establish voting procedures
2208 consistent with the provisions contained herein, including rules
2209 establishing procedures for giving notice by electronic
2210 transmission and rules providing for the secrecy of ballots.
2211 Elections shall be decided by a plurality of those ballots cast.
2212 There shall be no quorum requirement. However, at least 20
2213 percent of the eligible voters must cast a ballot in order to
2214 have a valid election of members of the board of administration.
2215 No shareholder ~~unit owner~~ shall permit any other person to vote
2216 his or her ballot, and any such ballots improperly cast shall be
2217 deemed invalid. A shareholder ~~unit owner~~ who needs assistance in
2218 casting the ballot for the reasons stated in s. 101.051 may
2219 obtain assistance in casting the ballot. Any shareholder ~~unit~~
2220 ~~owner~~ violating this provision may be fined by the association
2221 in accordance with s. 719.303. The regular election shall occur
2222 on the date of the annual meeting. The provisions of this
2223 subparagraph shall not apply to timeshare cooperatives.
2224 Notwithstanding the provisions of this subparagraph, an election
2225 and balloting are not required unless more candidates file a
2226 notice of intent to run or are nominated than vacancies exist on
2227 the board.

2228 2. Any approval by shareholders ~~unit owners~~ called for by
2229 this chapter, or the applicable cooperative documents, shall be
2230 made at a duly noticed meeting of shareholders ~~unit owners~~ and
2231 shall be subject to all requirements of this chapter or the
2232 applicable cooperative documents relating to shareholder ~~unit~~
2233 ~~owner~~ decisionmaking, except that shareholders ~~unit owners~~ may

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2234 take action by written agreement, without meetings, on matters
2235 for which action by written agreement without meetings is
2236 expressly allowed by the applicable cooperative documents or any
2237 Florida statute which provides for the shareholder ~~unit-owner~~
2238 action.

2239 3. Shareholders ~~Unit-owners~~ may waive notice of specific
2240 meetings if allowed by the applicable cooperative documents or
2241 any Florida statute. If authorized by the bylaws, notice of
2242 meetings of the board of administration, shareholder meetings,
2243 except shareholder meetings called to recall board members under
2244 paragraph (f), and committee meetings may be given by electronic
2245 transmission to shareholders ~~unit-owners~~ who consent to receive
2246 notice by electronic transmission.

2247 4. Shareholders ~~Unit-owners~~ shall have the right to
2248 participate in meetings of shareholders ~~unit-owners~~ with
2249 reference to all designated agenda items. However, the
2250 association may adopt reasonable rules governing the frequency,
2251 duration, and manner of shareholder ~~unit-owner~~ participation.

2252 5. Any shareholder ~~unit-owner~~ may tape record or videotape
2253 meetings of the shareholders ~~unit-owners~~ subject to reasonable
2254 rules adopted by the division.

2255
2256 Notwithstanding subparagraphs (b)2. and (d)1., an association of of
2257 10 or fewer units may, by the affirmative vote of a majority of
2258 the total voting interests, provide for a different voting and
2259 election procedure in its bylaws, which vote may be by a proxy
2260 specifically delineating the different voting and election
2261 procedures. The different voting and election procedures may
2262 provide for elections to be conducted by limited or general

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2263 proxy.

2264 (e) *Budget procedures.*—

2265 1. The board of administration shall mail, hand deliver, or
2266 electronically transmit to each shareholder ~~unit owner~~ at the
2267 address last furnished to the association, a meeting notice and
2268 copies of the proposed annual budget of common expenses to the
2269 shareholders ~~unit owners~~ not less than 14 days prior to the
2270 meeting at which the budget will be considered. Evidence of
2271 compliance with this 14-day notice must be made by an affidavit
2272 executed by an officer of the association or the manager or
2273 other person providing notice of the meeting and filed among the
2274 official records of the association. The meeting must be open to
2275 the shareholders ~~unit owners~~.

2276 2. If an adopted budget requires assessment against the
2277 shareholders ~~unit owners~~ in any fiscal or calendar year which
2278 exceeds 115 percent of the assessments for the preceding year,
2279 the board upon written application of 10 percent of the voting
2280 interests to the board, shall call a special meeting of the
2281 shareholders ~~unit owners~~ within 30 days, upon not less than 10
2282 days' written notice to each shareholder ~~unit owner~~. At the
2283 special meeting, shareholders ~~unit owners~~ shall consider and
2284 enact a budget. Unless the bylaws require a larger vote, the
2285 adoption of the budget requires a vote of not less than a
2286 majority of all the voting interests.

2287 3. The board of administration may, in any event, propose a
2288 budget to the shareholders ~~unit owners~~ at a meeting of members
2289 or by writing, and if the budget or proposed budget is approved
2290 by the shareholders ~~unit owners~~ at the meeting or by a majority
2291 of all voting interests in writing, the budget is adopted. If a

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2292 meeting of the shareholders ~~unit-owners~~ has been called and a
2293 quorum is not attained or a substitute budget is not adopted by
2294 the shareholders ~~unit-owners~~, the budget adopted by the board of
2295 directors goes into effect as scheduled.

2296 4. In determining whether assessments exceed 115 percent of
2297 similar assessments for prior years, any authorized provisions
2298 for reasonable reserves for repair or replacement of cooperative
2299 property, anticipated expenses by the association which are not
2300 anticipated to be incurred on a regular or annual basis, or
2301 assessments for betterments to the cooperative property must be
2302 excluded from computation. However, as long as the developer is
2303 in control of the board of administration, the board may not
2304 impose an assessment for any year greater than 115 percent of
2305 the prior fiscal or calendar year's assessment without approval
2306 of a majority of all voting interests.

2307 (f) *Recall of board members.*—Subject to the provisions of
2308 s. 719.301, any member of the board of administration may be
2309 recalled and removed from office with or without cause by the
2310 vote or agreement in writing by a majority of all the voting
2311 interests. A special meeting of the voting interests to recall
2312 any member of the board of administration may be called by 10
2313 percent of the shareholders ~~unit-owners~~ giving notice of the
2314 meeting as required for a meeting of shareholders ~~unit-owners~~,
2315 and the notice shall state the purpose of the meeting.
2316 Electronic transmission may not be used as a method of giving
2317 notice of a meeting called in whole or in part for this purpose.

2318 1. If the recall is approved by a majority of all voting
2319 interests by a vote at a meeting, the recall shall be effective
2320 as provided herein. The board shall duly notice and hold a board

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2321 meeting within 5 full business days of the adjournment of the
2322 shareholder ~~unit-owner~~ meeting to recall one or more board
2323 members. At the meeting, the board shall either certify the
2324 recall, in which case such member or members shall be recalled
2325 effective immediately and shall turn over to the board within 5
2326 full business days any and all records and property of the
2327 association in their possession, or shall proceed as set forth
2328 in subparagraph 3.

2329 2. If the proposed recall is by an agreement in writing by
2330 a majority of all voting interests, the agreement in writing or
2331 a copy thereof shall be served on the association by certified
2332 mail or by personal service in the manner authorized by chapter
2333 48 and the Florida Rules of Civil Procedure. The board of
2334 administration shall duly notice and hold a meeting of the board
2335 within 5 full business days after receipt of the agreement in
2336 writing. At the meeting, the board shall either certify the
2337 written agreement to recall members of the board, in which case
2338 such members shall be recalled effective immediately and shall
2339 turn over to the board, within 5 full business days, any and all
2340 records and property of the association in their possession, or
2341 proceed as described in subparagraph 3.

2342 3. If the board determines not to certify the written
2343 agreement to recall members of the board, or does not certify
2344 the recall by a vote at a meeting, the board shall, within 5
2345 full business days after the board meeting, file with the
2346 division a petition for binding arbitration pursuant to the
2347 procedures of s. 719.1255. For purposes of this paragraph, the
2348 shareholders ~~unit-owners~~ who voted at the meeting or who
2349 executed the agreement in writing shall constitute one party

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2350 under the petition for arbitration. If the arbitrator certifies
2351 the recall as to any member of the board, the recall shall be
2352 effective upon mailing of the final order of arbitration to the
2353 association. If the association fails to comply with the order
2354 of the arbitrator, the division may take action pursuant to s.
2355 719.501. Any member so recalled shall deliver to the board any
2356 and all records and property of the association in the member's
2357 possession within 5 full business days of the effective date of
2358 the recall.

2359 4. If the board fails to duly notice and hold a board
2360 meeting within 5 full business days of service of an agreement
2361 in writing or within 5 full business days of the adjournment of
2362 the shareholder ~~unit-owner~~ recall meeting, the recall shall be
2363 deemed effective and the board members so recalled shall
2364 immediately turn over to the board any and all records and
2365 property of the association.

2366 5. If a vacancy occurs on the board as a result of a recall
2367 or removal and less than a majority of the board members are
2368 removed, the vacancy may be filled by the affirmative vote of a
2369 majority of the remaining directors, notwithstanding any
2370 provision to the contrary contained in this chapter. If
2371 vacancies occur on the board as a result of a recall and a
2372 majority or more of the board members are removed, the vacancies
2373 shall be filled in accordance with procedural rules to be
2374 adopted by the division, which rules need not be consistent with
2375 this chapter. The rules must provide procedures governing the
2376 conduct of the recall election as well as the operation of the
2377 association during the period after a recall but prior to the
2378 recall election.

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2379 (g) *Common expenses.*—The manner of collecting from the
2380 shareholders ~~unit-owners~~ their shares of the common expenses
2381 shall be stated. Assessments shall be made against shareholders
2382 ~~unit-owners~~ not less frequently than quarterly, in an amount no
2383 less than is required to provide funds in advance for payment of
2384 all of the anticipated current operating expense and for all of
2385 the unpaid operating expense previously incurred. Nothing in
2386 this paragraph shall preclude the right of an association to
2387 accelerate assessments of a shareholder ~~an owner~~ delinquent in
2388 payment of common expenses in actions taken pursuant to s.
2389 719.104 (5) ~~(4)~~.

2390 (h) *Amendment of bylaws.*—

2391 1. The method by which the bylaws may be amended consistent
2392 with the provisions of this chapter shall be stated. If the
2393 bylaws fail to provide a method of amendment, the bylaws may be
2394 amended if the amendment is approved by shareholders ~~owners~~ of
2395 not less than two-thirds of the voting interests.

2396 2. No bylaw shall be revised or amended by reference to its
2397 title or number only. Proposals to amend existing bylaws shall
2398 contain the full text of the bylaws to be amended; new words
2399 shall be inserted in the text underlined, and words to be
2400 deleted shall be lined through with hyphens. However, if the
2401 proposed change is so extensive that this procedure would
2402 hinder, rather than assist, the understanding of the proposed
2403 amendment, it is not necessary to use underlining and hyphens as
2404 indicators of words added or deleted, but, instead, a notation
2405 must be inserted immediately preceding the proposed amendment in
2406 substantially the following language: "Substantial rewording of
2407 bylaw. See bylaw for present text."

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2408 3. Nonmaterial errors or omissions in the bylaw process
2409 shall not invalidate an otherwise properly promulgated
2410 amendment.

2411 4. If the bylaws provide for amendment by the board of
2412 directors, no bylaw may be amended unless it is heard and
2413 noticed at two consecutive meetings of the board of directors
2414 which are at least 1 week apart.

2415 (i) *Transfer fees.*—No charge may be made by the association
2416 or any body thereof in connection with the sale, mortgage,
2417 lease, sublease, or other transfer of a unit unless the
2418 association is required to approve such transfer and a fee for
2419 such approval is provided for in the cooperative documents. Any
2420 such fee may be preset, but in no event shall it exceed \$100 per
2421 applicant other than husband/wife or parent/dependent child,
2422 which are considered one applicant. However, if the lease or
2423 sublease is a renewal of a lease or sublease with the same
2424 lessee or sublessee, no charge shall be made. Nothing in this
2425 paragraph shall be construed to prohibit an association from
2426 requiring as a condition to permitting the letting or renting of
2427 a unit, when the association has such authority in the
2428 documents, the depositing into an escrow account maintained by
2429 the association a security deposit in an amount not to exceed
2430 the equivalent of 1 month's rent. The security deposit shall
2431 protect against damages to the common areas or cooperative
2432 property. Within 15 days after a tenant vacates the premises,
2433 the association shall refund the full security deposit or give
2434 written notice to the tenant of any claim made against the
2435 security. Disputes under this paragraph shall be handled in the
2436 same fashion as disputes concerning security deposits under s.

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2437 83.49.

2438 (j) *Annual budget.*—

2439 1. The proposed annual budget of estimated revenues and
2440 ~~common~~ expenses shall be detailed and shall show the amounts
2441 budgeted by accounts and expense classifications, including, if
2442 applicable, but not limited to, those expenses listed in s.
2443 719.504(20).

2444 2. In addition to annual operating expenses, the budget
2445 shall include reserve accounts for capital expenditures and
2446 deferred maintenance. These accounts shall include, but not be
2447 limited to, roof replacement, building painting, and pavement
2448 resurfacing, regardless of the amount of deferred maintenance
2449 expense or replacement cost, and for any other items for which
2450 the deferred maintenance expense or replacement cost exceeds
2451 \$10,000. The amount to be reserved shall be computed by means of
2452 a formula which is based upon estimated remaining useful life
2453 and estimated replacement cost or deferred maintenance expense
2454 of each reserve item. The association may adjust replacement
2455 reserve assessments annually to take into account any changes in
2456 estimates or extension of the useful life of a reserve item
2457 caused by deferred maintenance. This paragraph shall not apply
2458 to any budget in which the members of an association have, at a
2459 duly called meeting of the association, determined for a fiscal
2460 year to provide no reserves or reserves less adequate than
2461 required by this subsection. However, prior to turnover of
2462 control of an association by a developer to shareholders ~~unit~~
2463 ~~owners~~ other than a developer pursuant to s. 719.301, the
2464 developer may vote to waive the reserves or reduce the funding
2465 of reserves for the first 2 years of the operation of the

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2466 association after which time reserves may only be waived or
2467 reduced upon the vote of a majority of all nondeveloper voting
2468 interests voting in person or by limited proxy at a duly called
2469 meeting of the association. If a meeting of the shareholders
2470 ~~unit owners~~ has been called to determine to provide no reserves,
2471 or reserves less adequate than required, and such result is not
2472 attained or a quorum is not attained, the reserves as included
2473 in the budget shall go into effect.

2474 3. Reserve funds and any interest accruing thereon shall
2475 remain in the reserve account or accounts, and shall be used
2476 only for authorized reserve expenditures unless their use for
2477 other purposes is approved in advance by a vote of the majority
2478 of the voting interests, voting in person or by limited proxy at
2479 a duly called meeting of the association. Prior to turnover of
2480 control of an association by a developer to shareholders ~~unit~~
2481 ~~owners~~ other than the developer under s. 719.301, the developer
2482 may not vote to use reserves for purposes other than that for
2483 which they were intended without the approval of a majority of
2484 all nondeveloper voting interests, voting in person or by
2485 limited proxy at a duly called meeting of the association.

2486 4. The only voting interests that are eligible to vote on
2487 questions that involve waiving or reducing the funding of
2488 reserves, or using existing reserve funds for purposes other
2489 than purposes for which the reserves were intended, are the
2490 voting interests of the units subject to assessment to fund the
2491 reserves in question. Proxy questions relating to waiving or
2492 reducing the funding of reserves or using existing reserve funds
2493 for purposes other than purposes for which the reserves were
2494 intended shall contain the following statement in capitalized,

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2495 bold letters in a font size larger than any other used on the
2496 face of the proxy ballot: WAIVING OF RESERVES, IN WHOLE OR IN
2497 PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY
2498 RESULT IN SHAREHOLDER LIABILITY FOR PAYMENT OF UNANTICIPATED
2499 SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

2500 (k) *Insurance or fidelity bonds.*—The association shall
2501 obtain and maintain adequate insurance or fidelity bonding of
2502 all persons who control or disburse funds of the association.
2503 The insurance policy or fidelity bond must cover the maximum
2504 funds that will be in the custody of the association or its
2505 management agent at any one time. As used in this paragraph, the
2506 term “persons who control or disburse funds of the association”
2507 includes, but is not limited to, those individuals authorized to
2508 sign checks, and the president, secretary, and treasurer of the
2509 association. The association shall bear the cost of bonding and
2510 insurance.

2511 (l) *Arbitration.*—There shall be a provision for mandatory
2512 nonbinding arbitration of internal disputes arising from the
2513 operation of the cooperative in accordance with s. 719.1255.

2514 (m) Common areas; limited power to convey.—

2515 1. The bylaws shall include a provision granting the
2516 association a limited power to convey a portion of the common
2517 areas to a condemning authority for the purpose of providing
2518 utility easements, right-of-way expansion, or other public
2519 purposes, whether negotiated or as a result of eminent domain
2520 proceedings.

2521 2. In any case in which the bylaws are silent as to the
2522 association’s power to convey common areas as described in
2523 subparagraph 1., the bylaws shall be deemed to include the

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2524 provision described in subparagraph 1.

2525 (n) Director or officer delinquencies.—A director or
2526 officer more than 90 days delinquent in the payment of regular
2527 assessments shall be deemed to have abandoned his or her office,
2528 creating a vacancy in the office to be filled according to law.

2529 (o) Director or officer offenses.—A director or officer
2530 charged by information or indictment with a felony theft or
2531 embezzlement offense involving the association's funds or
2532 property shall be removed from office, creating a vacancy in the
2533 office to be filled according to law. While such director or
2534 officer has such criminal charge pending in the state or federal
2535 court system, he or she may not be appointed or elected to a
2536 position as a director or officer. However, should the charges
2537 be resolved without a finding of guilt, the director or officer
2538 shall be reinstated for the remainder of his or her term of
2539 office, if any.

2540 (p) Qualifications of directors.—In addition to any other
2541 requirement for office in statute, a person running for, seeking
2542 appointment to, or serving as a director of the board must meet
2543 the following qualifications:

2544 1. In a cooperative association of 10 or more units, only
2545 one individual coowner of a unit may serve on the board of
2546 administration.

2547 2. No person may serve as a director of any cooperative
2548 association in the state if restricted from serving by action of
2549 the division pursuant to s. 719.501.

2550 3. A person who has been convicted of any felony in this
2551 state or in a United States District or Territorial Court, or
2552 who has been convicted of any offense in another jurisdiction

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2553 which would be considered a felony if committed in this state,
2554 is not eligible for board membership unless such felon's civil
2555 rights have been restored for a period of no less than 5 years
2556 as of the date on which such person seeks election to the board.

2557 4. A director more than 90 days delinquent in the payment
2558 of regular assessments shall be deemed to have abandoned his or
2559 her office.

2560 5. Within 30 days after being elected or appointed to the
2561 board of directors, a director shall certify in writing to the
2562 secretary of the association that he or she has read this part
2563 and part III and the association's cooperative documents,
2564 bylaws, and current written policies. The director shall further
2565 certify that he or she will work to uphold such documents and
2566 policies to the best of his or her ability and that he or she
2567 will faithfully discharge his or her fiduciary responsibility to
2568 the association's members. If the division finds that a director
2569 has falsely certified that he or she has read the required
2570 statutes and documents, the division shall order the director
2571 removed from the board and shall order the director to reimburse
2572 the division for the cost of prosecution and hearing.

2573 6. After turnover of the association pursuant to s.
2574 719.301(4), a director must:

2575 a. If the unit is owned by an individual or individuals, be
2576 one of those individuals.

2577 b. If the unit is owned by a trust, be an individual
2578 qualified pursuant to s. 617.0802.

2579
2580 These qualifications shall operate on a continuing basis, and
2581 upon the failure of a director at any time to meet a

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2582 qualification, the director shall be removed from office and
2583 that office shall be deemed vacant.

2584 (g) Borrowing.—The borrowing of funds or committing to a
2585 line of credit by the board of administration shall be
2586 considered a special assessment, and any meeting of the board of
2587 administration to discuss such matters must be noticed as
2588 provided in paragraph (c). The board may not borrow funds or
2589 enter into a line of credit or borrow funds for any purpose
2590 unless the specific use of the funds from the loan or line of
2591 credit is set forth in the notice of meeting with the same
2592 specificity as required for a special assessment or unless the
2593 borrowing or line of credit has received the prior approval of
2594 at least two-thirds of the voting interests of the association.

2595 (2) OPTIONAL PROVISIONS.—The bylaws may provide for the
2596 following:

2597 (a) *Administrative rules.*—A method of adopting and of
2598 amending administrative rules and regulations governing the
2599 details of the operation and use of the common areas.

2600 (b) *Use and maintenance restrictions.*—Restrictions on, and
2601 requirements for, the use, maintenance, and appearance of the
2602 units and the use of the common areas, not inconsistent with the
2603 cooperative documents, designed to prevent unreasonable
2604 interference with the use of the units and common areas.

2605 (c) *Notice of meetings.*—Provisions for giving notice by
2606 electronic transmissions in a manner authorized by law of
2607 meetings of the board of directors and committees and of annual
2608 and special meetings of the members.

2609 (d) *Other matters.*—Other provisions not inconsistent with
2610 this chapter or with the cooperative documents as may be

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2611 desired.

2612 Section 17. Section 719.1064, Florida Statutes, is
2613 repealed.

2614 Section 18. Paragraphs (b) and (c) of subsection (1) and
2615 subsection (2) of section 719.107, Florida Statutes, are
2616 amended, and subsection (3) is added to that section, to read:

2617 719.107 Common expenses; assessment.—

2618 (1)

2619 (b) If so provided in the bylaws, the cost of a master
2620 antenna television system or duly franchised cable television
2621 service obtained pursuant to a bulk contract shall be deemed a
2622 common expense, and if not obtained pursuant to a bulk contract,
2623 such cost shall be considered common expense if it is designated
2624 as such in a written contract between the board of
2625 administration and the company providing the master television
2626 antenna system or the cable television service. The contract
2627 shall be for a term of not less than 2 years.

2628 1. Any contract made by the board after April 2, 1992, for
2629 a community antenna system or duly franchised cable television
2630 service may be canceled by a majority of the voting interests
2631 present at the next regular or special meeting of the
2632 association. Any member may make a motion to cancel the
2633 contract, but if no motion is made or if such motion fails to
2634 obtain the required majority at the next regular or special
2635 meeting, whichever is sooner, following the making of the
2636 contract, then such contract shall be deemed ratified for the
2637 term therein expressed.

2638 2. Any such contract shall provide, and shall be deemed to
2639 provide if not expressly set forth, that any hearing impaired or

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2640 legally blind shareholder ~~unit owner~~ who does not occupy the
2641 unit with a nonhearing impaired or sighted person may
2642 discontinue the service without incurring disconnect fees,
2643 penalties, or subsequent service charges, and as to such units,
2644 the shareholders ~~owners~~ shall not be required to pay any common
2645 expenses charge related to such service. If less than all
2646 members of an association share the expenses of cable
2647 television, the expense shall be shared equally by all
2648 participating shareholders ~~unit owners~~. The association may use
2649 the provisions of s. 719.108 to enforce payment of the shares of
2650 such costs by the shareholders ~~unit owners~~ receiving cable
2651 television.

2652 (c) If any unpaid share of common expenses or assessments
2653 is extinguished by foreclosure of a superior lien or by a deed
2654 in lieu of foreclosure thereof, the unpaid share of common
2655 expenses or assessments are common expenses collectible from all
2656 the shareholders ~~unit owners~~ in the cooperative in which the
2657 unit is located.

2658 (2) Funds for the payment of common expenses shall be
2659 collected by assessments against shareholders ~~unit owners~~ in the
2660 proportions or percentages of sharing common expenses provided
2661 in the cooperative documents.

2662 (3) The expense of installation, replacement, operation,
2663 repair, and maintenance of hurricane shutters or other hurricane
2664 protection by the board pursuant to s. 719.113(5) shall
2665 constitute a common expense as defined in this section and shall
2666 be collected as provided in this section if the association is
2667 responsible for the maintenance, repair, and replacement of the
2668 hurricane shutters or other hurricane protection pursuant to the

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2669 cooperative documents. However, if the maintenance, repair, and
2670 replacement of the hurricane shutters or other hurricane
2671 protection is the responsibility of the shareholders pursuant to
2672 the cooperative documents, the cost of the installation of the
2673 hurricane shutters or other hurricane protection shall not be a
2674 common expense, but shall be charged individually to the
2675 shareholders based on the cost of installation of the hurricane
2676 shutters or other hurricane protection appurtenant to the unit.
2677 Notwithstanding the provisions of s. 719.108(8), and regardless
2678 of whether or not the cooperative documents require the
2679 association or shareholders to maintain, repair, or replace
2680 hurricane shutters or other hurricane protection, a shareholder
2681 who has previously installed hurricane shutters in accordance
2682 with s. 719.113(5), other hurricane protection, or laminated
2683 glass architecturally designed to function as hurricane
2684 protection, which hurricane shutters or other hurricane
2685 protection or laminated glass complies with the current
2686 applicable building code, shall receive a credit equal to the
2687 pro rata portion of the assessed installation cost assigned to
2688 each unit. However, such shareholder shall remain responsible
2689 for the pro rata share of expenses for hurricane shutters or
2690 other hurricane protection installed on common areas by the
2691 board pursuant to s. 719.113(5) and shall remain responsible for
2692 a pro rata share of the expense of the replacement, operation,
2693 repair, and maintenance of such shutters or other hurricane
2694 protection.

2695 Section 19. Section 719.108, Florida Statutes, is amended
2696 to read:

2697 719.108 Rents and assessments; liability; lien and

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2698 priority; interest; collection; cooperative ownership.-

2699 (1) A shareholder ~~unit-owner~~, regardless of how title is
2700 acquired, including, without limitation, a purchaser at a
2701 judicial sale, shall be liable for all rents and assessments
2702 coming due while the shareholder ~~unit-owner~~ is in exclusive
2703 possession of a unit. ~~In a voluntary transfer,~~ The shareholder
2704 ~~unit-owner~~ in exclusive possession shall be jointly and
2705 severally liable with the previous shareholder ~~unit-owner~~ for
2706 all unpaid rents and assessments against the previous
2707 shareholder ~~unit-owner~~ for his or her share of the common
2708 expenses up to the time of the transfer, without prejudice to
2709 the rights of the shareholder ~~unit-owner~~ in exclusive possession
2710 to recover from a ~~the~~ previous shareholder ~~unit-owner~~ the
2711 amounts paid by the shareholder ~~unit-owner~~ in exclusive
2712 possession therefor.

2713 (2) The liability for rents and assessments may not be
2714 avoided by waiver of the use or enjoyment of any common areas or
2715 by abandonment of the unit for which the rents and assessments
2716 are made.

2717 (3) Rents and assessments, and installments on them, not
2718 paid when due bear interest at the rate provided in the
2719 cooperative documents from the date due until paid. This rate
2720 may not exceed the rate allowed by law, and, if no rate is
2721 provided in the cooperative documents, then interest shall
2722 accrue at 18 percent per annum. Also, if the cooperative
2723 documents or bylaws so provide, the association may charge an
2724 administrative late fee in addition to such interest, in an
2725 amount not to exceed the greater of \$25 or 5 percent of each
2726 installment of the assessment for each delinquent installment

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2727 that the payment is late. Any payment received by an association
2728 shall be applied first to any interest accrued by the
2729 association, then to any administrative late fee, then to any
2730 costs and reasonable attorney's fees incurred in collection, and
2731 then to the delinquent assessment. The foregoing shall be
2732 applicable notwithstanding any restrictive endorsement,
2733 designation, or instruction placed on or accompanying a payment.
2734 A late fee is not subject to chapter 687 or s. 719.303(3).

2735 (4) If the association is authorized by the cooperative
2736 documents or bylaws to approve or disapprove a proposed lease of
2737 a unit, the grounds for disapproval may include, but are not
2738 limited to, a shareholder being delinquent in the payment of an
2739 assessment at the time approval is sought.

2740 (5) (a) (4) The association has ~~shall have~~ a lien on each
2741 cooperative parcel to secure the payment of for any unpaid rents
2742 and assessments, plus interest, against the shareholder who owns
2743 ~~unit owner of~~ the cooperative parcel. If authorized by the
2744 cooperative documents, the said lien shall also secure
2745 reasonable attorney's fees incurred by the association incident
2746 to the collection of the rents and assessments or enforcement of
2747 such lien. The lien is effective from and shall relate back to
2748 ~~and after~~ the recording of the cooperative documents ~~a claim of~~
2749 ~~lien in the public records in the county in which the~~
2750 ~~cooperative parcel is located which states the description of~~
2751 ~~the cooperative parcel, the name of the unit owner, the amount~~
2752 ~~due, and the due dates.~~

2753 (b) To be valid, a claim of lien must state the description
2754 of the cooperative parcel, the name of the record owner, the
2755 name and address of the association, the amount due, and the due

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2756 dates. The claim of lien must be executed and acknowledged by an
2757 officer or authorized agent of the association. The lien shall
2758 expire if a claim of lien is not filed within 1 year after the
2759 date the assessment was due, and no such lien shall continue for
2760 a longer period than 1 year after the claim of lien has been
2761 recorded unless, within that time, an action to enforce the lien
2762 is commenced in a court of competent jurisdiction. The 1-year
2763 period shall automatically be extended for any length of time
2764 during which the association is prevented from filing a
2765 foreclosure action by an automatic stay resulting from a
2766 bankruptcy petition filed by the shareholder or any other person
2767 claiming an interest in the parcel. The claim of lien shall
2768 secure all unpaid assessments that are due and that may accrue
2769 subsequent to the recording of the claim of lien and prior to
2770 the entry of a certificate of title, as well as interest and all
2771 reasonable costs and attorney's fees incurred by the association
2772 incident to the collection process. A notice of delinquency sent
2773 to a shareholder shall provide an overall total of assessments
2774 claimed by the association and shall specify for each assessment
2775 or charge the date of the assessment or charge, the principal
2776 balance owed for the assessment or charge, and affiliated late
2777 fees or collection charges. Costs to a shareholder secured by
2778 the association's claim of lien with regard to collection
2779 efforts by management companies or licensed managers as to any
2780 delinquent installment of an assessment may not exceed \$50.
2781 However, there shall be no charge for the first notice of a
2782 delinquency to the shareholder. Upon payment in full, the person
2783 making the payment is entitled to a satisfaction of the lien. ~~No~~
2784 lien may be filed by the association against a cooperative

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2785 ~~parcel until 30 days after the date on which a notice of intent~~
 2786 ~~to file a lien has been served on the unit owner of the~~
 2787 ~~cooperative parcel by certified mail or by personal service in~~
 2788 ~~the manner authorized by chapter 48 and the Florida Rules of~~
 2789 ~~Civil Procedure.~~

2790 (c) By recording a notice in substantially the following
 2791 form, a shareholder or the shareholder's agent or attorney may
 2792 require the association to enforce a recorded claim of lien
 2793 against his or her cooperative parcel:

2795 NOTICE OF CONTEST OF LIEN

2797 TO: (Name and address of association) You are notified
 2798 that the undersigned contests the claim of lien filed by you on
 2799 _____, (year) _____, and recorded in Official Records Book _____ at
 2800 Page _____, of the public records of _____ County, Florida, and
 2801 that the time within which you may file suit to enforce your
 2802 lien is limited to 90 days after the date of service of this
 2803 notice. Executed this _____ day of _____, (year) .

2805 Signed: (Shareholder or Attorney)

2807 After notice of contest of lien has been recorded, the clerk of
 2808 the circuit court shall mail a copy of the recorded notice to
 2809 the association by certified mail, return receipt requested, at
 2810 the address shown in the claim of lien or most recent amendment
 2811 to the claim of lien and shall certify to the service on the
 2812 face of the notice. Service is complete upon mailing. After
 2813 service, the association has 90 days in which to file an action

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2814 to enforce the lien; and, if the action is not filed within the
2815 90-day period, the lien is void. However, the 90-day period
2816 shall be extended for any length of time that the association is
2817 prevented from filing its action because of an automatic stay
2818 resulting from the filing of a bankruptcy petition by the
2819 shareholder or by any other person claiming an interest in the
2820 parcel.

2821 (6) (a) ~~(5)~~ Liens for rents and assessments may be foreclosed
2822 by suit brought in the name of the association, in like manner
2823 as a foreclosure of a mortgage on real property. In any
2824 foreclosure, the shareholder ~~unit owner~~ shall pay a reasonable
2825 rental for the cooperative parcel, if so provided in the
2826 cooperative documents, and the plaintiff in the foreclosure is
2827 entitled to the appointment of a receiver to collect the rent.
2828 The association has the power, unless prohibited by the
2829 cooperative documents, to bid on the cooperative parcel at the
2830 foreclosure sale and to acquire and hold, lease, mortgage, or
2831 convey it. Suit to recover a money judgment for unpaid rents and
2832 assessments may be maintained without waiving the lien securing
2833 them.

2834 (b) A foreclosure judgment may not be entered until at
2835 least 30 days after the association gives written notice to the
2836 shareholder of its intention to foreclose its lien to collect
2837 the unpaid rents and assessments. If this notice is not given at
2838 least 30 days before the foreclosure action is filed and if the
2839 unpaid rents and assessments, including those coming due after
2840 the claim of lien is recorded, are paid before the entry of a
2841 final judgment of foreclosure, the association may not recover
2842 attorney's fees or costs. The notice must be given by delivery

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2843 of a copy of it to the shareholder or by certified or registered
2844 mail, return receipt requested, addressed to the shareholder at
2845 his or her last known address; and, upon such mailing, the
2846 notice shall be deemed to have been given, and the court shall
2847 proceed with the foreclosure action and may award attorney's
2848 fees and costs as permitted by law. The notice requirements of
2849 this paragraph are satisfied if the shareholder records a notice
2850 of contest of lien as provided in subsection (5). The notice
2851 requirements of this paragraph do not apply if an action to
2852 foreclose a mortgage on the cooperative unit is pending before
2853 any court; if the rights of the association would be affected by
2854 such foreclosure; and if actual, constructive, or substitute
2855 service of process has been made on the shareholder.

2856 (c) If the shareholder remains in possession of the unit
2857 after a foreclosure judgment has been entered, the court, in its
2858 discretion, may require the shareholder to pay a reasonable
2859 rental for the unit. If the unit is rented or leased during the
2860 pendency of the foreclosure action, the association is entitled
2861 to the appointment of a receiver to collect the rent. The
2862 expenses of the receiver shall be paid by the party that does
2863 not prevail in the foreclosure action.

2864 (d) The association has the power to purchase the
2865 cooperative unit at the foreclosure sale and to hold, lease,
2866 mortgage, or convey it.

2867 (7) Within 15 days after receiving a written request
2868 therefor from a shareholder or his or her designee, or a unit
2869 mortgagee or his or her designee, the association shall provide
2870 a certificate signed by an officer or agent of the association
2871 stating all assessments and other moneys owed to the association

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2872 by the shareholder with respect to the cooperative parcel.

2873 (a) Any person other than the shareholder who relies upon
2874 such certificate shall be protected thereby.

2875 (b) A summary proceeding pursuant to s. 51.011 may be
2876 brought to compel compliance with this subsection, and in any
2877 such action the prevailing party is entitled to recover
2878 reasonable attorney's fees.

2879 (c) Notwithstanding any limitation on transfer fees
2880 contained in s. 719.106(1)(i), the association or its authorized
2881 agent may charge a reasonable fee for the preparation of the
2882 certificate. The amount of the fee must be included on the
2883 certificate.

2884 (d) The authority to charge a fee for the certificate shall
2885 be established by a written resolution adopted by the board or
2886 provided by a written management, bookkeeping, or maintenance
2887 contract and is payable upon the preparation of the certificate.
2888 If the certificate is requested in conjunction with the sale or
2889 mortgage of a unit but the closing does not occur and no later
2890 than 30 days after the closing date for which the certificate
2891 was sought the preparer receives a written request, accompanied
2892 by reasonable documentation, that the sale did not occur from a
2893 payor that is not the shareholder, the fee shall be refunded to
2894 that payor within 30 days after receipt of the request. The
2895 refund is the obligation of the shareholder, and the association
2896 may collect the refund from that shareholder in the same manner
2897 as an assessment as provided in this section.

2898 ~~(6) Within 15 days after request by a unit owner or~~
2899 ~~mortgagee, the association shall provide a certificate stating~~
2900 ~~all assessments and other moneys owed to the association by the~~

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2901 ~~unit owner with respect to the cooperative parcel. Any person~~
2902 ~~other than the unit owner who relies upon such certificate shall~~
2903 ~~be protected thereby. Notwithstanding any limitation on transfer~~
2904 ~~fees contained in s. 719.106(1)(i), the association or its~~
2905 ~~authorized agent may charge a reasonable fee for the preparation~~
2906 ~~of the certificate.~~

2907 ~~(7) The remedies provided in this section do not exclude~~
2908 ~~other remedies provided by the cooperative documents and~~
2909 ~~permitted by law.~~

2910 (8) (a) No shareholder ~~unit owner~~ may be excused from the
2911 payment of his or her share of the rents or assessments of a
2912 cooperative unless all shareholders ~~unit owners~~ are likewise
2913 proportionately excused from payment, except as ~~provided in~~
2914 ~~subsection (6) and~~ in the following cases:

2915 1. If the cooperative documents so provide, a developer or
2916 other person owning cooperative units offered for sale may be
2917 excused from the payment of the share of the common expenses,
2918 assessments, and rents related to those units for a stated
2919 period of time. The period must terminate no later than the
2920 first day of the fourth calendar month following the month in
2921 which the right of exclusive possession is first granted to a
2922 shareholder ~~unit owner~~. However, the developer must pay the
2923 portion of common expenses incurred during that period which
2924 exceed the amount assessed against other shareholders ~~unit~~
2925 ~~owners~~.

2926 2. A developer, or other person with an ownership interest
2927 in cooperative units or having an obligation to pay common
2928 expenses, may be excused from the payment of his or her share of
2929 the common expenses which would have been assessed against those

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2930 units during the period of time that he or she shall have
2931 guaranteed to each purchaser in the purchase contract or in the
2932 cooperative documents, or by agreement between the developer and
2933 a majority of the shareholders ~~unit owners~~ other than the
2934 developer, that the assessment for common expenses of the
2935 cooperative imposed upon the shareholders ~~unit owners~~ would not
2936 increase over a stated dollar amount and shall have obligated
2937 himself or herself to pay any amount of common expenses incurred
2938 during that period and not produced by the assessments at the
2939 guaranteed level receivable from other shareholders ~~unit owners~~.

2940 (b) If the purchase contract, cooperative documents, or
2941 agreement between the developer and a majority of shareholders
2942 ~~unit owners~~ other than the developer provides for the developer
2943 or another person to be excused from the payment of assessments
2944 pursuant to paragraph (a), no funds receivable from shareholders
2945 ~~unit owners~~ payable to the association or collected by the
2946 developer on behalf of the association, other than regular
2947 periodic assessments for common expenses as provided in the
2948 cooperative documents and disclosed in the estimated operating
2949 budget pursuant to s. 719.503(1)(b)6. or s. 719.504(20)(b), may
2950 be used for payment of common expenses prior to the expiration
2951 of the period during which the developer or other person is so
2952 excused. This restriction applies to funds including, but not
2953 limited to, capital contributions or startup funds collected
2954 from shareholders ~~unit purchasers~~ at closing.

2955 (9) The specific purposes of any special assessment,
2956 including any contingent special assessment levied in
2957 conjunction with the purchase of an insurance policy authorized
2958 by s. 719.104(3), approved in accordance with the cooperative

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2959 documents shall be set forth in a written notice of such
2960 assessment sent or delivered to each shareholder ~~unit-owner~~. The
2961 funds collected pursuant to a special assessment shall be used
2962 only for the specific purpose or purposes set forth in such
2963 notice or returned to the shareholders ~~unit-owners~~. However,
2964 upon completion of such specific purposes, any excess funds
2965 shall be considered common surplus and may, at the discretion of
2966 the board, either be returned to the shareholders ~~unit-owners~~ or
2967 applied as a credit toward future assessments.

2968 (10) During the pendency of any foreclosure action of a
2969 cooperative unit, if the unit is occupied by a tenant and the
2970 shareholder is delinquent in the payment of regular assessments,
2971 the association may demand that the tenant pay to the
2972 association the future regular assessments related to the
2973 cooperative unit. The demand shall be continuing in nature, and
2974 upon demand the tenant shall continue to pay the regular
2975 assessments to the association until the association releases
2976 the tenant or the tenant discontinues tenancy in the unit. The
2977 association shall mail written notice to the shareholder of the
2978 association's demand that the tenant pay regular assessments to
2979 the association. The tenant shall not be liable for increases in
2980 the amount of the regular assessment due unless the tenant was
2981 reasonably notified of the increase prior to the day that the
2982 rent is due. The tenant shall be given a credit against rents
2983 due to the shareholder in the amount of assessments paid to the
2984 association. The association shall, upon request, provide the
2985 tenant with written receipts for payments made. The association
2986 may issue notices under s. 83.56 and may sue for eviction under
2987 ss. 83.59-83.625 as if the association were a landlord under

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2988 part II of chapter 83 should the tenant fail to pay an
2989 assessment. However, the association shall not otherwise be
2990 considered a landlord under chapter 83 and shall specifically
2991 not have any duty under s. 83.51. The tenant shall not, by
2992 virtue of payment of assessments, have any of the rights of a
2993 shareholder to vote in any election or to examine the books and
2994 records of the association. A court may supersede the effect of
2995 this subsection by appointing a receiver.

2996 Section 20. Section 719.113, Florida Statutes, is created
2997 to read:

2998 719.113 Maintenance; limitation upon improvement; display
2999 of flag; hurricane shutters; display of religious decorations.-

3000 (1) Maintenance of the common areas is the responsibility
3001 of the association. The cooperative documents may provide that
3002 certain limited common areas shall be maintained by those
3003 entitled to use the limited common areas or that the association
3004 shall provide the maintenance, either as a common expense or
3005 with the cost shared only by those entitled to use the limited
3006 common areas. If the maintenance is to be provided by the
3007 association at the expense of only those entitled to use the
3008 limited common areas, the cooperative documents shall describe
3009 in detail the method of apportioning such costs among those
3010 entitled to use the limited common areas. The association may
3011 use the provisions of s. 719.108 to enforce payment of the
3012 shares of such costs by the shareholders entitled to use the
3013 limited common areas.

3014 (2) Except as otherwise provided in this section, there
3015 shall be no material alteration or substantial additions to the
3016 common areas, except in a manner provided in the cooperative

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3017 documents as originally recorded or as amended under the
3018 procedures provided therein. If the cooperative documents as
3019 originally recorded or as amended under the procedures provided
3020 therein do not specify the procedure for approval of material
3021 alterations or substantial additions, 75 percent of the total
3022 voting interests of the association must approve the alterations
3023 or additions. This subsection is intended to clarify existing
3024 law and applies to associations existing on July 1, 2010.

3025 (3) A shareholder shall not do anything within his or her
3026 unit or on the common areas which would adversely affect the
3027 safety or soundness of the common areas or any portion of the
3028 association property or cooperative property which is to be
3029 maintained by the association.

3030 (4) Any shareholder may display within the boundaries of
3031 the shareholder's unit one portable, removable United States
3032 flag in a respectful way and, on Armed Forces Day, Memorial Day,
3033 Flag Day, Independence Day, and Veterans' Day, may display in a
3034 respectful way portable, removable official flags, not larger
3035 than 4 1/2 feet by 6 feet, which represent the United States
3036 Army, Navy, Air Force, Marine Corps, or Coast Guard, regardless
3037 of any rule or requirement in the cooperative documents dealing
3038 with flags or decorations.

3039 (5) Each board of directors shall adopt hurricane shutter
3040 specifications for each building within each cooperative which
3041 shall include color, style, and other factors deemed relevant by
3042 the board. All specifications adopted by the board shall comply
3043 with the applicable building code.

3044 (a) The board may, subject to the provisions of s. 719.3026
3045 and the approval of a majority of voting interests of the

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3046 cooperative, install hurricane shutters or hurricane protection
3047 that complies with or exceeds the applicable building code, or
3048 both, except that a vote of the shareholders is not required if
3049 the maintenance, repair, and replacement of hurricane shutters
3050 or other forms of hurricane protection are the responsibility of
3051 the association pursuant to the cooperative documents. However,
3052 when hurricane protection or laminated glass or window film
3053 architecturally designed to function as hurricane protection
3054 which complies with or exceeds the current applicable building
3055 code has been previously installed, the board may not install
3056 hurricane shutters or other hurricane protection. Code-compliant
3057 impact glass may be installed by the association as hurricane
3058 protection if the area in which the glass is to be installed is
3059 an area that is the responsibility of the association.
3060 Notwithstanding s. 719.107(3), if a shareholder installed code-
3061 compliant impact glass prior to the association voting to
3062 install such glass, and such glass and the frame thereof comply
3063 with the current applicable building codes and are otherwise in
3064 good repair, the shareholder shall not be required to pay the
3065 shareholder's pro rata share of the cost of installing code-
3066 compliant impact glass in the cooperative association.

3067 (b) The association shall be responsible for the
3068 maintenance, repair, and replacement of the hurricane shutters
3069 or other hurricane protection authorized by this subsection if
3070 such hurricane shutters or other hurricane protection is the
3071 responsibility of the association pursuant to the cooperative
3072 documents. If the hurricane shutters or other hurricane
3073 protection authorized by this subsection are the responsibility
3074 of the shareholders pursuant to the cooperative documents, the

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3075 responsibility for the maintenance, repair, and replacement of
3076 such items shall be the responsibility of the shareholder.

3077 (c) The board may operate hurricane shutters installed
3078 pursuant to this subsection without permission of the
3079 shareholders only when such operation is necessary to preserve
3080 and protect the cooperative property and association property.
3081 The installation, replacement, operation, repair, and
3082 maintenance of such shutters in accordance with the procedures
3083 set forth in this subsection shall not be deemed a material
3084 alteration to the common elements or association property within
3085 the meaning of this section.

3086 (d) Notwithstanding any provision to the contrary in the
3087 cooperative documents, if approval is required by the documents,
3088 a board may not refuse to approve the installation or
3089 replacement of hurricane shutters by a shareholder conforming to
3090 the specifications adopted by the board.

3091 (6) As to any cooperative building greater than three
3092 stories in height, at least every 5 years, and within 5 years if
3093 not available for inspection on July 1, 2010, the board shall
3094 have the cooperative building inspected to provide a report
3095 under seal of an architect or engineer authorized to practice in
3096 this state attesting to required maintenance, useful life, and
3097 replacement costs of the common areas. However, if approved by a
3098 majority of the voting interests present at a properly called
3099 meeting of the association, an association may waive this
3100 requirement. Such meeting and approval must occur prior to the
3101 end of the 5-year period and is effective only for that 5-year
3102 period.

3103 (7) An association may not refuse the request of a

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3104 shareholder for a reasonable accommodation for the attachment on
3105 the mantel or frame of the door of the shareholder of a
3106 religious object not to exceed 3 inches wide, 6 inches high, and
3107 1.5 inches deep.

3108 (8) Notwithstanding the provisions of this section or the
3109 governing documents of a cooperative association, the board of
3110 directors may, without any requirement for approval of the
3111 shareholders, install upon or within the common areas or
3112 association property solar collectors, clotheslines, or other
3113 energy-efficient devices based on renewable resources for the
3114 benefit of the shareholders.

3115 Section 21. Section 719.117, Florida Statutes, is created
3116 to read:

3117 719.117 Termination of cooperative.-

3118 (1) LEGISLATIVE FINDINGS.-The Legislature finds that
3119 cooperatives are created as authorized by statute. In
3120 circumstances that may create economic waste, areas of
3121 disrepair, or obsolescence of a cooperative property for its
3122 intended use and thereby lower property tax values, the
3123 Legislature further finds that it is the public policy of this
3124 state to provide by statute a method to preserve the value of
3125 the property interests and the rights of alienation thereof that
3126 shareholders have in the cooperative property before and after
3127 termination. The Legislature further finds that it is contrary
3128 to the public policy of this state to require the continued
3129 operation of a cooperative when to do so constitutes economic
3130 waste or when the ability to do so is made impossible by law or
3131 regulation. This section applies to all cooperatives in this
3132 state in existence on or after July 1, 2010.

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3133 (2) TERMINATION BECAUSE OF ECONOMIC WASTE OR
3134 IMPOSSIBILITY.—

3135 (a) Notwithstanding any provision to the contrary in the
3136 cooperative documents, the cooperative form of ownership of a
3137 property may be terminated by a plan of termination approved by
3138 the lesser of the lowest percentage of voting interests
3139 necessary to amend the articles of incorporation when:

3140 1. The total estimated cost of repairs necessary to restore
3141 the improvements to their former condition or bring them into
3142 compliance with applicable laws or regulations exceeds the
3143 combined fair market value of all units in the cooperative after
3144 completion of the repairs; or

3145 2. It becomes impossible to operate or reconstruct a
3146 cooperative in its prior physical configuration because of land
3147 use laws or regulations.

3148 (b) Notwithstanding paragraph (a), a cooperative in which
3149 75 percent or more of the units are timeshare units may be
3150 terminated only pursuant to a plan of termination approved by 80
3151 percent of the total voting interests of the association and the
3152 holders of 80 percent of the original principal amount of
3153 outstanding recorded mortgage liens of timeshare estates in the
3154 cooperative, unless the cooperative documents provide for a
3155 lower voting percentage.

3156 (3) OPTIONAL TERMINATION.—Except as provided in subsection
3157 (2) or unless the cooperative documents provide for a lower
3158 percentage, the cooperative form of ownership of the property
3159 may be terminated pursuant to a plan of termination approved by
3160 at least 80 percent of the total voting interests of the
3161 cooperative if not more than 10 percent of the total voting

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3162 interests of the cooperative have rejected the plan of
3163 termination by negative vote or by providing written objections
3164 thereto. This subsection does not apply to cooperatives in which
3165 75 percent or more of the units are timeshare units.

3166 (4) EXEMPTION.—A plan of termination is not an amendment
3167 subject to s. 719.1055(1).

3168 (5) MORTGAGE LIENHOLDERS.—Notwithstanding any provision to
3169 the contrary in the cooperative documents or this chapter,
3170 approval of a plan of termination by the holder of a recorded
3171 mortgage lien affecting a cooperative parcel in which fewer than
3172 75 percent of the units are timeshare units is not required
3173 unless the plan of termination will result in less than the full
3174 satisfaction of the mortgage lien affecting the cooperative
3175 parcel. If such approval is required and not given, a holder of
3176 a recorded mortgage lien who objects to the plan of termination
3177 may contest the plan as provided in subsection (16). At the time
3178 of sale, the lien shall be transferred to the proportionate
3179 share of the proceeds assigned to the cooperative parcel in the
3180 plan of termination or as subsequently modified by the court.

3181 (6) POWERS IN CONNECTION WITH TERMINATION.—The approval of
3182 the plan of termination does not terminate the association. The
3183 association shall continue in existence following approval of
3184 the plan of termination with all powers and duties it had before
3185 approval of the plan. Notwithstanding any provision to the
3186 contrary in the cooperative documents or bylaws, after approval
3187 of the plan the board shall:

3188 (a) Employ directors, agents, attorneys, and other
3189 professionals to liquidate or conclude its affairs.

3190 (b) Conduct the affairs of the association as necessary for

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3191 the liquidation or termination.

3192 (c) Carry out contracts and collect, pay, and settle debts
3193 and claims for and against the association.

3194 (d) Defend suits brought against the association.

3195 (e) Sue in the name of the association for all sums due or
3196 owed to the association or to recover any of its property.

3197 (f) Perform any act necessary to maintain, repair, or
3198 demolish unsafe or uninhabitable improvements or other
3199 cooperative property in compliance with applicable codes.

3200 (g) Sell at public or private sale or exchange, convey, or
3201 otherwise dispose of assets of the association for an amount
3202 deemed to be in the best interests of the association, and
3203 execute bills of sale and deeds of conveyance in the name of the
3204 association.

3205 (h) Collect and receive rents, profits, accounts
3206 receivable, income, maintenance fees, special assessments, or
3207 insurance proceeds for the association.

3208 (i) Contract and do anything in the name of the association
3209 which is proper or convenient to terminate the affairs of the
3210 association.

3211 (7) NATURAL DISASTERS.—

3212 (a) If, after a natural disaster, the identity of the
3213 directors or their right to hold office is in doubt, if they are
3214 deceased or unable to act, if they fail or refuse to act, or if
3215 they cannot be located, any interested person may petition the
3216 circuit court to determine the identity of the directors or, if
3217 found to be in the best interests of the shareholders, to
3218 appoint a receiver to conclude the affairs of the association
3219 after a hearing following notice to such persons as the court

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3220 directs. Lienholders shall be given notice of the petition and
3221 have the right to propose persons for the consideration by the
3222 court as receiver. If a receiver is appointed, the court shall
3223 direct the receiver to provide to all shareholders written
3224 notice of his or her appointment as receiver. Such notice shall
3225 be mailed or delivered within 10 days after the appointment.
3226 Notice by mail to a shareholder shall be sent to the address
3227 used by the county property appraiser for notice to the
3228 shareholder.

3229 (b) The receiver shall have all powers given to the board
3230 pursuant to the cooperative documents, bylaws, and subsection
3231 (6) and any other powers that are necessary to conclude the
3232 affairs of the association and are set forth in the order of
3233 appointment. The appointment of the receiver is subject to the
3234 bonding requirements of such order. The order shall also provide
3235 for the payment of a reasonable fee to the receiver from the
3236 sources identified in the order, which may include rents,
3237 profits, incomes, maintenance fees, or special assessments
3238 collected from the cooperative property.

3239 (8) REPORTS AND REPLACEMENT OF RECEIVER.—

3240 (a) The association, receiver, or termination trustee shall
3241 prepare reports each quarter following the approval of the plan
3242 of termination setting forth the status and progress of the
3243 termination, the costs and fees incurred, the date the
3244 termination is expected to be completed, and the current
3245 financial condition of the association, receivership, or
3246 trusteeship and provide copies of the report by regular mail to
3247 the shareholders and lienors at the mailing address provided to
3248 the association by the shareholders and the lienors.

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3249 (b) The shareholders of an association in termination may
3250 recall or remove members of the board of administration with or
3251 without cause at any time as provided in s. 718.106(1)(f).

3252 (c) The lienors of an association in termination
3253 representing at least 50 percent of the outstanding amount of
3254 liens may petition the court for the appointment of a
3255 termination trustee, which shall be granted upon good cause
3256 shown.

3257 (9) PLAN OF TERMINATION.—The plan of termination must be a
3258 written document executed in the same manner as a deed by
3259 shareholders having the requisite percentage of voting interests
3260 to approve the plan and by the termination trustee. A copy of
3261 the proposed plan of termination shall be given to all
3262 shareholders, in the same manner as provided for notice of an
3263 annual meeting, at least 14 days prior to the meeting at which
3264 the plan of termination is to be voted upon or prior to or
3265 simultaneously with the distribution of the solicitation seeking
3266 execution of the plan of termination or written consent to or
3267 joinder in the plan. A shareholder may document assent to the
3268 plan by executing the plan or by consent to or joinder in the
3269 plan in the manner of a deed. A plan of termination and the
3270 consents or joinders of shareholders and, if required, consents
3271 or joinders of mortgagees must be recorded in the public records
3272 of each county in which any portion of the cooperative is
3273 located. The plan is effective only upon recordation or at a
3274 later date specified in the plan.

3275 (10) PLAN OF TERMINATION; REQUIRED PROVISIONS.—The plan of
3276 termination must specify:

3277 (a) The name, address, and powers of the termination

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3278 trustee.

3279 (b) A date after which the plan of termination is void if
3280 it has not been recorded.

3281 (c) The interests of the respective shareholders in the
3282 association property, common surplus, and other assets of the
3283 association, which shall be the same as the respective interests
3284 of the shareholders in the common areas immediately before the
3285 termination, unless otherwise provided in the cooperative
3286 documents.

3287 (d) The interests of the respective shareholders in any
3288 proceeds from the sale of the cooperative property. The plan of
3289 termination may apportion those proceeds pursuant to any method
3290 prescribed in subsection (12). If, pursuant to the plan of
3291 termination, cooperative property or real property owned by the
3292 association is to be sold following termination, the plan must
3293 provide for the sale and may establish any minimum sale terms.

3294 (e) Any interests of the respective shareholders in
3295 insurance proceeds or condemnation proceeds that are not used
3296 for repair or reconstruction at the time of termination. Unless
3297 the cooperative documents expressly address the distribution of
3298 insurance proceeds or condemnation proceeds, the plan of
3299 termination may apportion those proceeds pursuant to any method
3300 prescribed in subsection (12).

3301 (11) PLAN OF TERMINATION; OPTIONAL PROVISIONS; CONDITIONAL
3302 TERMINATION.-

3303 (a) The plan of termination may provide that each
3304 shareholder retains the exclusive right of possession to the
3305 portion of the real estate that formerly constituted the unit,
3306 in which case the plan must specify the conditions of

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3307 possession.

3308 (b) In a conditional termination, the plan must specify the
3309 conditions for termination. A conditional plan does not vest
3310 title in the termination trustee until the plan and a
3311 certificate executed by the association with the formalities of
3312 a deed, confirming that the conditions in the conditional plan
3313 have been satisfied or waived by the requisite percentage of the
3314 voting interests, have been recorded.

3315 (12) ALLOCATION OF PROCEEDS OF SALE OF COOPERATIVE
3316 PROPERTY.—

3317 (a) Unless the cooperative documents expressly provide for
3318 the allocation of the proceeds of sale of cooperative property,
3319 the plan of termination must first apportion the proceeds
3320 between the aggregate value of all units and the value of the
3321 common areas, based on their respective fair market values
3322 immediately before the termination, as determined by one or more
3323 independent appraisers selected by the association or
3324 termination trustee.

3325 (b) The portion of proceeds allocated to the units shall be
3326 further apportioned among the individual units. The
3327 apportionment is deemed fair and reasonable if it is so
3328 determined by the shareholders, who may approve the plan of
3329 termination by any of the following methods:

3330 1. The respective values of the units based on the fair
3331 market values of the units immediately before the termination,
3332 as determined by one or more independent appraisers selected by
3333 the association or termination trustee;

3334 2. The respective values of the units based on the most
3335 recent market value of the units before the termination, as

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3336 provided in the county property appraiser's records; or

3337 3. The respective interests of the units in the common
3338 elements specified in the cooperative documents immediately
3339 before the termination.

3340 (c) The methods of apportionment in paragraph (b) do not
3341 prohibit any other method of apportioning the proceeds of sale
3342 allocated to the units agreed upon in the plan of termination.
3343 The portion of the proceeds allocated to the common elements
3344 shall be apportioned among the units based upon their respective
3345 interests in the common areas as provided in the cooperative
3346 documents.

3347 (d) Liens that encumber a unit shall be transferred to the
3348 proceeds of sale of the cooperative property and the proceeds of
3349 sale or other distribution of association property, common
3350 surplus, or other association assets attributable to such unit
3351 in their same priority. The proceeds of any sale of cooperative
3352 property pursuant to a plan of termination may not be deemed to
3353 be common surplus or association property.

3354 (13) TERMINATION TRUSTEE.—The association shall serve as
3355 termination trustee unless another person is appointed in the
3356 plan of termination. If the association is unable or unwilling
3357 or fails to act as trustee, any shareholder may petition the
3358 court to appoint a trustee. Upon the date of the recording or at
3359 a later date specified in the plan, title to the cooperative
3360 property vests in the trustee. Unless prohibited by the plan,
3361 the termination trustee shall be vested with the powers given to
3362 the board pursuant to the cooperative documents, bylaws, and
3363 subsection (6). If the association is not the termination
3364 trustee, the trustee's powers shall be coextensive with those of

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3365 the association to the extent not prohibited in the plan of
3366 termination or the order of appointment. If the association is
3367 not the termination trustee, the association shall transfer any
3368 association property to the trustee. If the association is
3369 dissolved, the trustee shall also have such other powers
3370 necessary to conclude the affairs of the association.

3371 (14) TITLE VESTED IN TERMINATION TRUSTEE.—If termination is
3372 pursuant to a plan of termination under subsection (2) or
3373 subsection (3), the shareholders' rights and title as tenants in
3374 common in undivided interests in the cooperative property vest
3375 in the termination trustee when the plan is recorded or at a
3376 later date specified in the plan. The shareholders thereafter
3377 become the beneficiaries of the proceeds realized from the plan
3378 of termination. The termination trustee may deal with the
3379 cooperative property or any interest therein if the plan confers
3380 on the trustee the authority to protect, conserve, manage, sell,
3381 or dispose of the cooperative property. The trustee, on behalf
3382 of the shareholders, may contract for the sale of real property,
3383 but the contract is not binding on the shareholders until the
3384 plan is approved pursuant to subsection (2) or subsection (3).

3385 (15) NOTICE.—

3386 (a) Within 30 days after a plan of termination has been
3387 recorded, the termination trustee shall deliver by certified
3388 mail, return receipt requested, notice to all shareholders,
3389 lienors of the cooperative property, and lienors of all units at
3390 their last known addresses that a plan of termination has been
3391 recorded. The notice must include the book and page number of
3392 the public records in which the plan was recorded, notice that a
3393 copy of the plan shall be furnished upon written request, and

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3394 notice that the shareholder or lienor has the right to contest
3395 the fairness of the plan.

3396 (b) The trustee, within 90 days after the effective date of
3397 the plan, shall provide to the division a certified copy of the
3398 recorded plan, the date the plan was recorded, and the county,
3399 book, and page number of the public records in which the plan is
3400 recorded.

3401 (16) RIGHT TO CONTEST.—A shareholder or lienor may contest
3402 a plan of termination by initiating a summary procedure pursuant
3403 to s. 51.011 within 90 days after the date the plan is recorded.
3404 A shareholder or lienor who does not contest the plan within the
3405 90-day period is barred from asserting or prosecuting a claim
3406 against the association, the termination trustee, any
3407 shareholder, or any successor in interest to the cooperative
3408 property. In an action contesting a plan of termination, the
3409 person contesting the plan has the burden of pleading and
3410 proving that the apportionment of the proceeds from the sale
3411 among the shareholders was not fair and reasonable. The
3412 apportionment of sale proceeds is presumed fair and reasonable
3413 if it was determined pursuant to the methods prescribed in
3414 subsection (12). The court shall determine the rights and
3415 interests of the parties and order the plan of termination to be
3416 implemented if it is fair and reasonable. If the court
3417 determines that the plan of termination is not fair and
3418 reasonable, the court may void the plan or may modify the plan
3419 to apportion the proceeds in a fair and reasonable manner
3420 pursuant to this section based upon the proceedings and order
3421 the modified plan of termination to be implemented. In such
3422 action, the prevailing party shall recover reasonable attorney's

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3423 fees and costs.

3424 (17) DISTRIBUTION.—

3425 (a) Following termination of the cooperative, the
3426 cooperative property, association property, common surplus, and
3427 other assets of the association shall be held by the termination
3428 trustee, as trustee for shareholders and holders of liens on the
3429 units, in their order of priority.

3430 (b) Not less than 30 days before the first distribution,
3431 the termination trustee shall deliver by certified mail, return
3432 receipt requested, a notice of the estimated distribution to all
3433 shareholders, lienors of the cooperative property, and lienors
3434 of each unit at their last known addresses stating a good faith
3435 estimate of the amount of the distributions to each class and
3436 the procedures and deadline for notifying the termination
3437 trustee of any objections to the amount. The deadline must be at
3438 least 15 days after the date the notice was mailed. The notice
3439 may be sent with or after the notice required by subsection
3440 (15). If a shareholder or lienor files a timely objection with
3441 the termination trustee, the trustee need not distribute the
3442 funds and property allocated to the respective shareholder or
3443 lienor until the trustee has had a reasonable time to determine
3444 the validity of the adverse claim. In the alternative, the
3445 trustee may interplead the shareholder, the lienor, and any
3446 other person claiming an interest in the unit and deposit the
3447 funds allocated to the unit in the court registry, at which time
3448 the cooperative property, association property, common surplus,
3449 and other assets of the association are free of all claims and
3450 liens of the parties to the suit. In an interpleader action, the
3451 trustee and prevailing party may recover reasonable attorney's

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3452 fees and costs.

3453 (c) The proceeds from any sale of cooperative property or
3454 association property and any remaining cooperative property or
3455 association property, common surplus, and other assets shall be
3456 distributed in the following priority:

3457 1. To pay the reasonable termination trustee's fees and
3458 costs and accounting fees and costs.

3459 2. To lienholders of liens recorded prior to the recording
3460 of the cooperative documents.

3461 3. To purchase-money lienholders on units to the extent
3462 necessary to satisfy their liens; however, the distribution may
3463 not exceed a shareholder's share of the proceeds.

3464 4. To creditors of the association, as their interests
3465 appear.

3466 5. To shareholders, the proceeds of any sale of cooperative
3467 property subject to satisfaction of liens on each unit in their
3468 order of priority, in shares specified in the plan of
3469 termination, unless objected to by a shareholder or lienor as
3470 provided in paragraph (b).

3471 6. To shareholders, the remaining cooperative property,
3472 subject to satisfaction of liens on each unit in their order of
3473 priority, in shares specified in the plan of termination, unless
3474 objected to by a shareholder or lienor as provided in paragraph
3475 (b).

3476 7. To shareholders, the proceeds of any sale of association
3477 property, the remaining association property, common surplus,
3478 and other assets of the association, subject to satisfaction of
3479 liens on each unit in their order of priority, in shares
3480 specified in the plan of termination, unless objected to by a

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3481 shareholder or lienor as provided in paragraph (b).

3482 (d) After determining that all known debts and liabilities
3483 of an association in the process of termination have been paid
3484 or adequately provided for, the termination trustee shall
3485 distribute the remaining assets pursuant to the plan of
3486 termination. If the termination is by court proceeding or
3487 subject to court supervision, the distribution may not be made
3488 until any period for the presentation of claims ordered by the
3489 court has elapsed.

3490 (e) Assets held by an association upon a valid condition
3491 requiring return, transfer, or conveyance, which condition has
3492 occurred or will occur, shall be returned, transferred, or
3493 conveyed in accordance with the condition. The remaining
3494 association assets shall be distributed pursuant to paragraph
3495 (c).

3496 (f) Distribution may be made in money, property, or
3497 securities and in installments or as a lump sum, if it can be
3498 done fairly and ratably and in conformity with the plan of
3499 termination. Distribution shall be made as soon as is reasonably
3500 consistent with the beneficial liquidation of the assets.

3501 (18) ASSOCIATION STATUS.—The termination of a cooperative
3502 does not change the corporate status of the association that
3503 operated the cooperative property. The association continues to
3504 exist to conclude its affairs, prosecute and defend actions by
3505 or against it, collect and discharge obligations, dispose of and
3506 convey its property, and collect and divide its assets, but not
3507 to act except as necessary to conclude its affairs.

3508 (19) CREATION OF ANOTHER COOPERATIVE.—The termination of a
3509 cooperative does not bar the creation by the termination trustee

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3510 of another cooperative affecting any portion of the same
3511 property.

3512 Section 22. Section 719.1224, Florida Statutes, is created
3513 to read:

3514 719.1224 Prohibition against SLAPP suits.—

3515 (1) It is the intent of the Legislature to protect the
3516 right of cooperative shareholders to exercise their rights to
3517 instruct their representatives and petition for redress of
3518 grievances before the various governmental entities of this
3519 state as protected by the First Amendment to the United States
3520 Constitution and s. 5, Art. I of the State Constitution. The
3521 Legislature recognizes that strategic lawsuits against public
3522 participation, or "SLAPP suits," as they are typically referred
3523 to, have occurred when association members are sued by
3524 individuals, business entities, or governmental entities arising
3525 out of a cooperative shareholder's appearance and presentation
3526 before a governmental entity on matters related to the
3527 cooperative association. However, it is the public policy of
3528 this state that governmental entities, business organizations,
3529 and individuals not engage in SLAPP suits because such actions
3530 are inconsistent with the right of cooperative shareholders to
3531 participate in the state's institutions of government.

3532 Therefore, the Legislature finds and declares that prohibiting
3533 such lawsuits by governmental entities, business entities, and
3534 individuals against cooperative shareholders who address matters
3535 concerning their cooperative association will preserve this
3536 fundamental state policy, preserve the constitutional rights of
3537 cooperative shareholders, and ensure the continuation of
3538 representative government in this state. It is the intent of the

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3539 Legislature that such lawsuits be expeditiously disposed of by
3540 the courts. As used in this subsection, the term "governmental
3541 entity" means the state, including the executive, legislative,
3542 and judicial branches of government; the independent
3543 establishments of the state, counties, municipalities,
3544 districts, authorities, boards, or commissions; or any agencies
3545 of these branches that are subject to chapter 286.

3546 (2) A governmental entity, business organization, or
3547 individual in this state may not file or cause to be filed
3548 through its employees or agents any lawsuit, cause of action,
3549 claim, cross-claim, or counterclaim against a cooperative
3550 shareholder without merit and solely because such cooperative
3551 shareholder has exercised the right to instruct his or her
3552 representatives or the right to petition for redress of
3553 grievances before the various governmental entities of this
3554 state, as protected by the First Amendment to the United States
3555 Constitution and s. 5, Art. I of the State Constitution.

3556 (3) A cooperative shareholder sued by a governmental
3557 entity, business organization, or individual in violation of
3558 this section has a right to an expeditious resolution of a claim
3559 that the suit is in violation of this section. A cooperative
3560 shareholder may petition the court for an order dismissing the
3561 action or granting final judgment in favor of that cooperative
3562 shareholder. The petitioner may file a motion for summary
3563 judgment, together with supplemental affidavits, seeking a
3564 determination that the lawsuit brought by the governmental
3565 entity, business organization, or individual is in violation of
3566 this section. The governmental entity, business organization, or
3567 individual shall thereafter file a response and any supplemental

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3568 affidavits. As soon as practicable, the court shall set a
3569 hearing on the petitioner's motion, which shall be held at the
3570 earliest possible time after the filing of the response of the
3571 governmental entity, business organization, or individual. The
3572 court may award the cooperative shareholder sued by the
3573 governmental entity, business organization, or individual actual
3574 damages arising from the violation of this section by the
3575 governmental entity, individual, or business organization. A
3576 court may treble the damages awarded to a prevailing cooperative
3577 shareholder and shall state the basis for the treble damages
3578 award in its judgment. The court shall award the prevailing
3579 party reasonable attorney's fees and costs incurred in
3580 connection with a claim that an action was filed in violation of
3581 this section.

3582 (4) Cooperative associations may not expend association
3583 funds in prosecuting a SLAPP suit against a cooperative
3584 shareholder.

3585 Section 23. Section 719.1255, Florida Statutes, is amended
3586 to read:

3587 719.1255 Alternative resolution of disputes.—The Division
3588 of Florida Condominiums, Timeshares, and Mobile Homes of the
3589 Department of Business and Professional Regulation shall provide
3590 for alternative dispute resolution of matters related to
3591 cooperative associations and shareholders in a manner like that
3592 provided to condominium associations and unit owners in
3593 accordance with s. 718.1255.

3594 Section 24. Section 719.1265, Florida Statutes, is created
3595 to read:

3596 719.1265 Association emergency powers.—

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3597 (1) To the extent allowed by law and unless specifically
3598 prohibited by the cooperative documents or the bylaws of an
3599 association, and consistent with the provisions of s. 617.0830,
3600 the board of directors, in response to damage caused by an event
3601 for which a state of emergency is declared pursuant to s. 252.36
3602 in the locale in which the cooperative is located, may, but is
3603 not required to, exercise the following powers:

3604 (a) Conduct board meetings and shareholder meetings with
3605 notice given as is practicable. Such notice may be given in any
3606 practicable manner, including publication, radio, United States
3607 mail, the Internet, public service announcements, and
3608 conspicuous posting on the cooperative property or any other
3609 means the board deems reasonable under the circumstances. Notice
3610 of board decisions may be communicated as provided in this
3611 paragraph.

3612 (b) Cancel and reschedule any association meeting.

3613 (c) Name as assistant officers persons who are not
3614 directors, which assistant officers shall have the same
3615 authority as the executive officers for whom they are named as
3616 assistants during the state of emergency to accommodate the
3617 incapacity or unavailability of any officer of the association.

3618 (d) Relocate the association's principal office or
3619 designate alternative principal offices.

3620 (e) Enter into agreements with local counties and
3621 municipalities to assist those counties and municipalities with
3622 debris removal.

3623 (f) Implement a disaster plan before or immediately
3624 following the event for which a state of emergency is declared,
3625 which may include, but is not limited to, shutting down or off

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3626 elevators; electricity; water, sewer, or security systems; or
3627 air conditioners.

3628 (g) Based upon the advice of emergency management officials
3629 or licensed professionals retained by the board, determine any
3630 portion of the cooperative property unavailable for entry or
3631 occupancy by shareholders, family members, tenants, guests,
3632 agents, or invitees to protect the health, safety, or welfare of
3633 such persons.

3634 (h) Require the evacuation of the cooperative property in
3635 the event of a mandatory evacuation order in the locale in which
3636 the cooperative is located. Should any shareholder or other
3637 occupant of a cooperative fail or refuse to evacuate the
3638 cooperative property when the board has required evacuation, the
3639 association shall be immune from liability or injury to persons
3640 or property arising from such failure or refusal.

3641 (i) Based upon the advice of emergency management officials
3642 or licensed professionals retained by the board, determine
3643 whether the cooperative property can be safely inhabited or
3644 occupied. However, such determination is not conclusive as to
3645 any determination of habitability pursuant to the cooperative
3646 documents.

3647 (j) Mitigate further damage, including taking action to
3648 contract for the removal of debris and to prevent or mitigate
3649 the spread of fungus, including, but not limited to, mold or
3650 mildew, by removing and disposing of wet drywall, insulation,
3651 carpet, cabinetry, or other fixtures on or within the
3652 cooperative property, even if the shareholder is obligated by
3653 the cooperative documents or law to insure or replace those
3654 fixtures and to remove personal property from a unit.

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3655 (k) Contract, on behalf of any shareholder or shareholders,
3656 for items or services for which the shareholder or shareholders
3657 are otherwise individually responsible, but which are necessary
3658 to prevent further damage to the cooperative property. In such
3659 event, the shareholder or shareholders on whose behalf the board
3660 has contracted are responsible for reimbursing the association
3661 for the actual costs of the items or services, and the
3662 association may use its lien authority provided by s. 719.108 to
3663 enforce collection of the charges. Without limitation, such
3664 items or services may include the drying of units, the boarding
3665 of broken windows or doors, and the replacement of damaged air
3666 conditioners or air handlers to provide climate control in the
3667 units or other portions of the property.

3668 (l) Regardless of any provision to the contrary and even if
3669 such authority does not specifically appear in the cooperative
3670 documents or bylaws of the association, levy special assessments
3671 without a vote of the shareholders.

3672 (m) Without shareholders' approval, borrow money and pledge
3673 association assets as collateral to fund emergency repairs and
3674 carry out the duties of the association when operating funds are
3675 insufficient. This paragraph does not limit the general
3676 authority of the association to borrow money, subject to such
3677 restrictions as are contained in the cooperative documents or
3678 bylaws of the association.

3679 (2) The special powers authorized under subsection (1)
3680 shall be limited to the time reasonably necessary to protect the
3681 health, safety, and welfare of the association and the
3682 shareholders and the shareholders' family members, tenants,
3683 guests, agents, or invitees and the time reasonably necessary to

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3684 mitigate further damage and make emergency repairs.
3685 Additionally, unless 20 percent or more of the units are made
3686 uninhabitable by the emergency, the special powers authorized
3687 under subsection (1) may only be exercised during the term of
3688 the Governor's executive order or proclamation declaring the
3689 state of emergency in the locale in which the cooperative
3690 property is located.

3691 Section 25. Subsections (1) and (4) of section 719.301,
3692 Florida Statutes, are amended to read:

3693 719.301 Transfer of association control.—

3694 (1) When shareholders ~~unit owners~~ other than the developer
3695 own 15 percent or more of the units in a cooperative that will
3696 be operated ultimately by an association, the shareholders ~~unit~~
3697 ~~owners~~ other than the developer shall be entitled to elect not
3698 less than one-third of the members of the board of
3699 administration of the association. Shareholders ~~Unit owners~~
3700 other than the developer are entitled to elect not less than a
3701 majority of the members of the board of administration of an
3702 association:

3703 (a) Three years after 50 percent of the units that will be
3704 operated ultimately by the association have been conveyed to
3705 purchasers;

3706 (b) Three months after 90 percent of the units that will be
3707 operated ultimately by the association have been conveyed to
3708 purchasers;

3709 (c) When all the units that will be operated ultimately by
3710 the association have been completed, some have been conveyed to
3711 purchasers, and none of the others are being offered for sale by
3712 the developer in the ordinary course of business;

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3713 (d) When some of the units have been conveyed to purchasers
3714 and none of the others are being constructed or offered for sale
3715 by the developer in the ordinary course of business; ~~or~~

3716 (e) When the developer files a petition seeking protection
3717 in bankruptcy;

3718 (f) When a receiver for the developer is appointed by a
3719 circuit court and is not discharged within 30 days after such
3720 appointment; or

3721 (g) ~~(e)~~ Seven years after creation of the cooperative
3722 association,

3723
3724 whichever occurs first. The developer is entitled to elect at
3725 least one member of the board of administration of an
3726 association as long as the developer holds for sale in the
3727 ordinary course of business at least 5 percent in cooperatives
3728 with fewer than 500 units and 2 percent in cooperatives with 500
3729 or more units in a cooperative operated by the association.
3730 After the developer relinquishes control of the association, the
3731 developer may exercise the right to vote any developer-owned
3732 units in the same manner as any other shareholder ~~unit owner~~
3733 except for purposes of reacquiring control of the association or
3734 selecting the majority of the members of the board.

3735 (4) When shareholders ~~unit owners~~ other than the developer
3736 elect a majority of the members of the board of administration
3737 of an association, the developer shall relinquish control of the
3738 association, and the shareholders ~~unit owners~~ shall accept
3739 control. Simultaneously, or for the purpose of paragraph (c) not
3740 more than 90 days thereafter, the developer shall deliver to the
3741 association, at the developer's expense, all property of the

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3742 shareholders ~~unit-owners~~ and of the association held or
3743 controlled by the developer, including, but not limited to, the
3744 following items, if applicable, as to each cooperative operated
3745 by the association:

3746 (a)1. The original or a photocopy of the recorded
3747 cooperative documents and all amendments thereto. If a photocopy
3748 is provided, it shall be certified by affidavit of the
3749 developer, or an officer or agent of the developer, as being a
3750 complete copy of the actual recorded cooperative documents.

3751 2. A certified copy of the association's articles of
3752 incorporation, or if it is not incorporated, then copies of the
3753 documents creating the association.

3754 3. A copy of the bylaws.

3755 4. The minute books, including all minutes, and other books
3756 and records of the association, if any.

3757 5. Any house rules and regulations which have been
3758 promulgated.

3759 (b) Resignations of officers and members of the board of
3760 administration who are required to resign because the developer
3761 is required to relinquish control of the association.

3762 (c) The financial records, including financial statements
3763 of the association, and source documents since the incorporation
3764 of the association through the date of turnover. The records
3765 shall be audited for the period of the incorporation of the
3766 association or for the period covered by the last audit, if an
3767 audit has been performed for each fiscal year since
3768 incorporation, by an independent certified public accountant.
3769 All financial statements shall be prepared in accordance with
3770 generally accepted accounting standards and shall be audited in

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3771 accordance with generally accepted auditing standards as
3772 prescribed by the Board of Accountancy. The accountant
3773 performing the review shall examine to the extent necessary
3774 supporting documents and records, including the cash
3775 disbursements and related paid invoices to determine if
3776 expenditures were for association purposes and the billings,
3777 cash receipts, and related records to determine that the
3778 developer was charged and paid the proper amounts of
3779 assessments.

3780 (d) Association funds or control thereof.

3781 (e) All tangible personal property that is property of the
3782 association, represented by the developer to be part of the
3783 common areas or ostensibly part of the common areas, and an
3784 inventory of that property.

3785 (f) A copy of the plans and specifications utilized in the
3786 construction or remodeling of improvements and the supplying of
3787 equipment to the cooperative and in the construction and
3788 installation of all mechanical components serving the
3789 improvements and the site, with a certificate in affidavit form
3790 of the developer, the developer's agent, or an architect or
3791 engineer authorized to practice in this state that such plans
3792 and specifications represent, to the best of their knowledge and
3793 belief, the actual plans and specifications utilized in the
3794 construction and improvement of the cooperative property and for
3795 the construction and installation of the mechanical components
3796 serving the improvements. If the cooperative property has been
3797 organized as a cooperative more than 3 years after the
3798 completion of construction or remodeling of the improvements,
3799 the requirements of this paragraph shall not apply.

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3800 (g) A list of the names and addresses, of which the
3801 developer had knowledge at any time in the development of the
3802 cooperative, of all contractors, subcontractors, and suppliers
3803 utilized in the construction or remodeling of the improvements
3804 and in the landscaping.

3805 (h) Insurance policies.

3806 (i) Copies of any certificates of occupancy which may have
3807 been issued for the cooperative property.

3808 (j) Any other permits issued by governmental bodies
3809 applicable to the cooperative property in force or issued within
3810 1 year prior to the date the shareholders ~~unit owners~~ other than
3811 the developer take control of the association.

3812 (k) All written warranties of the contractor,
3813 subcontractors, suppliers, and manufacturers, if any, that are
3814 still effective.

3815 (l) A roster of shareholders ~~unit owners~~ and their
3816 addresses and telephone numbers, if known, as shown on the
3817 developer's records.

3818 (m) Leases of the common areas and other leases to which
3819 the association is a party.

3820 (n) Employment contracts or service contracts in which the
3821 association is one of the contracting parties or service
3822 contracts in which the association or the shareholders ~~unit~~
3823 ~~owners~~ have an obligation or responsibility, directly or
3824 indirectly, to pay some or all of the fee or charge of the
3825 person or persons performing the service.

3826 (o) All other contracts to which the association is a
3827 party.

3828 (p) A turnover inspection report included in the official

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3829 records, under seal of an architect or engineer authorized to
3830 practice in this state, attesting to required maintenance,
3831 useful life, and replacement costs of the following applicable
3832 common areas:

- 3833 1. Roof.
- 3834 2. Structure.
- 3835 3. Fireproofing and fire protection systems.
- 3836 4. Elevators.
- 3837 5. Heating and cooling systems.
- 3838 6. Plumbing.
- 3839 7. Electrical systems.
- 3840 8. Swimming pool or spa and equipment.
- 3841 9. Seawalls.
- 3842 10. Pavement and parking areas.
- 3843 11. Drainage systems.
- 3844 12. Painting.
- 3845 13. Irrigation systems.

3846 Section 26. Section 719.3025, Florida Statutes, is created
3847 to read:

3848 719.3025 Agreements for operation, maintenance, or
3849 management of cooperatives; specific requirements.—

3850 (1) A written contract between a party contracting to
3851 provide maintenance or management services and an association
3852 which contract provides for operation, maintenance, or
3853 management of a cooperative association or property serving the
3854 shareholders of a cooperative is not valid or enforceable unless
3855 the contract:

3856 (a) Specifies the services, obligations, and
3857 responsibilities of the party contracting to provide maintenance

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3858 or management services to the shareholders.

3859 (b) Specifies those costs incurred in the performance of
3860 those services, obligations, or responsibilities which are to be
3861 reimbursed by the association to the party contracting to
3862 provide maintenance or management services.

3863 (c) Provides an indication of how often each service,
3864 obligation, or responsibility is to be performed, whether stated
3865 for each service, obligation, or responsibility or in categories
3866 thereof.

3867 (d) Specifies a minimum number of personnel to be employed
3868 by the party contracting to provide maintenance or management
3869 services for the purpose of providing service to the
3870 association.

3871 (e) Discloses any financial or ownership interest which the
3872 developer, if the developer is in control of the association,
3873 holds with regard to the party contracting to provide
3874 maintenance or management services.

3875 (f) Discloses any financial or ownership interest a board
3876 member or any party providing maintenance or management services
3877 to the association holds with the contracting party.

3878 (2) In any case in which the party contracting to provide
3879 maintenance or management services fails to provide such
3880 services in accordance with the contract, the association is
3881 authorized to procure such services from some other party and is
3882 entitled to collect any fees or charges paid for services
3883 performed by another party from the party contracting to provide
3884 maintenance or management services.

3885 (3) Any services or obligations not stated on the face of
3886 the contract are unenforceable.

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3887 (4) Notwithstanding the fact that certain vendors contract
3888 with associations to maintain equipment or property which is
3889 made available to serve shareholders, it is the intent of the
3890 Legislature that this section applies to contracts for
3891 maintenance or management services for which the association
3892 pays compensation. This section does not apply to contracts for
3893 services or property made available for the convenience of
3894 shareholders by lessees or licensees of the association, such as
3895 coin-operated laundry, food, soft drink, or telephone vendors;
3896 cable television operators; retail store operators; businesses;
3897 restaurants; or similar vendors.

3898 Section 27. Section 719.3026, Florida Statutes, is amended
3899 to read:

3900 719.3026 Contracts for products and services; in writing;
3901 bids; exceptions.—Associations with 10 or fewer ~~less than 100~~
3902 units may opt out of the provisions of this section if two-
3903 thirds of the shareholders ~~unit owners~~ vote to do so, which opt-
3904 out may be accomplished by a proxy specifically setting forth
3905 the exception from this section.

3906 (1) All contracts as further described herein or any
3907 contract that is not to be fully performed within 1 year after
3908 the making thereof, for the purchase, lease, or renting of
3909 materials or equipment to be used by the association in
3910 accomplishing its purposes under this chapter, and all contracts
3911 for the provision of services, shall be in writing. If a
3912 contract for the purchase, lease, or renting of materials or
3913 equipment, or for the provision of services, requires payment by
3914 the association in an amount which in the aggregate exceeds 5
3915 percent of the association's budget, including reserves, the

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3916 association shall obtain competitive bids for the materials,
3917 equipment, or services. Nothing contained herein shall be
3918 construed to require the association to accept the lowest bid.

3919 (2) (a) ~~1-~~ Notwithstanding the foregoing, contracts with
3920 employees of the association, and contracts for attorney,
3921 accountant, architect, community association manager, timeshare
3922 management firm, engineering, and landscape architect services
3923 shall not be subject to the provisions of this section.

3924 ~~2. A contract executed before January 1, 1992, and any~~
3925 ~~renewal thereof, is not subject to the competitive bid~~
3926 ~~requirements of this section. If a contract was awarded under~~
3927 ~~the competitive bid procedures of this section, any renewal of~~
3928 ~~that contract is not subject to such competitive bid~~
3929 ~~requirements if the contract contains a provision that allows~~
3930 ~~the board to cancel the contract on 30 days' notice. Materials,~~
3931 ~~equipment, or services provided to a cooperative pursuant to a~~
3932 ~~local government franchise agreement by a franchise holder are~~
3933 ~~not subject to the competitive bid requirement. A contract with~~
3934 ~~a manager, if made by a competitive bid, may be made for up to 3~~
3935 ~~years. A condominium whose declaration or bylaws provides for~~
3936 ~~competitive bidding for services may operate under the~~
3937 ~~provisions of that declaration or bylaws in lieu of this section~~
3938 ~~if those provisions are not less stringent than the requirements~~
3939 ~~of this section.~~

3940 (b) This section does not limit the ability of an
3941 association to obtain needed products and services in an
3942 emergency.

3943 (c) This section does not apply if the business entity with
3944 which the association desires to enter into a contract is the

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3945 only source of supply within the county serving the association.

3946 (d) This section does not excuse a party contracting to
3947 provide maintenance or management services from compliance with
3948 s. 719.3025.

3949 (3) As to any contract or other transaction between an
3950 association and one or more of its directors or any other
3951 corporation, firm, association, or entity in which one or more
3952 of its directors are directors or officers or are financially
3953 interested:

3954 (a) The association shall comply with the requirements of
3955 s. 617.0832.

3956 (b) The disclosures required by s. 617.0832 shall be
3957 entered into the written minutes of the meeting.

3958 (c) Approval of the contract or other transaction shall
3959 require an affirmative vote of two-thirds of the directors
3960 present.

3961 (d) At the next regular or special meeting of the
3962 shareholders, the existence of the contract or other transaction
3963 shall be disclosed to the shareholders. Upon motion of any
3964 shareholder, the contract or transaction shall be brought up for
3965 a vote and may be canceled by a majority vote of the
3966 shareholders present. Should the shareholders cancel the
3967 contract, the association shall only be liable for the
3968 reasonable value of goods and services provided up to the time
3969 of cancellation and shall not be liable for any termination fee,
3970 liquidated damages, or other form of penalty for such
3971 cancellation.

3972 Section 28. Section 719.303, Florida Statutes, is amended
3973 to read:

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3974 719.303 Obligations of shareholders ~~owners~~.—

3975 (1) Each shareholder ~~unit-owner~~, each tenant and other
3976 invitee, and each association shall be governed by, and shall
3977 comply with the provisions of, this chapter, the cooperative
3978 documents, the documents creating the association, and the
3979 association bylaws, and the provisions thereof shall be deemed
3980 expressly incorporated into any lease of a unit. Actions for
3981 damages or for injunctive relief, or both, for failure to comply
3982 with these provisions may be brought by the association or by a
3983 shareholder ~~unit-owner~~ against:

3984 (a) The association.

3985 (b) A shareholder ~~unit-owner~~.

3986 (c) Directors designated by the developer, for actions
3987 taken by them prior to the time control of the association is
3988 assumed by shareholders ~~unit-owners~~ other than the developer.

3989 (d) Any director who willfully and knowingly fails to
3990 comply with these provisions.

3991 (e) Any tenant leasing a unit, and any other invitee
3992 occupying a unit.

3993

3994 The prevailing party in any such action or in any action in
3995 which the purchaser claims a right of voidability based upon
3996 contractual provisions as required in s. 719.503(1)(a) is
3997 entitled to recover reasonable attorney's fees. A shareholder
3998 ~~unit-owner~~ prevailing in an action between the association and
3999 the shareholder ~~unit-owner~~ under this section, in addition to
4000 recovering his or her reasonable attorney's fees, may recover
4001 additional amounts as determined by the court to be necessary to
4002 reimburse the shareholder ~~unit-owner~~ for his or her share of

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4003 assessments levied by the association to fund its expenses of
4004 the litigation. This relief does not exclude other remedies
4005 provided by law. Actions arising under this subsection shall not
4006 be deemed to be actions for specific performance.

4007 (2) A provision of this chapter may not be waived if the
4008 waiver would adversely affect the rights of a shareholder unit
4009 ~~owner~~ or the purpose of the provision, except that shareholders
4010 ~~unit owners~~ or members of a board of administration may waive
4011 notice of specific meetings in writing if provided by the
4012 bylaws. Any instrument given in writing by the shareholder unit
4013 ~~owner~~ or purchaser to an escrow agent may be relied upon by an
4014 escrow agent, whether or not such instruction and the payment of
4015 funds thereunder might constitute a waiver of any provision of
4016 this chapter.

4017 (3) If a shareholder is delinquent for more than 90 days in
4018 the payment of a regular or special assessment or if the
4019 cooperative documents so provide, the association may suspend,
4020 for a reasonable time, the right of a shareholder or a
4021 shareholder's occupant, licensee, or invitee to use the common
4022 areas, common facilities, or any other association property.
4023 This subsection does not apply to limited common areas intended
4024 to be used by that unit, common areas that must be used to
4025 access the unit, utility services provided to the unit, parking
4026 areas, or elevators. The association may also levy reasonable
4027 finances against a shareholder unit-owner for failure of the
4028 shareholder unit-owner or his or her licensee or invitee or the
4029 unit's occupant to comply with any provision of the cooperative
4030 documents or reasonable rules of the association. No fine shall
4031 become a lien against a unit. No fine shall exceed \$100 per

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4032 violation. However, a fine may be levied on the basis of each
4033 day of a continuing violation, with a single notice and
4034 opportunity for hearing, provided that no such fine shall in the
4035 aggregate exceed \$1,000. No fine may be levied except after
4036 giving reasonable notice and opportunity for a hearing to the
4037 shareholder ~~unit owner~~ and, if applicable, his or her licensee
4038 or invitee. The hearing shall be held before a committee of
4039 other shareholders who are neither board members nor persons
4040 residing in a board member's household ~~unit owners~~. If the
4041 committee does not agree with the fine, it shall not be levied.
4042 This subsection does not apply to unoccupied units.

4043 (4) The notice and hearing requirements of subsection (3)
4044 do not apply to the imposition of suspensions and fines against
4045 a shareholder or a shareholder's occupant, licensee, or invitee
4046 because of the failure to pay any amounts due the association.
4047 If such a fine or suspension is imposed, the association may
4048 levy the fine or impose a reasonable suspension at a properly
4049 noticed board meeting, and after the imposition of such fine or
4050 suspension, the association must notify the shareholder and, if
4051 applicable, the shareholder's occupant, licensee, or invitee by
4052 mail or hand delivery.

4053 Section 29. Section 719.501, Florida Statutes, is amended
4054 to read:

4055 719.501 Authority, responsibilities, ~~Powers~~ and duties of
4056 Division of Florida Condominiums, Timeshares, and Mobile Homes.—

4057 (1) The Division of Florida Condominiums, Timeshares, and
4058 Mobile Homes of the Department of Business and Professional
4059 Regulation, referred to as the "division" in this part, in
4060 addition to other powers and duties prescribed by chapter 718,

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4061 has the power to enforce and ensure compliance with this chapter
4062 and adopted rules relating to the development, construction,
4063 sale, lease, ownership, operation, and management of residential
4064 cooperative units. In performing its duties, the division shall
4065 have the following powers and duties:

4066 (a) The division may make necessary public or private
4067 investigations within or outside this state to determine whether
4068 any person has violated this chapter or any rule or order
4069 hereunder, to aid in the enforcement of this chapter, or to aid
4070 in the adoption of rules or forms hereunder.

4071 (b) The division may require or permit any person to file a
4072 statement in writing, under oath or otherwise, as the division
4073 determines, as to the facts and circumstances concerning a
4074 matter to be investigated.

4075 (c) For the purpose of any investigation under this
4076 chapter, the division director or any officer or employee
4077 designated by the division director may administer oaths or
4078 affirmations, subpoena witnesses and compel their attendance,
4079 take evidence, and require the production of any matter which is
4080 relevant to the investigation, including the existence,
4081 description, nature, custody, condition, and location of any
4082 books, documents, or other tangible things and the identity and
4083 location of persons having knowledge of relevant facts or any
4084 other matter reasonably calculated to lead to the discovery of
4085 material evidence. Upon failure by a person to obey a subpoena
4086 or to answer questions propounded by the investigating officer
4087 and upon reasonable notice to all persons affected thereby, the
4088 division may apply to the circuit court for an order compelling
4089 compliance.

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4090 (d) Notwithstanding any remedies available to shareholders
4091 ~~unit owners~~ and associations, if the division has reasonable
4092 cause to believe that a violation of any provision of this
4093 chapter or related rule has occurred, the division may institute
4094 enforcement proceedings in its own name against a developer,
4095 association, officer, or member of the board, or its assignees
4096 or agents, as follows:

4097 1. The division may permit a person whose conduct or
4098 actions may be under investigation to waive formal proceedings
4099 and enter into a consent proceeding whereby orders, rules, or
4100 letters of censure or warning, whether formal or informal, may
4101 be entered against the person.

4102 2. The division may issue an order requiring the developer,
4103 association, officer, or member of the board, or its assignees
4104 or agents, or any community association manager or community
4105 association management firm to cease and desist from the
4106 unlawful practice and take such affirmative action as in the
4107 judgment of the division will carry out the purposes of this
4108 chapter. If the division finds that a developer, association,
4109 officer, or member of the board of directors, or its assignees
4110 or agents, or any community association manager or community
4111 association management firm is violating or is about to violate
4112 any provision of this chapter, any rule adopted or order issued
4113 by the division, or any written agreement entered into with the
4114 division, and presents an immediate danger to the public
4115 requiring an immediate final order, it may issue an emergency
4116 cease and desist order reciting with particularity the facts
4117 underlying such findings. The emergency cease and desist order
4118 is effective for 90 days. If the division begins nonemergency

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4119 cease and desist proceedings, the emergency cease and desist
4120 order remains effective until the conclusion of the proceedings
4121 under ss. 120.569 and 120.57. Such affirmative action may
4122 include, but is not limited to, an order requiring a developer
4123 to pay moneys determined to be owed to a condominium
4124 association.

4125 3. If a developer fails to pay any restitution determined
4126 by the division to be owed, plus any accrued interest at the
4127 highest rate permitted by law, within 30 days after expiration
4128 of any appellate time period of a final order requiring payment
4129 of restitution or the conclusion of any appeal thereof,
4130 whichever is later, the division shall bring an action in
4131 circuit or county court on behalf of any association, class of
4132 shareholders, lessees, or purchasers for restitution,
4133 declaratory relief, injunctive relief, or any other available
4134 remedy. The division may also temporarily revoke its acceptance
4135 of the filing for the developer to which the restitution relates
4136 until payment of restitution is made. The division may bring an
4137 action in circuit court on behalf of a class of unit owners,
4138 lessees, or purchasers for declaratory relief, injunctive
4139 relief, or restitution.

4140 4. The division may petition the court for the appointment
4141 of a receiver or conservator. If appointed, the receiver or
4142 conservator may take action to implement the court order to
4143 ensure the performance of the order and to remedy any breach
4144 thereof. In addition to all other means provided by law for the
4145 enforcement of an injunction or temporary restraining order, the
4146 circuit court may impound or sequester the property of a party
4147 defendant, including books, papers, documents, and related

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4148 records, and allow the examination and use of the property by
4149 the division and a court-appointed receiver or conservator.

4150 5. The division may apply to the circuit court for an order
4151 of restitution in which the defendant in an action brought
4152 pursuant to subparagraph 4. shall be ordered to make restitution
4153 of those sums shown by the division to have been obtained by the
4154 defendant in violation of this chapter. Such restitution shall,
4155 at the option of the court, be payable to the conservator or
4156 receiver appointed pursuant to subparagraph 4. or directly to
4157 the persons whose funds or assets were obtained in violation of
4158 this chapter.

4159 6.4. The division may impose a civil penalty against a
4160 developer or association, or its assignees or agents, for any
4161 violation of this chapter or ~~related~~ rule adopted under this
4162 chapter. The division may impose a civil penalty individually
4163 against any officer or board member who willfully and knowingly
4164 violates a provision of this chapter, a rule adopted pursuant to
4165 this chapter, or a final order of the division; may order the
4166 removal of such individual as an officer or from the board of
4167 directors or as an officer of the association; and may prohibit
4168 such individual from serving as an officer or on the board of a
4169 community association for a stated period of time. The term
4170 "willfully and knowingly" means that the division informed the
4171 officer or board member that his or her action or intended
4172 action violates this chapter, a rule adopted under this chapter,
4173 or a final order of the division, and that the officer or board
4174 member refused to comply with the requirements of this chapter,
4175 a rule adopted under this chapter, or a final order of the
4176 division. The division, prior to initiating formal agency action

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4177 under chapter 120, shall afford the officer or board member an
4178 opportunity to voluntarily comply with this chapter, a rule
4179 adopted under this chapter, or a final order of the division. An
4180 officer or board member who complies within 10 days is not
4181 subject to a civil penalty. A penalty may be imposed on the
4182 basis of each day of continuing violation, but in no event shall
4183 the penalty for any offense exceed \$5,000. By January 1, 1998,
4184 the division shall adopt, by rule, penalty guidelines applicable
4185 to possible violations or to categories of violations of this
4186 chapter or rules adopted by the division. The guidelines must
4187 specify a meaningful range of civil penalties for each such
4188 violation of the statute and rules and must be based upon the
4189 harm caused by the violation, the repetition of the violation,
4190 and upon such other factors deemed relevant by the division. For
4191 example, the division may consider whether the violations were
4192 committed by a developer or shareholder-controlled ~~owner-~~
4193 ~~controlled~~ association, the size of the association, and other
4194 factors. The guidelines must designate the possible mitigating
4195 or aggravating circumstances that justify a departure from the
4196 range of penalties provided by the rules. It is the legislative
4197 intent that minor violations be distinguished from those which
4198 endanger the health, safety, or welfare of the cooperative
4199 residents or other persons and that such guidelines provide
4200 reasonable and meaningful notice to the public of likely
4201 penalties that may be imposed for proscribed conduct. This
4202 subsection does not limit the ability of the division to
4203 informally dispose of administrative actions or complaints by
4204 stipulation, agreed settlement, or consent order. All amounts
4205 collected shall be deposited with the Chief Financial Officer to

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4206 the credit of the Division of Florida Condominiums, Timeshares,
4207 and Mobile Homes Trust Fund. If a developer fails to pay the
4208 civil penalty and the amount deemed to be owed to the
4209 association, the division shall thereupon issue an order
4210 directing that such developer cease and desist from further
4211 operation until such time as the civil penalty is paid or may
4212 pursue enforcement of the penalty in a court of competent
4213 jurisdiction. If an association fails to pay the civil penalty,
4214 the division shall thereupon pursue enforcement in a court of
4215 competent jurisdiction, and the order imposing the civil penalty
4216 or the cease and desist order shall not become effective until
4217 20 days after the date of such order. Any action commenced by
4218 the division shall be brought in the county in which the
4219 division has its executive offices or in the county where the
4220 violation occurred.

4221 7. If a shareholder presents the division with proof that
4222 the shareholder has requested access to official records in
4223 writing by certified mail, and that after 10 days the
4224 shareholder again made the same request for access to official
4225 records in writing by certified mail, and that more than 10 days
4226 has elapsed since the second request and the association has
4227 still failed or refused to provide access to official records as
4228 required by this chapter, the division shall issue a subpoena
4229 requiring production of the requested records where the records
4230 are kept pursuant to s. 719.104.

4231 8. In addition to subparagraph 6., the division may seek
4232 the imposition of a civil penalty through the circuit court for
4233 any violation for which the division may issue a notice to show
4234 cause under paragraph (r). The civil penalty shall be at least

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4235 \$500 but no more than \$5,000 for each violation. The court may
4236 also award to the prevailing party court costs and reasonable
4237 attorney's fees and, if the division prevails, may also award
4238 reasonable costs of investigation.

4239 9. When the division finds that any person has derived an
4240 improper personal benefit from a cooperative association, the
4241 division shall order the person to pay restitution to the
4242 association and shall order the person to pay to the division
4243 the costs of investigation and prosecution.

4244 (e) The division may prepare and disseminate a prospectus
4245 and other information to assist prospective shareholders ~~owners,~~
4246 purchasers, lessees, and developers of residential cooperatives
4247 in assessing the rights, privileges, and duties pertaining
4248 thereto.

4249 (f) The division has authority to adopt rules pursuant to
4250 ss. 120.536(1) and 120.54 to implement and enforce the
4251 provisions of this chapter.

4252 (g) The division shall establish procedures for providing
4253 notice to an association, and to the developer during the period
4254 when the developer controls the association, when the division
4255 is considering the issuance of a declaratory statement with
4256 respect to the cooperative documents governing such cooperative
4257 community.

4258 (h) The division shall furnish each association which pays
4259 the fees required by paragraph (2) (a) a copy of this chapter
4260 ~~act, subsequent changes to this act~~ on an annual basis, as an
4261 ~~amended version of this act as it becomes available from the~~
4262 ~~Secretary of State's office on a biennial basis,~~ and the rules
4263 adopted thereto on an annual basis.

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4264 (i) The division shall annually provide each association
4265 with a summary of declaratory statements and formal legal
4266 opinions relating to the operations of cooperatives which were
4267 rendered by the division during the previous year.

4268 ~~(j) The division shall adopt uniform accounting principles,~~
4269 ~~policies, and standards to be used by all associations in the~~
4270 ~~preparation and presentation of all financial statements~~
4271 ~~required by this chapter. The principles, policies, and~~
4272 ~~standards shall take into consideration the size of the~~
4273 ~~association and the total revenue collected by the association.~~

4274 (j) ~~(k)~~ The division shall provide training and educational
4275 programs for cooperative association board members and
4276 shareholders ~~unit owners~~. The training may, in the division's
4277 discretion, include web-based electronic media and live training
4278 and seminars in various locations throughout the state. The
4279 division may review and approve educational and training
4280 programs for board members and shareholders offered by providers
4281 and shall maintain a current list of approved programs and
4282 providers and make such list available to board members and
4283 shareholders in a reasonable and cost-effective manner.

4284 (k) ~~(l)~~ The division shall maintain a toll-free telephone
4285 number accessible to cooperative shareholders ~~unit owners~~.

4286 (l) The division shall develop a program to certify both
4287 volunteer and paid mediators to provide mediation of cooperative
4288 disputes. The division shall provide, upon request, a list of
4289 such mediators to any association, shareholder, or other
4290 participant in arbitration proceedings under s. 719.1255
4291 requesting a copy of the list. The division shall include on the
4292 list of volunteer mediators only the names of persons who have

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4293 received at least 20 hours of training in mediation techniques
4294 or who have mediated at least 20 disputes. In order to become
4295 initially certified by the division, paid mediators must be
4296 certified by the Supreme Court to mediate court cases in county
4297 or circuit courts. However, the division may adopt, by rule,
4298 additional factors for the certification of paid mediators,
4299 which factors must be related to experience, education, or
4300 background. Any person initially certified as a paid mediator by
4301 the division must, in order to continue to be certified, comply
4302 with the factors or requirements imposed by rules adopted by the
4303 division.

4304 (m) When a complaint is made to the division, the division
4305 shall conduct its inquiry with reasonable dispatch and with due
4306 regard to the interests of the affected parties. Within 30 days
4307 after receipt of a complaint, the division shall acknowledge the
4308 complaint in writing and notify the complainant whether the
4309 complaint is within the jurisdiction of the division and whether
4310 additional information is needed by the division from the
4311 complainant. The division shall conduct its investigation and
4312 shall, within 90 days after receipt of the original complaint or
4313 timely requested additional information, take action upon the
4314 complaint. However, the failure to complete the investigation
4315 within 90 days does not prevent the division from continuing the
4316 investigation, accepting or considering evidence obtained or
4317 received after 90 days, or taking administrative action if
4318 reasonable cause exists to believe that a violation of this
4319 chapter or a rule of the division has occurred. If an
4320 investigation is not completed within the time limits
4321 established in this paragraph, the division shall, on a monthly

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4322 basis, notify the complainant in writing of the status of the
4323 investigation. When reporting its action to the complainant, the
4324 division shall inform the complainant of any right to a hearing
4325 pursuant to ss. 120.569 and 120.57.

4326 (n) Cooperative association directors, officers, and
4327 employees, cooperative developers, community association
4328 managers, and community association management firms have an
4329 ongoing duty to reasonably cooperate with the division in any
4330 investigation pursuant to this section. The division shall refer
4331 to local law enforcement authorities any person who the division
4332 believes has altered, destroyed, concealed, or removed any
4333 record, document, or thing required to be kept or maintained by
4334 this chapter with the purpose to impair its verity or
4335 availability in the department's investigation.

4336 (o) The division may:

- 4337 1. Contract with agencies in this state or other
4338 jurisdictions to perform investigative functions; or
4339 2. Accept grants-in-aid from any source.

4340 (p) The division shall cooperate with similar agencies in
4341 other jurisdictions to establish uniform filing procedures and
4342 forms, public offering statements, advertising standards, and
4343 rules and common administrative practices.

4344 (q) The division shall consider notice to a developer to be
4345 complete when it is delivered to the developer's address
4346 currently on file with the division.

4347 (r) In addition to its enforcement authority, the division
4348 may issue a notice to show cause, which shall provide for a
4349 hearing, upon written request, in accordance with chapter 120.

4350 (s) In the annual report required by s. 718.501(1)(s), the

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4351 division shall also report the same information for cooperative
4352 associations. The division may combine figures and issues into
4353 one report covering both condominiums and cooperatives.

4354 ~~(n) The division shall develop a program to certify both~~
4355 ~~volunteer and paid mediators to provide mediation of cooperative~~
4356 ~~disputes. The division shall provide, upon request, a list of~~
4357 ~~such mediators to any association, unit owner, or other~~
4358 ~~participant in arbitration proceedings under s. 718.1255~~
4359 ~~requesting a copy of the list. The division shall include on the~~
4360 ~~list of voluntary mediators only persons who have received at~~
4361 ~~least 20 hours of training in mediation techniques or have~~
4362 ~~mediated at least 20 disputes. In order to become initially~~
4363 ~~certified by the division, paid mediators must be certified by~~
4364 ~~the Supreme Court to mediate court cases in county or circuit~~
4365 ~~courts. However, the division may adopt, by rule, additional~~
4366 ~~factors for the certification of paid mediators, which factors~~
4367 ~~must be related to experience, education, or background. Any~~
4368 ~~person initially certified as a paid mediator by the division~~
4369 ~~must, in order to continue to be certified, comply with the~~
4370 ~~factors or requirements imposed by rules adopted by the~~
4371 ~~division.~~

4372 (2) (a) Each cooperative association shall pay to the
4373 division, on or before January 1 of each year, an annual fee in
4374 the amount of \$4 for each residential unit in cooperatives
4375 operated by the association. If the fee is not paid by March 1,
4376 then the association shall be assessed a penalty of 10 percent
4377 of the amount due, and the association shall not have the
4378 standing to maintain or defend any action in the courts of this
4379 state until the amount due, plus any penalty, is paid.

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4380 (b) All fees shall be deposited in the Division of Florida
4381 Condominiums, Timeshares, and Mobile Homes Trust Fund as
4382 provided by law.

4383 Section 30. Paragraph (b) of subsection (1) and paragraph
4384 (a) of subsection (2) of section 719.503, Florida Statutes, are
4385 amended to read:

4386 719.503 Disclosure prior to sale.—

4387 (1) DEVELOPER DISCLOSURE.—

4388 (b) *Copies of documents to be furnished to prospective*
4389 *buyer or lessee.*—Until such time as the developer has furnished
4390 the documents listed below to a person who has entered into a
4391 contract to purchase a unit or lease it for more than 5 years,
4392 the contract may be voided by that person, entitling the person
4393 to a refund of any deposit together with interest thereon as
4394 provided in s. 719.202. The contract may be terminated by
4395 written notice from the proposed buyer or lessee delivered to
4396 the developer within 15 days after the buyer or lessee receives
4397 all of the documents required by this section. The developer
4398 shall not close for 15 days following the execution of the
4399 agreement and delivery of the documents to the buyer as
4400 evidenced by a receipt for documents signed by the buyer unless
4401 the buyer is informed in the 15-day voidability period and
4402 agrees to close prior to the expiration of the 15 days. The
4403 developer shall retain in his or her records a separate signed
4404 agreement as proof of the buyer's agreement to close prior to
4405 the expiration of such ~~said~~ voidability period. Such ~~Said~~ proof
4406 shall be retained for a period of 5 years after the date of the
4407 closing transaction. The documents to be delivered to the
4408 prospective buyer are the prospectus or disclosure statement

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4409 with all exhibits, if the development is subject to the
4410 provisions of s. 719.504, or, if not, then copies of the
4411 following which are applicable:

4412 1. The question and answer sheet described in s. 719.504,
4413 and cooperative documents, or the proposed cooperative documents
4414 if the documents have not been recorded, which shall include the
4415 certificate of a surveyor approximately representing the
4416 locations required by s. 719.504 ~~719.104~~.

4417 2. The documents creating the association.

4418 3. The bylaws.

4419 4. The ground lease or other underlying lease of the
4420 cooperative.

4421 5. The management contract, maintenance contract, and other
4422 contracts for management of the association and operation of the
4423 cooperative and facilities used by the shareholders ~~unit owners~~
4424 having a service term in excess of 1 year, and any management
4425 contracts that are renewable.

4426 6. The estimated operating budget for the cooperative and a
4427 schedule of expenses for each type of unit, including fees
4428 assessed to a shareholder who has exclusive use of limited
4429 common areas, where such costs are shared only by those entitled
4430 to use such limited common areas.

4431 7. The lease of recreational and other facilities that will
4432 be used only by shareholders ~~unit owners~~ of the subject
4433 cooperative.

4434 8. The lease of recreational and other common areas that
4435 will be used by shareholders ~~unit owners~~ in common with
4436 shareholders ~~unit owners~~ of other cooperatives.

4437 9. The form of unit lease if the offer is of a leasehold.

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4438 10. Any declaration of servitude of properties serving the
4439 cooperative but not owned by shareholders ~~unit-owners~~ or leased
4440 to them or the association.

4441 11. If the development is to be built in phases or if the
4442 association is to manage more than one cooperative, a
4443 description of the plan of phase development or the arrangements
4444 for the association to manage two or more cooperatives.

4445 12. If the cooperative is a conversion of existing
4446 improvements, the statements and disclosure required by s.
4447 719.616.

4448 13. The form of agreement for sale or lease of units.

4449 14. A copy of the floor plan of the unit and the plot plan
4450 showing the location of the residential buildings and the
4451 recreation and other common areas.

4452 15. A copy of all covenants and restrictions which will
4453 affect the use of the property and which are not contained in
4454 the foregoing.

4455 16. If the developer is required by state or local
4456 authorities to obtain acceptance or approval of any dock or
4457 marina facilities intended to serve the cooperative, a copy of
4458 any such acceptance or approval acquired by the time of filing
4459 with the division pursuant to s. 719.502(1) or a statement that
4460 such acceptance or approval has not been acquired or received.

4461 17. Evidence demonstrating that the developer has an
4462 ownership, leasehold, or contractual interest in the land upon
4463 which the cooperative is to be developed.

4464 (2) NONDEVELOPER DISCLOSURE.—

4465 (a) Each shareholder ~~unit-owner~~ who is not a developer as
4466 defined by this chapter must comply with the provisions of this

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4467 subsection prior to the sale of his or her interest in the
4468 association. Each prospective purchaser who has entered into a
4469 contract for the purchase of an interest in a cooperative is
4470 entitled, at the seller's expense, to a current copy of the
4471 articles of incorporation of the association, the bylaws, and
4472 rules of the association, as well as a copy of the question and
4473 answer sheet as provided in s. 719.504. On and after July 1,
4474 2010, the prospective purchaser shall also be entitled to
4475 receive from the seller a copy of a governance form. Such form
4476 shall be provided by the division summarizing governance of
4477 cooperative associations. In addition to such other information
4478 as the division considers helpful to a prospective purchaser in
4479 understanding association governance, the governance form shall
4480 address the following subjects:

4481 1. The role of the board in conducting the day-to-day
4482 affairs of the association on behalf of, and in the best
4483 interests of, the shareholders.

4484 2. The board's responsibility to provide advance notice of
4485 board and shareholder meetings.

4486 3. The rights of shareholders to attend and speak at board
4487 and shareholder meetings.

4488 4. The responsibility of the board and shareholders with
4489 respect to maintenance of the cooperative property.

4490 5. The responsibility of the board and shareholders to
4491 abide by the cooperative documents, this chapter, rules adopted
4492 by the division, and reasonable rules adopted by the board.

4493 6. Shareholders' rights to inspect and copy association
4494 records and the limitations on such rights.

4495 7. Remedies available to shareholders with respect to

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4496 actions by the board which may be abusive or beyond the board's
4497 power and authority.

4498 8. The right of the board to hire a property management
4499 firm, subject to its own primary responsibility for such
4500 management.

4501 9. The responsibility of shareholders with regard to
4502 payment of regular or special assessments necessary for the
4503 operation of the property and the potential consequences of
4504 failure to pay such assessments.

4505 10. The voting rights of shareholders.

4506 11. Rights and obligations of the board in enforcement of
4507 rules in the cooperative documents and rules adopted by the
4508 board.

4509
4510 The governance form shall also include the following statement
4511 in conspicuous type: THIS PUBLICATION IS INTENDED AS AN INFORMAL
4512 EDUCATIONAL OVERVIEW OF COOPERATIVE GOVERNANCE. IN THE EVENT OF
4513 A CONFLICT, THE PROVISIONS OF CHAPTER 719, FLORIDA STATUTES,
4514 RULES ADOPTED BY THE DIVISION OF FLORIDA CONDOMINIUMS,
4515 TIMESHARES, AND MOBILE HOMES OF THE DEPARTMENT OF BUSINESS AND
4516 PROFESSIONAL REGULATION, THE PROVISIONS OF THE COOPERATIVE
4517 DOCUMENTS, AND REASONABLE RULES ADOPTED BY THE COOPERATIVE
4518 ASSOCIATION'S BOARD OF DIRECTORS PREVAIL OVER THE CONTENTS OF
4519 THIS PUBLICATION.

4520 Section 31. Paragraph (c) of subsection (2) of section
4521 720.303, Florida Statutes, is amended, and subsections (12),
4522 (13), and (14) are added to that section, to read:

4523 720.303 Association powers and duties; meetings of board;
4524 official records; budgets; financial reporting; association

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4525 funds; recalls; borrowing; transfer fees.—

4526 (2) BOARD MEETINGS.—

4527 (c) The bylaws shall provide for giving notice to parcel
4528 owners and members of all board meetings and, if they do not do
4529 so, shall be deemed to provide the following:

4530 1. Notices of all board meetings must be posted in a
4531 conspicuous place in the community at least 48 hours in advance
4532 of a meeting, except in an emergency. In the alternative, if
4533 notice is not posted in a conspicuous place in the community,
4534 notice of each board meeting must be mailed or delivered to each
4535 member at least 7 days before the meeting, except in an
4536 emergency. Notwithstanding this general notice requirement, for
4537 communities with more than 100 members, the bylaws may provide
4538 for a reasonable alternative to posting or mailing of notice for
4539 each board meeting, including publication of notice, provision
4540 of a schedule of board meetings, or the conspicuous posting and
4541 repeated broadcasting of the notice on a closed-circuit cable
4542 television system serving the homeowners' association. However,
4543 if broadcast notice is used in lieu of a notice posted
4544 physically in the community, the notice must be broadcast at
4545 least four times every broadcast hour of each day that a posted
4546 notice is otherwise required. When broadcast notice is provided,
4547 the notice and agenda must be broadcast in a manner and for a
4548 sufficient continuous length of time so as to allow an average
4549 reader to observe the notice and read and comprehend the entire
4550 content of the notice and the agenda. The bylaws or amended
4551 bylaws may provide for giving notice by electronic transmission
4552 in a manner authorized by law for meetings of the board of
4553 directors, committee meetings requiring notice under this

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4554 section, and annual and special meetings of the members;
4555 however, a member must consent in writing to receiving notice by
4556 electronic transmission.

4557 2. An assessment may not be levied at a board meeting
4558 unless the notice of the meeting includes a statement that
4559 assessments will be considered and the nature of, the actual
4560 cost of, and a description of the purposes for such ~~the~~
4561 assessments. Written notice of any meeting at which special
4562 assessments will be considered or at which amendments to rules
4563 regarding parcel use will be considered must be mailed,
4564 delivered, or electronically transmitted to the members and
4565 parcel owners and posted conspicuously on the property or
4566 broadcast on closed-circuit cable television not less than 14
4567 days before the meeting.

4568 3. Directors may not vote by proxy or by secret ballot at
4569 board meetings, except that secret ballots may be used in the
4570 election of officers. This subsection also applies to the
4571 meetings of any committee or other similar body, when a final
4572 decision will be made regarding the expenditure of association
4573 funds, and to any body vested with the power to approve or
4574 disapprove architectural decisions with respect to a specific
4575 parcel of residential property owned by a member of the
4576 community.

4577 (12) BORROWING.—The borrowing of funds or committing to a
4578 line of credit by the board shall be considered a special
4579 assessment, and any meeting of the board to discuss such matters
4580 must be noticed as provided in paragraph (2) (c). The board may
4581 not borrow funds or enter into a line of credit for any purpose
4582 unless the specific use of the funds from the loan or line of

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4583 credit is set forth in the notice of meeting with the same
4584 specificity as required for a special assessment or unless the
4585 borrowing or line of credit has received the prior approval of
4586 at least two-thirds of the voting interests of the association.

4587 (13) TRANSFER FEES.—No charge may be made by the
4588 association or anyone on its behalf in connection with the sale,
4589 mortgage, lease, sublease, or other transfer of a parcel.
4590 Nothing in this subsection may be construed to prohibit an
4591 association from requiring as a condition to permitting the
4592 letting or renting of a parcel, when the association has such
4593 authority in the documents, the depositing into an escrow
4594 account maintained by the association of a security deposit in
4595 an amount not to exceed the equivalent of 1 month's rent. The
4596 security deposit shall protect against damages to the common
4597 areas or association property. Within 15 days after a tenant
4598 vacates the premises, the association shall refund the full
4599 security deposit or give written notice to the tenant of any
4600 claim made against the security. Disputes under this subsection
4601 shall be handled in the same fashion as disputes concerning
4602 security deposits under s. 83.49.

4603 (14) LIMIT ON EXPENDITURES AND CONTRIBUTIONS.—It shall be
4604 unlawful for an association to make any expenditure of
4605 association funds or to make any in-kind contribution of
4606 association assets that does not relate to the purposes for
4607 which the association is organized.

4608 (a) The association shall not make any contribution to a
4609 campaign or committee of continuous existence governed by
4610 chapter 105 or chapter 106.

4611 (b) The association shall not make any contribution to a

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4612 charitable organization if the association does not receive a
4613 direct benefit from the organization.

4614 (c) Members of the board shall be jointly and severely
4615 liable to reimburse the association for any contribution,
4616 expenditure, or in-kind contribution made in violation of this
4617 subsection.

4618 Section 32. Paragraph (a) of subsection (2) of section
4619 720.304, Florida Statutes, is amended to read:

4620 720.304 Right of owners to peaceably assemble; display of
4621 flag; SLAPP suits prohibited.—

4622 (2) (a) Any homeowner may display within the boundaries of
4623 the homeowner's parcel one portable, removable United States
4624 ~~flag or official flag of the State of Florida in a respectful~~
4625 ~~manner, and one portable, removable official flag,~~ in a
4626 respectful way and, on Armed Forces Day, Memorial Day, Flag Day,
4627 Independence Day, and Veterans' Day, may display in a respectful
4628 way portable, removable official flags ~~manner,~~ not larger than 4
4629 1/2 feet by 6 feet, which represent ~~represents~~ the United States
4630 Army, Navy, Air Force, Marine Corps, or Coast Guard, ~~or a POW-~~
4631 ~~MIA flag,~~ regardless of any declaration ~~covenants, restrictions,~~
4632 ~~bylaws, rules,~~ or requirements dealing with flags or decorations
4633 ~~of the association.~~

4634 Section 33. Subsection (1) of section 720.306, Florida
4635 Statutes, is amended to read:

4636 720.306 Meetings of members; voting and election
4637 procedures; amendments.—

4638 (1) QUORUM; AMENDMENTS.—

4639 (a) Unless a lower number is provided in the bylaws, the
4640 percentage of voting interests required to constitute a quorum

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4641 at a meeting of the members shall be 30 percent of the total
4642 voting interests. Unless otherwise provided in this chapter or
4643 in the articles of incorporation or bylaws, decisions that
4644 require a vote of the members must be made by the concurrence of
4645 at least a majority of the voting interests present, in person
4646 or by proxy, at a meeting at which a quorum has been attained.

4647 (b) Unless otherwise provided in the governing documents or
4648 required by law, and other than those matters set forth in
4649 paragraphs ~~paragraph~~ (c) and (d), any governing document of an
4650 association may be amended by the affirmative vote of two-thirds
4651 of the voting interests of the association.

4652 (c) Unless otherwise provided in the governing documents as
4653 originally recorded or permitted by this chapter or chapter 617,
4654 an amendment may not materially and adversely alter the
4655 proportionate voting interest appurtenant to a parcel or
4656 increase the proportion or percentage by which a parcel shares
4657 in the common expenses of the association unless the record
4658 parcel owner and all record owners of liens on the parcels join
4659 in the execution of the amendment. For purposes of this section,
4660 a change in quorum requirements is not an alteration of voting
4661 interests. The merger or consolidation of one or more
4662 associations under a plan of merger or consolidation under
4663 chapter 607 or chapter 617 shall not be considered a material or
4664 adverse alteration of the proportionate voting interest
4665 appurtenant to a parcel.

4666 (d) The method by which the bylaws may be amended
4667 consistent with the provisions of this chapter shall be stated.
4668 No bylaw shall be revised or amended by reference to its title
4669 or number only. Proposals to amend existing bylaws shall contain

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4670 the full text of the bylaws to be amended. New words shall be
4671 inserted in the text underlined, and words to be deleted shall
4672 be lined through with hyphens. However, if the proposed change
4673 is so extensive that this procedure would hinder, rather than
4674 assist, the understanding of the proposed amendment, it is not
4675 necessary to use underlining and hyphens as indicators of words
4676 added or deleted, but, instead, a notation must be inserted
4677 immediately preceding the proposed amendment in substantially
4678 the following language: "Substantial rewording of bylaw. See
4679 bylaw for present text." Nonmaterial errors or omissions
4680 in the bylaw process will not invalidate an otherwise properly
4681 adopted amendment.

4682 Section 34. Section 720.3065, Florida Statutes, is created
4683 to read:

4684 720.3065 Qualifications of directors and officers.-

4685 (1) DIRECTOR OR OFFICER OFFENSES.-A director or officer
4686 charged by information or indictment with a felony theft or
4687 embezzlement offense involving the association's funds or
4688 property shall be removed from office, creating a vacancy in the
4689 office to be filled according to law. While such director or
4690 officer has such criminal charge pending in the state or federal
4691 court system, he or she may not be appointed or elected to a
4692 position as a director or officer. However, should the charges
4693 be resolved without a finding of guilt, the director or officer
4694 shall be reinstated for the remainder of his or her term of
4695 office, if any.

4696 (2) QUALIFICATION OF DIRECTORS.-In addition to any other
4697 requirement for office in statute, a person running for, seeking
4698 appointment to, or serving as a director of the board must meet

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4699 the following qualifications:

4700 (a) In a homeowners' association of 10 or more units, only
4701 one individual coowner of a unit may serve on the board.

4702 (b) No person may serve as a director of any homeowners'
4703 association in the state if restricted from serving as director
4704 of a condominium or cooperative association by action of the
4705 division pursuant to s. 718.501(1)(d)6.

4706 (c) A person who has been convicted of any felony in this
4707 state or in a United States District or Territorial Court, or
4708 who has been convicted of any offense in another jurisdiction
4709 that would be considered a felony if committed in this state, is
4710 not eligible for board membership unless such felon's civil
4711 rights have been restored for a period of no less than 5 years
4712 as of the date on which such person seeks election to the board.

4713 (d) A director more than 90 days delinquent in the payment
4714 of regular assessments shall be deemed to have abandoned his or
4715 her office.

4716 (e) Within 30 days after being elected or appointed to the
4717 board, a director must certify in writing to the secretary of
4718 the association that he or she has read this chapter and the
4719 association's covenants, articles of incorporation, bylaws, and
4720 current written policies. The director shall further certify
4721 that he or she will work to uphold such documents and policies
4722 to the best of his or her ability and that he or she will
4723 faithfully discharge his or her fiduciary responsibility to the
4724 association's members. If a court finds that a director has
4725 falsely certified that he or she has read the required statutes
4726 and documents, the court shall order the director removed from
4727 the board and shall order the director to reimburse the opposing

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4728 party in the litigation for all reasonable costs and attorney's
4729 fees.

4730 (f) After turnover of the association pursuant to s.
4731 720.307(1), a director must:

4732 1. If the parcel is owned by an individual or individuals,
4733 be one of those individuals.

4734 2. If the parcel is owned by a trust, be an individual
4735 qualified pursuant to s. 617.0802.

4736
4737 These qualifications shall operate on a continuing basis, and,
4738 upon the failure of a director at any time to meet a
4739 qualification, the director shall be removed from office and
4740 that office shall be deemed vacant.

4741 Section 35. Section 720.3068, Florida Statutes, is created
4742 to read:

4743 720.3068 Meetings.—Regular meetings of the board shall be
4744 held at such time and place as provided in the bylaws until the
4745 first regular meeting held on or after July 1, 2010. Thereafter,
4746 the location and time for regular board meetings shall be
4747 determined by a majority vote of the parcel owners at the next
4748 regular meeting held on or after July 1, 2010. Once the time and
4749 place for regular board meetings have been selected, neither may
4750 be changed unless approved by a majority vote of the parcel
4751 owners. Regular meetings of the board held on weekdays may be
4752 held no earlier than 6 p.m. local time.

4753 Section 36. Subsection (1) of section 720.3085, Florida
4754 Statutes, is amended, and subsection (8) is added to that
4755 section, to read:

4756 720.3085 Payment for assessments; lien claims.—

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4757 (1) When authorized by the governing documents, the
4758 association has a lien on each parcel to secure the payment of
4759 assessments and other amounts provided for by this section.
4760 Except as otherwise set forth in this section, the lien is
4761 effective from and shall relate back to the date on which the
4762 original declaration of the community was recorded. ~~However, as~~
4763 ~~to first mortgages of record, the lien is effective from and~~
4764 ~~after recording of a claim of lien in the public records of the~~
4765 ~~county in which the parcel is located. This subsection does not~~
4766 ~~bestow upon any lien, mortgage, or certified judgment of record~~
4767 ~~on July 1, 2008, including the lien for unpaid assessments~~
4768 ~~created in this section, a priority that, by law, the lien,~~
4769 ~~mortgage, or judgment did not have before July 1, 2008.~~

4770 (a) To be valid, a claim of lien must state the description
4771 of the parcel, the name of the record owner, the name and
4772 address of the association, the assessment amount due, and the
4773 due date. The claim of lien shall secure all unpaid assessments
4774 that are due and that may accrue subsequent to the recording of
4775 the claim of lien and before entry of a certificate of title, as
4776 well as interest, late charges, and reasonable costs and
4777 attorney's fees incurred by the association incident to the
4778 collection process. A notice of delinquency sent to a parcel
4779 owner shall provide an overall total of assessments claimed by
4780 the association and shall specify for each assessment or charge
4781 the date of the assessment or charge, the principal balance owed
4782 for the assessment or charge, and affiliated late fees or
4783 collection charges. Costs to a parcel owner secured by the
4784 association's claim of lien with regard to collection efforts by
4785 management companies or licensed managers as to any delinquent

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4786 installment of an assessment may not exceed \$50. However, there
4787 shall be no charge for the first notice of a delinquency to the
4788 parcel owner. The person making the payment is entitled to a
4789 satisfaction of the lien upon payment in full.

4790 (b) By recording a notice in substantially the following
4791 form, a parcel owner or the parcel owner's agent or attorney may
4792 require the association to enforce a recorded claim of lien
4793 against his or her parcel:

4794 NOTICE OF CONTEST OF LIEN

4795
4796 TO: ...(Name and address of association)..
4797 You are notified that the undersigned contests the claim of lien
4798 filed by you on, ...(year)..., and recorded in Official
4799 Records Book at page, of the public records of
4800 County, Florida, and that the time within which you may file
4801 suit to enforce your lien is limited to 90 days following the
4802 date of service of this notice. Executed this day of,
4803 ...(year)....

4804 Signed: ...(Owner or Attorney)...

4805 After the notice of a contest of lien has been recorded, the
4806 clerk of the circuit court shall mail a copy of the recorded
4807 notice to the association by certified mail, return receipt
4808 requested, at the address shown in the claim of lien or the most
4809 recent amendment to it and shall certify to the service on the
4810 face of the notice. Service is complete upon mailing. After
4811 service, the association has 90 days in which to file an action
4812 to enforce the lien and, if the action is not filed within the
4813 90-day period, the lien is void. However, the 90-day period
4814 shall be extended for any length of time that the association is

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4815 prevented from filing its action because of an automatic stay
4816 resulting from the filing of a bankruptcy petition by the parcel
4817 owner or by any other person claiming an interest in the parcel.

4818 (c) The association may bring an action in its name to
4819 foreclose a lien for assessments in the same manner in which a
4820 mortgage of real property is foreclosed and may also bring an
4821 action to recover a money judgment for the unpaid assessments
4822 without waiving any claim of lien. The association is entitled
4823 to recover its reasonable attorney's fees incurred in an action
4824 to foreclose a lien or an action to recover a money judgment for
4825 unpaid assessments.

4826 (d) If the parcel owner remains in possession of the parcel
4827 after a foreclosure judgment has been entered, the court may
4828 require the parcel owner to pay a reasonable rent for the
4829 parcel. If the parcel is rented or leased during the pendency of
4830 the foreclosure action, the association is entitled to the
4831 appointment of a receiver to collect the rent. The expenses of
4832 the receiver must be paid by the party who does not prevail in
4833 the foreclosure action.

4834 (e) The association may purchase the parcel at the
4835 foreclosure sale and hold, lease, mortgage, or convey the
4836 parcel.

4837 (8) During the pendency of any foreclosure action of a
4838 parcel in a homeowners' association, if the parcel is occupied
4839 by a tenant and the parcel owner is delinquent in the payment of
4840 regular assessments, the association may demand that the tenant
4841 pay to the association the future regular assessments related to
4842 the parcel. The demand shall be continuing in nature, and upon
4843 demand the tenant shall continue to pay the regular assessments

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4844 to the association until the association releases the tenant or
4845 the tenant discontinues tenancy in the unit. The association
4846 shall mail written notice to the unit owner of the association's
4847 demand that the tenant pay regular assessments to the
4848 association. The tenant shall not be liable for increases in the
4849 amount of the regular assessments due unless the tenant was
4850 reasonably notified of the increase prior to the day that the
4851 rent is due. The tenant shall be given a credit against rents
4852 due to the parcel owner in the amount of assessments paid to the
4853 association. The association shall, upon request, provide the
4854 tenant with written receipts for payments made. The association
4855 may issue notices under s. 83.56 and may sue for eviction under
4856 ss. 83.59-83.625 as if the association were a landlord under
4857 part II of chapter 83 should the tenant fail to pay an
4858 assessment. However, the association shall not otherwise be
4859 considered a landlord under chapter 83 and shall specifically
4860 not have any duty under s. 83.51. The tenant shall not, by
4861 virtue of payment of assessments, have any of the rights of a
4862 parcel owner to vote in any election or to examine the books and
4863 records of the association. A court may supersede the effect of
4864 this subsection when appointing a receiver at the request of a
4865 mortgagee.

4866 Section 37. Section 720.314, Florida Statutes, is created
4867 to read:

4868 720.314 Parcel owner informational complaint.—

4869 (1) Any parcel owner may file an informational complaint to
4870 report alleged failures by the homeowners' association or
4871 officers or directors of the association to comply with the
4872 provisions of this chapter. The informational complaint shall be

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4873 in writing and signed by the complainant, and the accuracy of
 4874 the facts alleged shall be sworn to before a notary public.
 4875 Properly filed informational complaints shall be used for
 4876 analysis and recommendations to the Legislature for changes to
 4877 this chapter.

4878 (2) The informational complaint shall be in the format
 4879 provided in subsection (3) and shall be filed with the Office of
 4880 Program Policy Analysis and Government Accountability. If the
 4881 form does not comply with the requirements provided in
 4882 subsection (3), it shall be returned to the complainant as not
 4883 in compliance with the requirements of this section and may not
 4884 be considered by the Office of Program Policy Analysis and
 4885 Government Accountability for any purpose.

4886 (3) The informational complaint shall be in substantially
 4887 the following form:

4888
 4889 PARCEL OWNER COMPLAINT

- 4890
 4891 Name of complainant:
 4892 Address of complainant:
 4893 Name of association:
 4894 Address of association:
 4895 Statute not complied with:
 4896 Name of officer:
 4897 Name of director:
 4898 Facts supporting violation (50 words or less):
 4899
 4900 _____
 4901 Signature of Complainant

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

Notary Public

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

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

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

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