

By the Committees on Budget; Community Affairs; and Regulated Industries; and Senators Fasano and Sachs

576-05099-11

2011530c3

1 A bill to be entitled
2 An act relating to condominium, cooperative, and
3 homeowners' associations; creating s. 468.439, F.S.;
4 authorizing a claim of lien to secure reasonable
5 expenses for collection services rendered by a
6 community association manager or community management
7 firm on behalf of a community association for a
8 delinquent account; amending s. 633.0215, F.S.;
9 exempting certain residential buildings from a
10 requirement to install a manual fire alarm system;
11 amending s. 718.111, F.S.; revising provisions
12 relating to the official records of condominium
13 associations; providing for disclosure of employment
14 agreements or compensation paid to association
15 employees; amending s. 718.112, F.S.; revising
16 provisions relating to bylaws; providing that board of
17 administration meetings discussing personnel matters
18 are not open to unit members; revising requirements
19 for electing the board of directors; providing for
20 continued office and for filling vacancies under
21 certain circumstances; specifying unit owner
22 eligibility for board membership; requiring that
23 certain educational curriculum be completed within a
24 specified time before the election or appointment of a
25 board director; amending s. 718.113, F.S.; authorizing
26 the board of a condominium association to install
27 impact glass or other code-compliant windows under
28 certain circumstances; amending s. 718.114, F.S.;
29 requiring the vote or written consent of a majority of

576-05099-11

2011530c3

30 the voting interests before a condominium association
31 may enter into certain agreements to acquire
32 leaseholds, memberships, or other possessory or use
33 interests; amending s. 718.116, F.S.; revising
34 provisions relating to condominium assessments;
35 providing that an association that acquires title to a
36 unit through the foreclosure of its lien for
37 assessments is not liable for unpaid assessments, late
38 fees, interest, or attorney's fees and costs under
39 specified circumstances; conforming a cross-reference;
40 revising provisions authorizing an association to
41 collect rent from the tenant of a unit owner that owes
42 money to the association; amending s. 718.117, F.S.;
43 providing a procedure for the termination of ownership
44 of a condominium if the units have been totally
45 destroyed or demolished; providing procedures and
46 requirements for partial termination of a condominium
47 property; requiring that a lien against a condominium
48 unit being terminated be transferred to the proceeds
49 of sale for that property; amending s. 718.303, F.S.;
50 revising provisions relating to imposing remedies
51 against a delinquent unit owner or occupant; providing
52 for the suspension of certain rights of use or voting
53 rights; forbidding a voting interest or consent right
54 allocated to a unit or member which has been suspended
55 from being counted toward the total number of voting
56 interests; requiring that the suspension of certain
57 rights of use or voting rights be approved at a
58 noticed board meeting; amending s. 718.703. F.S.;

576-05099-11

2011530c3

59 redefining the term "bulk assignee" for purposes of
60 the Distressed Condominium Relief Act; amending s.
61 718.704, F.S.; revising provisions relating to the
62 assignment of developer rights by a bulk assignee;
63 amending s. 718.705, F.S.; revising provisions
64 relating to the transfer of control of a condominium
65 board of administration to unit owners; amending s.
66 718.706, F.S.; revising provisions relating to the
67 offering of units by a bulk assignee or bulk buyer;
68 amending s. 718.707, F.S.; revising the time
69 limitation for classification as a bulk assignee or
70 bulk buyer; amending s. 719.108, F.S.; deleting a
71 provision authorizing an association to add
72 administrative late fees and costs for collection
73 services to a lien against a cooperative parcel for
74 unpaid rents and assessments; amending s. 719.303,
75 F.S.; revising provisions relating to imposing
76 remedies against a delinquent unit owner or occupant;
77 providing for the suspension of certain rights of use
78 or voting rights; forbidding a voting interest or
79 consent right allocated to a unit or member which has
80 been suspended from being counted toward the total
81 number of voting interests; requiring that the
82 suspension of certain rights of use or voting rights
83 be approved at a noticed board meeting; amending s.
84 720.301, F.S.; revising the definition of the term
85 "declaration of covenants"; amending s. 720.303, F.S.;
86 revising provisions relating to records that are not
87 accessible to members of a homeowners' association;

576-05099-11

2011530c3

88 providing for disclosure of employment agreements and
89 compensation paid to association employees; amending
90 s. 720.305, F.S.; revising provisions relating to
91 imposing remedies against a delinquent member of a
92 homeowners' association; forbidding a voting interest
93 or consent right allocated to a parcel or member which
94 has been suspended from being counted toward the total
95 number of voting interests; requiring that the
96 suspension of certain rights of use or voting rights
97 be approved at a noticed board meeting; amending s.
98 720.306, F.S.; providing limitations on who may serve
99 on the board of directors of a homeowners'
100 association; amending s. 720.3085, F.S.; revising
101 provisions relating to the payment of assessments;
102 providing that an association that acquires title to a
103 unit through the foreclosure of its lien for
104 assessments is not liable for unpaid assessments, late
105 fees, interest, or attorney's fees and costs under
106 specified circumstances; amending s. 720.309, F.S.;
107 providing for the allocation of communication services
108 by a homeowners' association; providing for the
109 cancellation of communication contracts; providing
110 that hearing-impaired or legally blind owners and
111 owners receiving certain supplemental security income
112 or food stamps may discontinue the service without
113 incurring costs; providing that residents may not be
114 denied access to available franchised, licensed, or
115 certificated cable or video service providers;
116 providing an effective date.

576-05099-11

2011530c3

117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145

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

Section 1. Section 468.439, Florida Statutes, is created to read:

468.439 Collection services.—Collection services expenses that are reasonably related to the collection of a delinquent account rendered by a community association manager or management firm on behalf of a community association governed by chapter 617, 718, 719, 720, 721, or 723 may be secured by the filing of a claim of lien on behalf of the community association if the collection services expense is specified by amount in a written agreement with that community association manager or management firm and payable to the community association manager or management firm as a liquidated sum.

Section 2. Subsection (14) of section 633.0215, Florida Statutes, is amended to read:

633.0215 Florida Fire Prevention Code.—

(14) A condominium, cooperative, or multifamily residential building that is less than four ~~one or two~~ stories in height and has an exterior corridor providing a means of egress is exempt from installing a manual fire alarm system as required in s. 9.6 of the most recent edition of the Life Safety Code adopted in the Florida Fire Prevention Code. This is intended to clarify existing law.

Section 3. Paragraphs (a) and (c) of subsection (12) of section 718.111, Florida Statutes, are amended to read:

718.111 The association.—

(12) OFFICIAL RECORDS.—

576-05099-11

2011530c3

146 (a) From the inception of the association, the association
147 shall maintain each of the following items, if applicable, which
148 constitute ~~shall constitute~~ the official records of the
149 association:

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

152 2. A photocopy of the recorded declaration of condominium
153 of each condominium operated by the association and ~~of~~ each
154 amendment to each declaration.

155 3. A photocopy of the recorded bylaws of the association
156 and ~~of~~ each amendment to the bylaws.

157 4. A certified copy of the articles of incorporation of the
158 association, or other documents creating the association, and ~~of~~
159 each amendment thereto.

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

161 6. A book or books that ~~which~~ contain the minutes of all
162 meetings of the association, ~~of~~ the board of administration, and
163 the ~~of~~ unit owners, which minutes must be retained for at least
164 7 years.

165 7. A current roster of all unit owners and their mailing
166 addresses, unit identifications, voting certifications, and, if
167 known, telephone numbers. The association shall also maintain
168 the electronic mailing addresses and facsimile ~~the~~ numbers
169 ~~designated by unit owners for receiving notice sent by~~
170 ~~electronic transmission~~ of those unit owners consenting to
171 receive notice by electronic transmission. The electronic
172 mailing addresses and facsimile ~~telephone~~ numbers may not be
173 accessible to unit owners ~~must be removed from association~~
174 ~~records~~ if consent to receive notice by electronic transmission

576-05099-11

2011530c3

175 is not provided in accordance with subparagraph (c)5 ~~revoked~~.

176 However, the association is not liable for an erroneous
177 disclosure of the electronic mail address or facsimile ~~the~~
178 number for receiving electronic transmission of notices.

179 8. All current insurance policies of the association and
180 condominiums operated by the association.

181 9. A current copy of any management agreement, lease, or
182 other contract to which the association is a party or under
183 which the association or the unit owners have an obligation or
184 responsibility.

185 10. Bills of sale or transfer for all property owned by the
186 association.

187 11. Accounting records for the association and separate
188 accounting records for each condominium that ~~which~~ the
189 association operates. All accounting records must ~~shall~~ be
190 maintained for at least 7 years. Any person who knowingly or
191 intentionally defaces or destroys such ~~accounting~~ records
192 ~~required to be created and maintained by this chapter during the~~
193 ~~period for which such records are required to be maintained,~~ or
194 who knowingly or intentionally fails to create or maintain such
195 records, with the intent of causing harm to the association or
196 one or more of its members, is personally subject to a civil
197 penalty pursuant to s. 718.501(1)(d). The accounting records
198 must include, but are not limited to:

199 a. Accurate, itemized, and detailed records of all receipts
200 and expenditures.

201 b. A current account and a monthly, bimonthly, or quarterly
202 statement of the account for each unit designating the name of
203 the unit owner, the due date and amount of each assessment, the

576-05099-11

2011530c3

204 amount paid on ~~upon~~ the account, and the balance due.

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

207 d. All contracts for work to be performed. Bids for work to
208 be performed are also considered official records and must be
209 maintained by the association.

210 12. Ballots, sign-in sheets, voting proxies, and all other
211 papers relating to voting by unit owners, which must be
212 maintained for 1 year from the date of the election, vote, or
213 meeting to which the document relates, notwithstanding paragraph
214 (b).

215 13. All rental records if the association is acting as
216 agent for the rental of condominium units.

217 14. A copy of the current question and answer sheet as
218 described in s. 718.504.

219 15. All other records of the association not specifically
220 included in the foregoing which are related to the operation of
221 the association.

222 16. A copy of the inspection report as described ~~provided~~
223 in s. 718.301(4)(p).

224 (c) The official records of the association are open to
225 inspection by any association member or the authorized
226 representative of such member at all reasonable times. The right
227 to inspect the records includes the right to make or obtain
228 copies, at the reasonable expense, if any, of the member. The
229 association may adopt reasonable rules regarding the frequency,
230 time, location, notice, and manner of record inspections and
231 copying. The failure of an association to provide the records
232 within 10 working days after receipt of a written request

576-05099-11

2011530c3

233 creates a rebuttable presumption that the association willfully
234 failed to comply with this paragraph. A unit owner who is denied
235 access to official records is entitled to the actual damages or
236 minimum damages for the association's willful failure to comply.
237 Minimum damages are ~~shall be~~ \$50 per calendar day for up to 10
238 days, beginning ~~the calculation to begin~~ on the 11th working day
239 after receipt of the written request. The failure to permit
240 inspection ~~of the association records as provided herein~~
241 entitles any person prevailing in an enforcement action to
242 recover reasonable attorney's fees from the person in control of
243 the records who, directly or indirectly, knowingly denied access
244 to the records. Any person who knowingly or intentionally
245 defaces or destroys accounting records that are required ~~by this~~
246 ~~chapter~~ to be maintained under this chapter during the period
247 for which such records are required to be maintained, or who
248 knowingly or intentionally fails to create or maintain
249 accounting records that are required to be created or
250 maintained, with the intent of causing harm to the association
251 or one or more of its members, is personally subject to a civil
252 penalty pursuant to s. 718.501(1)(d). The association shall
253 maintain an adequate number of copies of the declaration,
254 articles of incorporation, bylaws, and rules, and all amendments
255 to each of the foregoing, as well as the question and answer
256 sheet as described ~~provided for~~ in s. 718.504 and year-end
257 financial information required under ~~in~~ this section, on the
258 condominium property to ensure their availability to unit owners
259 and prospective purchasers, and may charge its actual costs for
260 preparing and furnishing these documents to those requesting the
261 documents. Notwithstanding ~~the provisions of~~ this paragraph, the

576-05099-11

2011530c3

262 following records are not accessible to unit owners:

263 1. Any record protected by the lawyer-client privilege as
264 described in s. 90.502; and any record protected by the work-
265 product privilege, including a any record prepared by an
266 association attorney or prepared at the attorney's express
267 direction, ~~+~~ which reflects a mental impression, conclusion,
268 litigation strategy, or legal theory of the attorney or the
269 association, and which was prepared exclusively for civil or
270 criminal litigation or for adversarial administrative
271 proceedings, or which was prepared in anticipation of such
272 ~~imminent civil or criminal~~ litigation or ~~imminent adversarial~~
273 ~~administrative~~ proceedings until the conclusion of the
274 litigation or ~~adversarial administrative~~ proceedings.

275 2. Information obtained by an association in connection
276 with the approval of the lease, sale, or other transfer of a
277 unit.

278 3. Personnel records of association or management company
279 employees, including, but not limited to, disciplinary, payroll,
280 health, and insurance records. For purposes of this
281 subparagraph, the term "personnel records" does not include
282 written employment agreements with an association employee or
283 budgetary or financial records that indicate the compensation
284 paid to an association employee.

285 4. Medical records of unit owners.

286 5. Social security numbers, driver's license numbers,
287 credit card numbers, e-mail addresses, telephone numbers,
288 facsimile numbers, emergency contact information, any addresses
289 of a unit owner ~~other than as provided to fulfill the~~
290 ~~association's notice requirements, and other personal~~

576-05099-11

2011530c3

291 identifying information of any person, excluding the person's
292 name, unit designation, mailing address, ~~and~~ property address,
293 and any address, e-mail address, or facsimile number provided to
294 the association to fulfill the association's notice
295 requirements. However, an owner may consent in writing to the
296 disclosure of protected information described in this
297 subparagraph. The association is not liable for the disclosure
298 of information that is protected under this subparagraph if the
299 information is included in an official record of the association
300 and is voluntarily provided by an owner and not requested by the
301 association.

302 6. ~~Any~~ Electronic security measures ~~measure~~ that are ~~is~~
303 used by the association to safeguard data, including passwords.

304 7. The software and operating system used by the
305 association which allow the ~~allows~~ manipulation of data, even if
306 the owner owns a copy of the same software used by the
307 association. The data is part of the official records of the
308 association.

309 Section 4. Paragraphs (b), (c), and (d) of subsection (2)
310 of section 718.112, Florida Statutes, are amended to read:

311 718.112 Bylaws.—

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

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

316 1. Unless a lower number is provided in the bylaws, the
317 percentage of voting interests required to constitute a quorum
318 at a meeting of the members is ~~shall be~~ a majority of the voting
319 interests. Unless otherwise provided in this chapter or in the

576-05099-11

2011530c3

320 declaration, articles of incorporation, or bylaws, and except as
321 provided in subparagraph (d)4. ~~(d)3.~~, decisions shall be made by
322 ~~owners~~ of a majority of the voting interests represented at a
323 meeting at which a quorum is present.

324 2. Except as specifically otherwise provided herein, ~~after~~
325 ~~January 1, 1992,~~ unit owners may not vote by general proxy, but
326 may vote by limited proxies substantially conforming to a
327 limited proxy form adopted by the division. A ~~No~~ voting interest
328 or consent right allocated to a unit owned by the association
329 may not ~~shall~~ be exercised or considered for any purpose,
330 whether for a quorum, an election, or otherwise. Limited proxies
331 and general proxies may be used to establish a quorum. Limited
332 proxies shall be used for votes taken to waive or reduce
333 reserves in accordance with subparagraph (f)2.; for votes taken
334 to waive the financial reporting requirements of s. 718.111(13);
335 for votes taken to amend the declaration pursuant to s. 718.110;
336 for votes taken to amend the articles of incorporation or bylaws
337 pursuant to this section; and for any other matter for which
338 this chapter requires or permits a vote of the unit owners.

339 Except as provided in paragraph (d), a ~~after January 1, 1992,~~ ~~no~~
340 proxy, limited or general, may not ~~shall~~ be used in the election
341 of board members. General proxies may be used for other matters
342 for which limited proxies are not required, and may ~~also~~ be used
343 in voting for nonsubstantive changes to items for which a
344 limited proxy is required and given. Notwithstanding ~~the~~
345 ~~provisions~~ of this subparagraph, unit owners may vote in person
346 at unit owner meetings. This subparagraph does not ~~Nothing~~
347 ~~contained herein shall~~ limit the use of general proxies or
348 require the use of limited proxies for any agenda item or

576-05099-11

2011530c3

349 election at any meeting of a timeshare condominium association.

350 3. Any proxy given is ~~shall be~~ effective only for the
351 specific meeting for which originally given and any lawfully
352 adjourned meetings thereof. A ~~In no event shall any proxy is not~~
353 ~~be valid for a period~~ longer than 90 days after the date of the
354 first meeting for which it was given. Every proxy is revocable
355 at any time at the pleasure of the unit owner executing it.

356 4. A member of the board of administration or a committee
357 may submit in writing his or her agreement or disagreement with
358 any action taken at a meeting that the member did not attend.
359 This agreement or disagreement may not be used as a vote for or
360 against the action taken or to create ~~and may not be used for~~
361 ~~the purposes of creating~~ a quorum.

362 5. If ~~When~~ any of the board or committee members meet by
363 telephone conference, those board or committee members ~~attending~~
364 ~~by telephone conference~~ may be counted toward obtaining a quorum
365 and may vote by telephone. A telephone speaker must be used so
366 that the conversation of those ~~board or committee~~ members
367 ~~attending by telephone~~ may be heard by the board or committee
368 members attending in person as well as by any unit owners
369 present at a meeting.

370 (c) *Board of administration meetings.*—Meetings of the board
371 of administration at which a quorum of the members is present
372 are ~~shall be~~ open to all unit owners. A ~~Any~~ unit owner may tape
373 record or videotape the ~~meetings of the board of administration.~~
374 The right to attend such meetings includes the right to speak at
375 such meetings with reference to all designated agenda items. The
376 division shall adopt reasonable rules governing the tape
377 recording and videotaping of the meeting. The association may

576-05099-11

2011530c3

378 adopt written reasonable rules governing the frequency,
379 duration, and manner of unit owner statements.

380 1. Adequate notice of all board meetings, which must ~~notice~~
381 ~~shall~~ specifically identify all ~~incorporate an identification of~~
382 agenda items, must ~~shall~~ be posted conspicuously on the
383 condominium property at least 48 continuous hours before
384 ~~preceding~~ the meeting except in an emergency. If 20 percent of
385 the voting interests petition the board to address an item of
386 business, the board ~~shall~~ at its next regular board meeting or
387 at a special meeting of the board, but not later than 60 days
388 after the receipt of the petition, shall place the item on the
389 agenda. Any item not included on the notice may be taken up on
390 an emergency basis by at least a majority plus one of the board
391 ~~members of the board~~. Such emergency action must ~~shall~~ be
392 noticed and ratified at the next regular board meeting ~~of the~~
393 ~~board~~. However, written notice of any meeting at which
394 nonemergency special assessments, or at which amendment to rules
395 regarding unit use, will be considered must ~~shall~~ be mailed,
396 delivered, or electronically transmitted to the unit owners and
397 posted conspicuously on the condominium property at least ~~not~~
398 ~~less than~~ 14 days before ~~prior to~~ the meeting. Evidence of
399 compliance with this 14-day notice requirement must ~~shall~~ be
400 made by an affidavit executed by the person providing the notice
401 and filed with ~~among~~ the official records of the association.
402 Upon notice to the unit owners, the board shall, by duly adopted
403 rule, designate a specific location on the condominium ~~property~~
404 or association property where ~~upon which~~ all notices of board
405 meetings are to ~~shall~~ be posted. If there is no condominium
406 property or association property where ~~upon which~~ notices can be

576-05099-11

2011530c3

407 posted, notices ~~of board meetings~~ shall be mailed, delivered, or
408 electronically transmitted at least 14 days before the meeting
409 to the owner of each unit. In lieu of or in addition to the
410 physical posting of the notice ~~of any meeting of the board of~~
411 ~~administration~~ on the condominium property, the association may,
412 by reasonable rule, adopt a procedure for conspicuously posting
413 and repeatedly broadcasting the notice and the agenda on a
414 closed-circuit cable television system serving the condominium
415 association. However, if broadcast notice is used in lieu of a
416 notice ~~posted~~ physically posted on ~~the~~ condominium property, the
417 notice and agenda must be broadcast at least four times every
418 broadcast hour of each day that a posted notice is otherwise
419 required under this section. If ~~When~~ broadcast notice is
420 provided, the notice and agenda must be broadcast in a manner
421 and for a sufficient continuous length of time so as to allow an
422 average reader to observe the notice and read and comprehend the
423 entire content of the notice and the agenda. Notice of any
424 meeting in which regular or special assessments against unit
425 owners are to be considered for any reason must ~~shall~~
426 specifically state that assessments will be considered and
427 provide the nature, estimated cost, and description of the
428 purposes for such assessments.

429 2. Meetings of a committee to take final action on behalf
430 of the board or make recommendations to the board regarding the
431 association budget are subject to ~~the provisions of~~ this
432 paragraph. Meetings of a committee that does not take final
433 action on behalf of the board or make recommendations to the
434 board regarding the association budget are subject to ~~the~~
435 ~~provisions of~~ this section, unless those meetings are exempted

576-05099-11

2011530c3

436 from this section by the bylaws of the association.

437 3. Notwithstanding any other law, the requirement that
438 board meetings and committee meetings be open to the unit owners
439 does not apply ~~is inapplicable~~ to:

440 a. Meetings between the board or a committee and the
441 association's attorney, with respect to proposed or pending
442 litigation, if ~~when~~ the meeting is held for the purpose of
443 seeking or rendering legal advice; or

444 b. Board meetings held for the purpose of discussing
445 personnel matters.

446 (d) *Unit owner meetings.*—

447 1. An annual meeting of the unit owners shall be held at
448 the location provided in the association bylaws and, if the
449 bylaws are silent as to the location, the meeting shall be held
450 within 45 miles of the condominium property. However, such
451 distance requirement does not apply to an association governing
452 a timeshare condominium.

453 2. Unless the bylaws provide otherwise, a vacancy on the
454 board caused by the expiration of a director's term shall be
455 filled by electing a new board member, and the election must be
456 by secret ballot. An election is not required ~~However,~~ if the
457 number of vacancies equals or exceeds the number of candidates,
458 ~~an election is not required.~~ For purposes of this paragraph, the
459 term "candidate" means an eligible person who has timely
460 submitted the written notice, as described in sub-subparagraph
461 4.a., of his or her intention to become a candidate. Except in a
462 timeshare condominium, or if the staggered term of a board
463 member does not expire until a later annual meeting, or if all
464 members terms would otherwise expire but there are no

576-05099-11

2011530c3

465 candidates, the terms of all board members ~~of the board~~ expire
466 at the annual meeting, and such ~~board~~ members may stand for
467 reelection unless prohibited ~~otherwise permitted~~ by the bylaws.
468 If the bylaws permit staggered terms of no more than 2 years and
469 upon approval of a majority of the total voting interests, the
470 association board members may serve 2-year staggered terms. If
471 the number of board members whose terms expire at the annual
472 meeting equals or have expired exceeds the number of candidates,
473 the candidates become members of the board effective upon the
474 adjournment of the annual meeting. Unless the bylaws provide
475 otherwise, any remaining vacancies shall be filled by the
476 affirmative vote of the majority of the directors making up the
477 newly constituted board even if the directors constitute less
478 than a quorum or there is only one director ~~eligible members~~
479 ~~showing interest in or demonstrating an intention to run for the~~
480 ~~vacant positions, each board member whose term has expired is~~
481 ~~eligible for reappointment to the board of administration and~~
482 ~~need not stand for reelection.~~ In a condominium association of
483 more than 10 units or in a condominium association that does not
484 include timeshare units or timeshare interests, coowners of a
485 unit may not serve as members of the board of directors at the
486 same time unless they own more than one unit or unless there are
487 not enough eligible candidates to fill the vacancies on the
488 board at the time of the vacancy. Any unit owner desiring to be
489 a candidate for board membership must comply with sub-
490 subparagraph 4.a. and must be eligible to serve on the board of
491 directors at the time of the deadline for submitting a notice of
492 intent to run, and continuously thereafter, in order to have his
493 or her name listed as a proper candidate on the ballot or to

576-05099-11

2011530c3

494 serve on the board ~~3.a.~~ A person who has been suspended or
495 removed by the division under this chapter, or who is delinquent
496 in the payment of any fee, fine, or special or regular
497 assessment as provided in paragraph (n), is not eligible for
498 board membership. A person who has been convicted of any felony
499 in this state or in a United States District or Territorial
500 Court, or who has been convicted of any offense in another
501 jurisdiction which ~~that~~ would be considered a felony if
502 committed in this state, is not eligible for board membership
503 unless such felon's civil rights have been restored for at least
504 5 years as of the date ~~on which~~ such person seeks election to
505 the board. The validity of an action by the board is not
506 affected if it is later determined that a board member ~~of the~~
507 ~~board~~ is ineligible for board membership due to having been
508 convicted of a felony.

509 ~~3.2.~~ The bylaws must provide the method of calling meetings
510 of unit owners, including annual meetings. Written notice, ~~which~~
511 must include an agenda, must ~~shall~~ be mailed, hand delivered, or
512 electronically transmitted to each unit owner at least 14 days
513 before the annual meeting, and must be posted in a conspicuous
514 place on the condominium property at least 14 continuous days
515 before ~~preceding~~ the annual meeting. Upon notice to the unit
516 owners, the board shall, by duly adopted rule, designate a
517 specific location on the condominium property or association
518 property where ~~upon which~~ all notices of unit owner meetings
519 shall be posted. This requirement does not apply ~~However,~~ if
520 there is no condominium property or association property for
521 posting ~~upon which~~ notices ~~can be posted,~~ ~~this requirement does~~
522 ~~not apply.~~ In lieu of, or in addition to, the physical posting

576-05099-11

2011530c3

523 of meeting notices, the association may, by reasonable rule,
524 adopt a procedure for conspicuously posting and repeatedly
525 broadcasting the notice and the agenda on a closed-circuit cable
526 television system serving the condominium association. However,
527 if broadcast notice is used ~~in lieu of a notice posted~~
528 ~~physically on the condominium property~~, the notice and agenda
529 must be broadcast at least four times every broadcast hour of
530 each day that a posted notice is otherwise required under this
531 section. If broadcast notice is provided, the notice and agenda
532 must be broadcast in a manner and for a sufficient continuous
533 length of time so as to allow an average reader to observe the
534 notice and read and comprehend the entire content of the notice
535 and the agenda. Unless a unit owner waives in writing the right
536 to receive notice of the annual meeting, such notice must be
537 hand delivered, mailed, or electronically transmitted to each
538 unit owner. Notice for meetings and notice for all other
539 purposes must be mailed to each unit owner at the address last
540 furnished to the association by the unit owner, or hand
541 delivered to each unit owner. However, if a unit is owned by
542 more than one person, the association must ~~shall~~ provide notice,
543 ~~for meetings and all other purposes,~~ to the ~~that one~~ address
544 that ~~which~~ the developer ~~initially~~ identifies for that purpose
545 and thereafter as one or more of the owners of the unit ~~shall~~
546 advise the association in writing, or if no address is given or
547 the owners of the unit do not agree, to the address provided on
548 the deed of record. An officer of the association, or the
549 manager or other person providing notice of the association
550 meeting, must ~~shall~~ provide an affidavit or United States Postal
551 Service certificate of mailing, to be included in the official

576-05099-11

2011530c3

552 records of the association affirming that the notice was mailed
553 or hand delivered~~7~~ in accordance with this provision.

554 ~~4.3.~~ The members of the board shall be elected by written
555 ballot or voting machine. Proxies may not be used in electing
556 the board in general elections or elections to fill vacancies
557 caused by recall, resignation, or otherwise, unless otherwise
558 provided in this chapter.

559 a. At least 60 days before a scheduled election, the
560 association shall mail, deliver, or electronically transmit,
561 ~~whether~~ by separate association mailing or included in another
562 association mailing, delivery, or transmission, including
563 regularly published newsletters, to each unit owner entitled to
564 a vote, a first notice of the date of the election. Any unit
565 owner or other eligible person desiring to be a candidate for
566 the board must give written notice of his or her intent to be a
567 candidate to the association at least 40 days before a scheduled
568 election. Together with the written notice and agenda as set
569 forth in subparagraph 3. 2., the association shall mail,
570 deliver, or electronically transmit a second notice of the
571 election to all unit owners entitled to vote, together with a
572 ballot that lists all candidates. Upon request of a candidate,
573 an information sheet, no larger than 8 1/2 inches by 11 inches,
574 which must be furnished by the candidate at least 35 days before
575 the election, must be included with the mailing, delivery, or
576 transmission of the ballot, with the costs of mailing, delivery,
577 or electronic transmission and copying to be borne by the
578 association. The association is not liable for the contents of
579 the information sheets prepared by the candidates. In order to
580 reduce costs, the association may print or duplicate the

576-05099-11

2011530c3

581 information sheets on both sides of the paper. The division
582 shall by rule establish voting procedures consistent with this
583 sub-subparagraph, including rules establishing procedures for
584 giving notice by electronic transmission and rules providing for
585 the secrecy of ballots. Elections shall be decided by a
586 plurality of ~~those~~ ballots cast. There is no quorum requirement;
587 however, at least 20 percent of the eligible voters must cast a
588 ballot in order to have a valid election ~~of members of the~~
589 ~~board~~. A unit owner may not permit any other person to vote his
590 or her ballot, and any ballots improperly cast are invalid. A
591 ~~provided any~~ unit owner who violates this provision may be fined
592 by the association in accordance with s. 718.303. A unit owner
593 who needs assistance in casting the ballot for the reasons
594 stated in s. 101.051 may obtain such assistance. The regular
595 election must occur on the date of the annual meeting. ~~This sub-~~
596 ~~subparagraph does not apply to timeshare condominium~~
597 ~~associations~~. Notwithstanding this sub-subparagraph, an election
598 is not required unless more candidates file notices of intent to
599 run or are nominated than board vacancies exist.

600 b. Within 90 days after being elected or appointed to the
601 board, each newly elected or appointed director shall certify in
602 writing to the secretary of the association that he or she has
603 read the association's declaration of condominium, articles of
604 incorporation, bylaws, and current written policies; that he or
605 she will work to uphold such documents and policies to the best
606 of his or her ability; and that he or she will faithfully
607 discharge his or her fiduciary responsibility to the
608 association's members. In lieu of this written certification,
609 within 90 days after being elected or appointed to the board,

576-05099-11

2011530c3

610 the newly elected or appointed director may submit a certificate
611 of having satisfactorily completed ~~satisfactory completion of~~
612 the educational curriculum administered by a division-approved
613 condominium education provider within 1 year before or 90 days
614 after the date of election or appointment. The written
615 certification or educational certificate is valid and does not
616 have to be resubmitted as long as the director serves on the
617 board without interruption. A director who fails to timely file
618 the written certification or educational certificate is
619 suspended from service on the board until he or she complies
620 with this sub-subparagraph. The board may temporarily fill the
621 vacancy during the period of suspension. The secretary shall
622 cause the association to retain a director's written
623 certification or educational certificate for inspection by the
624 members for 5 years after a director's election. Failure to have
625 such written certification or educational certificate on file
626 does not affect the validity of any board action.

627 ~~5.4.~~ Any approval by unit owners called for by this chapter
628 or the applicable declaration or bylaws, including, but not
629 limited to, the approval requirement in s. 718.111(8), must
630 ~~shall~~ be made at a duly noticed meeting of unit owners and is
631 subject to all requirements of this chapter or the applicable
632 condominium documents relating to unit owner decisionmaking,
633 except that unit owners may take action by written agreement,
634 without meetings, on matters for which action by written
635 agreement without meetings is expressly allowed by the
636 applicable bylaws or declaration or any law ~~statute~~ that
637 provides for such action.

638 ~~6.5.~~ Unit owners may waive notice of specific meetings if

576-05099-11

2011530c3

639 allowed by the applicable bylaws or declaration or any law
640 ~~statute~~. If authorized by the bylaws, notice of meetings of the
641 board of administration, unit owner meetings, except unit owner
642 meetings called to recall board members under paragraph (j), and
643 committee meetings may be given by electronic transmission to
644 unit owners who consent to receive notice by electronic
645 transmission.

646 7.6. Unit owners ~~shall~~ have the right to participate in
647 meetings of unit owners with reference to all designated agenda
648 items. However, the association may adopt reasonable rules
649 governing the frequency, duration, and manner of unit owner
650 participation.

651 8.7. ~~A~~ Any unit owner may tape record or videotape a
652 meeting of the unit owners subject to reasonable rules adopted
653 by the division.

654 9.8. Unless otherwise provided in the bylaws, any vacancy
655 occurring on the board before the expiration of a term may be
656 filled by the affirmative vote of the majority of the remaining
657 directors, even if the remaining directors constitute less than
658 a quorum, or by the sole remaining director. In the alternative,
659 a board may hold an election to fill the vacancy, in which case
660 the election procedures must conform to ~~the requirements of sub-~~
661 subparagraph 4.a. ~~3.a.~~ unless the association governs 10 units
662 or fewer and has opted out of the statutory election process, in
663 which case the bylaws of the association control. Unless
664 otherwise provided in the bylaws, a board member appointed or
665 elected under this section shall fill the vacancy for the
666 unexpired term of the seat being filled. Filling vacancies
667 created by recall is governed by paragraph (j) and rules adopted

576-05099-11

2011530c3

668 by the division.

669 10. This chapter does not limit the use of general or
670 limited proxies, require the use of general or limited proxies,
671 or require the use of a written ballot or voting machine for any
672 agenda item or election at any meeting of a timeshare
673 condominium association.

674
675 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a.
676 ~~(d)3.a.~~, an association of 10 or fewer units may, by affirmative
677 vote of a majority of the total voting interests, provide for
678 different voting and election procedures in its bylaws, which
679 ~~vote~~ may be by a proxy specifically delineating the different
680 voting and election procedures. The different voting and
681 election procedures may provide for elections to be conducted by
682 limited or general proxy.

683 Section 5. Subsection (5) of section 718.113, Florida
684 Statutes, is amended to read:

685 718.113 Maintenance; limitation upon improvement; display
686 of flag; hurricane shutters; display of religious decorations.-

687 (5) Each board of administration shall adopt hurricane
688 shutter specifications for each building within each condominium
689 operated by the association which ~~shall~~ include color, style,
690 and other factors deemed relevant by the board. All
691 specifications adopted by the board must ~~shall~~ comply with the
692 applicable building code.

693 (a) The board may, subject to ~~the provisions of~~ s.
694 718.3026~~7~~ and the approval of a majority of voting interests of
695 the condominium, install hurricane shutters, impact glass or
696 other code-compliant windows, or hurricane protection that

576-05099-11

2011530c3

697 complies with or exceeds the applicable building code. However,
698 ~~or both, except that~~ a vote of the owners is not required if the
699 maintenance, repair, and replacement of hurricane shutters,
700 impact glass, or other code-compliant windows ~~or other forms of~~
701 ~~hurricane protection~~ are the responsibility of the association
702 pursuant to the declaration of condominium. ~~If However, where~~
703 hurricane protection or laminated glass or window film
704 architecturally designed to function as hurricane protection
705 which complies with or exceeds the current applicable building
706 code has been previously installed, the board may not install
707 hurricane shutters, ~~or other~~ hurricane protection, or impact
708 glass or other code-compliant windows except upon approval by a
709 majority vote of the voting interests.

710 (b) The association is ~~shall be~~ responsible for the
711 maintenance, repair, and replacement of the hurricane shutters
712 or other hurricane protection authorized by this subsection if
713 such hurricane shutters or other hurricane protection is the
714 responsibility of the association pursuant to the declaration of
715 condominium. If the hurricane shutters or other hurricane
716 protection is ~~authorized by this subsection~~ are the
717 responsibility of the unit owners pursuant to the declaration of
718 condominium, the responsibility for the maintenance, repair, and
719 replacement of such items is ~~shall be~~ the responsibility of the
720 unit owner.

721 (c) The board may operate shutters installed pursuant to
722 this subsection without permission of the unit owners only if
723 ~~where~~ such operation is necessary to preserve and protect the
724 condominium property and association property. The installation,
725 replacement, operation, repair, and maintenance of such shutters

576-05099-11

2011530c3

726 in accordance with the procedures set forth in this paragraph
727 are ~~herein shall~~ not be deemed a material alteration to the
728 common elements or association property within the meaning of
729 this section.

730 (d) Notwithstanding any other provision ~~to the contrary~~ in
731 the condominium documents, if approval is required by the
732 documents, a board may ~~shall~~ not refuse to approve the
733 installation or replacement of hurricane shutters by a unit
734 owner conforming to the specifications adopted by the board.

735 Section 6. Section 718.114, Florida Statutes, is amended to
736 read:

737 718.114 Association powers.—An association may ~~has the~~
738 ~~power to~~ enter into agreements, to acquire leaseholds,
739 memberships, and other possessory or use interests in lands or
740 facilities such as country clubs, golf courses, marinas, and
741 other recreational facilities, ~~. It has this power~~ whether or not
742 the lands or facilities are contiguous to the lands of the
743 condominium, if such lands and facilities ~~they~~ are intended to
744 provide enjoyment, recreation, or other use or benefit to the
745 unit owners. All of these leaseholds, memberships, and other
746 possessory or use interests existing or created at the time of
747 recording the declaration must be stated and fully described in
748 the declaration. Subsequent to the recording of the declaration,
749 agreements acquiring these leaseholds, memberships, or other
750 possessory or use interests which are not entered into within 12
751 months following the recording of the declaration are ~~shall be~~
752 ~~considered~~ a material alteration or substantial addition to the
753 real property that is association property, and the association
754 may not acquire or enter into such agreements ~~acquiring these~~

576-05099-11

2011530c3

755 ~~leaseholds, memberships, or other possessory or use interests~~
756 except upon a vote of, or written consent by, a majority of the
757 total voting interests or as authorized by the declaration as
758 provided in s. 718.113. The declaration may provide that the
759 rental, membership fees, operations, replacements, and other
760 expenses are common expenses and may impose covenants and
761 restrictions concerning their use and may contain other
762 provisions not inconsistent with this chapter. A condominium
763 association may conduct bingo games as provided in s. 849.0931.

764 Section 7. Subsections (1) and (3), paragraph (b) of
765 subsection (5), and subsection (11) of section 718.116, Florida
766 Statutes, are amended to read:

767 718.116 Assessments; liability; lien and priority;
768 interest; collection.—

769 (1) ~~(a)~~ A unit owner, regardless of how his or her title has
770 been acquired, including by purchase at a foreclosure sale or by
771 deed in lieu of foreclosure, is liable for all assessments which
772 come due while he or she is the unit owner. ~~Additionally,~~ A unit
773 owner is also jointly and severally liable with the previous
774 owner for all unpaid assessments that came due up to the time of
775 transfer of title. This liability is without prejudice to any
776 right the owner may have to recover from the previous owner the
777 amounts paid by the owner.

778 ~~(a)~~ ~~(b)~~ The liability of a first mortgagee or its successor
779 or assignees who acquire title to a unit by foreclosure or by
780 deed in lieu of foreclosure for the unpaid assessments that
781 became due before the mortgagee's acquisition of title is
782 limited to the lesser of:

783 1. The unit's unpaid common expenses and regular periodic

576-05099-11

2011530c3

784 assessments that ~~which~~ accrued or came due during the 12 months
785 immediately preceding the acquisition of title and for which
786 payment in full has not been received by the association; or

787 2. One percent of the original mortgage debt.

788

789 The provisions of this paragraph apply only if the first
790 mortgagee joined the association as a defendant in the
791 foreclosure action. Joinder of the association is not required
792 if, on the date the complaint is filed, the association was
793 dissolved or did not maintain an office or agent for service of
794 process at a location that ~~which~~ was known to or reasonably
795 discoverable by the mortgagee.

796 (b) An association, or its successor or assignee, which
797 acquires title to a unit through the foreclosure of its lien for
798 assessments is not liable for any unpaid assessments, late fees,
799 interest, or reasonable attorney's fees and costs that came due
800 before the association's acquisition of title in favor of any
801 other association, as defined in s. 718.103(2) or s. 720.301(9),
802 which holds a superior lien interest on the unit. This paragraph
803 is intended to clarify existing law.

804 (c) The person acquiring title shall pay the amount owed to
805 the association within 30 days after transfer of title. Failure
806 to pay the full amount when due entitles ~~shall entitle~~ the
807 association to record a claim of lien against the parcel and
808 proceed in the same manner as provided in this section for the
809 collection of unpaid assessments.

810 (d) With respect to each timeshare unit, each owner of a
811 timeshare estate ~~therein~~ is jointly and severally liable for the
812 payment of all assessments and other charges levied against or

576-05099-11

2011530c3

813 with respect to that unit pursuant to the declaration or bylaws,
814 except to the extent that the declaration or bylaws may
815 otherwise provide ~~to the contrary~~.

816 (e) Notwithstanding ~~the provisions of~~ paragraph (a) ~~(b)~~, a
817 first mortgagee or its successor or assignees who acquire title
818 to a condominium unit as a result of the foreclosure of the
819 mortgage or by deed in lieu of foreclosure of the mortgage are
820 ~~shall be~~ exempt from liability for all unpaid assessments
821 attributable to the parcel or chargeable to the previous owner
822 which came due before ~~prior to~~ acquisition of title if the first
823 mortgage was recorded before ~~prior to~~ April 1, 1992. ~~If,~~
824 However, if the first mortgage was recorded on or after April 1,
825 1992, or if on the date the mortgage was recorded, the
826 declaration included language incorporating by reference future
827 amendments to this chapter, ~~the provisions of~~ paragraph (a) ~~does~~
828 ~~(b) shall~~ apply.

829 (f) The provisions of this subsection are intended to
830 clarify existing law, and are ~~shall not be~~ available if in any
831 ~~ease where~~ the unpaid assessments sought to be recovered by the
832 association are secured by a lien recorded before ~~prior to~~ the
833 recording of the mortgage. Notwithstanding ~~the provisions of~~
834 chapter 48, the association is ~~shall be~~ a proper party to
835 intervene in any foreclosure proceeding to seek equitable
836 relief.

837 (g) For purposes of this subsection, the term "successor or
838 assignee" as used with respect to a first mortgagee includes
839 only a subsequent holder of the first mortgage.

840 (3) Assessments and installments on assessments which are
841 not paid when due bear interest at the rate provided in the

576-05099-11

2011530c3

842 declaration, from the due date until paid. The ~~This~~ rate may not
843 exceed the rate allowed by law, and, if no rate is provided in
844 the declaration, interest accrues at the rate of 18 percent per
845 year. ~~Also,~~ If provided by the declaration or bylaws, the
846 association may, in addition to such interest, charge an
847 administrative late fee of up to the greater of \$25 or 5 percent
848 of ~~each installment of the assessment for~~ each delinquent
849 installment for which the payment is late. Any payment received
850 by an association must be applied first to any interest accrued
851 by the association, then to any administrative late fee, then to
852 any costs and reasonable attorney's fees incurred in collection,
853 and then to the delinquent assessment. The foregoing applies ~~is~~
854 ~~applicable~~ notwithstanding any restrictive endorsement,
855 designation, or instruction placed on or accompanying a payment.
856 A late fee is not subject to chapter 687 or s. 718.303(4)
857 ~~718.303(3)~~.

858 (5)

859 (b) To be valid, a claim of lien must state the description
860 of the condominium parcel, the name of the record owner, the
861 name and address of the association, the amount due, and the due
862 dates. It must be executed and acknowledged by an officer or
863 authorized agent of the association. The lien is not effective
864 ~~longer than~~ 1 year after the claim of lien was recorded unless,
865 within that time, an action to enforce the lien is commenced.
866 The 1-year period is automatically extended for any length of
867 time during which the association is prevented from filing a
868 foreclosure action by an automatic stay resulting from a
869 bankruptcy petition filed by the parcel owner or any other
870 person claiming an interest in the parcel. The claim of lien

576-05099-11

2011530c3

871 secures all unpaid assessments that are due and that may accrue
872 after the claim of lien is recorded and through the entry of a
873 final judgment, as well as interest and all reasonable costs and
874 attorney's fees incurred by the association incident to the
875 collection process. Upon payment in full, the person making the
876 payment is entitled to a satisfaction of the lien.

877
878 After notice of contest of lien has been recorded, the clerk of
879 the circuit court shall mail a copy of the recorded notice to
880 the association by certified mail, return receipt requested, at
881 the address shown in the claim of lien or most recent amendment
882 to it and shall certify to the service on the face of the
883 notice. Service is complete upon mailing. After service, the
884 association has 90 days in which to file an action to enforce
885 the lien; and, if the action is not filed within the 90-day
886 period, the lien is void. However, the 90-day period shall be
887 extended for any length of time that the association is
888 prevented from filing its action because of an automatic stay
889 resulting from the filing of a bankruptcy petition by the unit
890 owner or by any other person claiming an interest in the parcel.

891 (11) If the unit is occupied by a tenant and the unit owner
892 is delinquent in paying any monetary obligation due to the
893 association, the association may make a written demand that the
894 tenant pay subsequent rental payments to the association ~~the~~
895 ~~future monetary obligations related to the condominium unit to~~
896 ~~the association,~~ and continue to the tenant must make such
897 payments until all monetary obligations of the unit owner
898 related to the unit have been paid in full to the association
899 payment. ~~The demand is continuing in nature and, upon demand,~~

576-05099-11

2011530c3

900 The tenant must pay rent ~~the monetary obligations~~ to the
901 association until the association releases the tenant or the
902 tenant discontinues tenancy in the unit. ~~The association must~~
903 ~~mail written notice to the unit owner of the association's~~
904 ~~demand that the tenant make payments to the association.~~ The
905 association shall, upon request, provide the tenant with written
906 receipts for payments made. A tenant who acts in good faith in
907 response to a written demand from an association is immune from
908 any claim by ~~from~~ the unit owner.

909 (a) The association must provide written notice to the unit
910 owner of the association's demand that the tenant make payments
911 to the association. Such notice must be made by hand delivery or
912 United States mail and in substantially the following form:

913
914 Pursuant to s. 718.116(11), Florida Statutes, the
915 association hereby demands that you pay your rent
916 directly to the condominium association and continue
917 until the association notifies you otherwise.

918 Payment due the association may be in the same
919 form you paid your landlord and must be sent by U.S.
920 Mail or hand delivered to (...full address...) and
921 payable to (...name...).

922 Your obligation to pay your rent to the
923 association begins immediately, unless you have
924 already paid rent to your landlord for the current
925 period before receiving this notice. In such case, you
926 must provide the association written proof of your
927 payment within 14 days after receiving this notice,
928 and your obligation to pay rent to the association

576-05099-11

2011530c3

929 begins with the next rental period.

930 The provisions of s. 718.116(11), Florida
931 Statutes, also provide that your payment of rent to
932 the association gives you complete immunity from any
933 claim for the rent by your landlord for all amounts
934 timely paid to the association.

935

936 (b) ~~(a)~~ If the tenant paid ~~prepaid~~ rent to the landlord or
937 unit owner for a given rental period before receiving the demand
938 from the association and provides written evidence to the
939 association of having paid ~~paying~~ the rent ~~to the association~~
940 within 14 days after receiving the demand, the tenant shall
941 begin making rental payments for the following rental period and
942 continue making ~~receive credit for the prepaid rent for the~~
943 ~~applicable period and must make any subsequent rental~~ payments
944 to the association to be credited against the monetary
945 obligations of the unit owner until ~~to~~ the association releases
946 the tenant or the tenant discontinues tenancy in the unit.

947 ~~(c)~~ ~~(b)~~ ~~The tenant is not liable for increases in the amount~~
948 ~~of the monetary obligations due unless the tenant was notified~~
949 ~~in writing of the increase at least 10 days before the date the~~
950 ~~rent is due.~~ The liability of the tenant may not exceed the
951 amount due from the tenant to the tenant's landlord. The
952 tenant's landlord shall provide the tenant a credit against
953 rents due to the landlord ~~unit owner~~ in the amount of moneys
954 paid to the association ~~under this section.~~

955 (d) ~~(e)~~ The association may issue notices under s. 83.56 and
956 ~~may~~ sue for eviction under ss. 83.59-83.625 as if the
957 association were a landlord under part II of chapter 83 if the

576-05099-11

2011530c3

958 tenant fails to pay a required payment to the association.
959 However, the association is not otherwise considered a landlord
960 under chapter 83 and specifically has no obligations ~~duties~~
961 under s. 83.51.

962 (e) ~~(d)~~ The tenant does not, by virtue of payment of
963 monetary obligations to the association, have any of the rights
964 of a unit owner to vote in any election or to examine the books
965 and records of the association.

966 (f) ~~(e)~~ A court may supersede the effect of this subsection
967 by appointing a receiver.

968 Section 8. Paragraph (c) is added to subsection (2) of
969 section 718.117, Florida Statutes, and subsections (3), (4), and
970 (11), paragraphs (a) and (d) of subsection (12), subsection
971 (14), paragraph (a) of subsection (17), and subsections (18) and
972 (19) of that section are amended, to read:

973 718.117 Termination of condominium.—

974 (2) TERMINATION BECAUSE OF ECONOMIC WASTE OR
975 IMPOSSIBILITY.—

976 (c) Notwithstanding paragraph (a), a condominium that
977 includes units and timeshare estates where the improvements have
978 been totally destroyed or demolished may be terminated pursuant
979 to a plan of termination proposed by a unit owner upon filing a
980 petition in court seeking equitable relief.

981 1. Within 10 days after filing the petition, and in lieu of
982 the requirements of paragraph (15)(a), the petitioner shall
983 record the proposed plan of termination and mail copies of the
984 plan and the petition to:

985 a. Each member of the board of directors of the association
986 identified in the most recent annual report filed with the

576-05099-11

2011530c3

987 department of state and the registered agent of the association
988 if the association has not been dissolved as a matter of law;

989 b. The managing entity as defined in s. 721.05;

990 c. Each unit owner and each timeshare estate owner at the
991 address reflected in the official records of the association, or
992 if the association records cannot be obtained by the petitioner,
993 each unit owner and each timeshare estate owner at the address
994 listed in the office of the tax collector for tax notices; and

995 d. Each holder of a recorded mortgage lien affecting a unit
996 or timeshare estate at the address appearing on the recorded
997 mortgage or any recorded assignment thereof.

998 2. The association as class representative if it has not
999 been dissolved as a matter of law, the managing entity as
1000 defined in s. 721.05, any unit owner, timeshare estate owner, or
1001 holder of a recorded mortgage lien affecting a unit or timeshare
1002 estate may intervene in the proceedings to contest the proposed
1003 plan of termination brought pursuant to this paragraph. The
1004 provisions of subsection (9), to the extent inconsistent with
1005 this paragraph, and subsection (16) are not applicable to a
1006 party contesting a plan of termination under this paragraph. If
1007 no party intervenes to contest the proposed plan within 45 days
1008 after filing the petition, the petitioner may move the court to
1009 enter a final judgment authorizing that the plan of termination
1010 be implemented. If a party timely intervenes to contest the
1011 proposed plan, the plan may not be implemented until a final
1012 judgment has been entered by the court finding that the proposed
1013 plan of termination is fair and reasonable and authorizing
1014 implementation of the plan.

1015 (3) OPTIONAL TERMINATION.—Except as provided in subsection

576-05099-11

2011530c3

1016 (2) or unless the declaration provides for a lower percentage,
1017 the condominium form of ownership ~~of the property~~ may be
1018 terminated for all or a portion of the condominium property
1019 pursuant to a plan of termination approved by at least 80
1020 percent of the total voting interests of the condominium if no
1021 ~~not~~ more than 10 percent of the total voting interests of the
1022 condominium have rejected the plan of termination by negative
1023 vote or by providing written objections ~~thereto~~. This subsection
1024 does not apply to condominiums in which 75 percent or more of
1025 the units are timeshare units.

1026 (4) EXEMPTION.—A plan of termination is not an amendment
1027 subject to s. 718.110(4). In a partial termination, a plan of
1028 termination is not an amendment subject to s. 718.110(4) if the
1029 ownership share of the common elements of a surviving unit in
1030 the condominium remains in the same proportion to the surviving
1031 units as it was before the partial termination.

1032 (11) PLAN OF TERMINATION; OPTIONAL PROVISIONS; CONDITIONAL
1033 TERMINATION.—

1034 (a) The plan of termination may provide that each unit
1035 owner retains the exclusive right of possession to the portion
1036 of the real estate which ~~that~~ formerly constituted the unit if,
1037 ~~in which case~~ the plan specifies ~~must specify~~ the conditions of
1038 possession. In a partial termination, the plan of termination as
1039 specified in subsection (10) must also identify the units that
1040 survive the partial termination and provide that such units
1041 remain in the condominium form of ownership pursuant to an
1042 amendment to the declaration of condominium or an amended and
1043 restated declaration. In a partial termination, title to the
1044 surviving units and common elements that remain part of the

576-05099-11

2011530c3

1045 condominium property specified in the plan of termination remain
1046 vested in the ownership shown in the public records and do not
1047 vest in the termination trustee.

1048 (b) In a conditional termination, the plan must specify the
1049 conditions for termination. A conditional plan does not vest
1050 title in the termination trustee until the plan and a
1051 certificate executed by the association with the formalities of
1052 a deed, confirming that the conditions in the conditional plan
1053 have been satisfied or waived by the requisite percentage of the
1054 voting interests, have been recorded. In a partial termination,
1055 the plan does not vest title to the surviving units or common
1056 elements that remain part of the condominium property in the
1057 termination trustee.

1058 (12) ALLOCATION OF PROCEEDS OF SALE OF CONDOMINIUM
1059 PROPERTY.—

1060 (a) Unless the declaration expressly provides for the
1061 allocation of the proceeds of sale of condominium property, the
1062 plan of termination must first apportion the proceeds between
1063 the aggregate value of all units and the value of the common
1064 elements, based on their respective fair market values
1065 immediately before the termination, as determined by one or more
1066 independent appraisers selected by the association or
1067 termination trustee. In a partial termination, the aggregate
1068 values of the units and common elements that are being
1069 terminated must be separately determined, and the plan of
1070 termination must specify the allocation of the proceeds of sale
1071 for the units and common elements.

1072 (d) Liens that encumber a unit shall be transferred to the
1073 proceeds of sale of the condominium property and the proceeds of

576-05099-11

2011530c3

1074 sale or other distribution of association property, common
1075 surplus, or other association assets attributable to such unit
1076 in their same priority. In a partial termination, liens that
1077 encumber a unit being terminated must be transferred to the
1078 proceeds of sale of that portion of the condominium property
1079 being terminated which are attributable to such unit. The
1080 proceeds of any sale of condominium property pursuant to a plan
1081 of termination may not be deemed to be common surplus or
1082 association property.

1083 (14) TITLE VESTED IN TERMINATION TRUSTEE.—If termination is
1084 pursuant to a plan of termination under subsection (2) or
1085 subsection (3), ~~the unit owners' rights and title to as tenants~~
1086 ~~in common in undivided interests in the condominium property~~
1087 being terminated vests ~~vest~~ in the termination trustee when the
1088 plan is recorded or at a later date specified in the plan. The
1089 unit owners thereafter become the beneficiaries of the proceeds
1090 realized from the plan of termination as set forth in the plan.
1091 The termination trustee may deal with the condominium property
1092 being terminated or any interest therein if the plan confers on
1093 the trustee the authority to protect, conserve, manage, sell, or
1094 dispose of the condominium property. The trustee, on behalf of
1095 the unit owners, may contract for the sale of real property
1096 being terminated, but the contract is not binding on the unit
1097 owners until the plan is approved pursuant to subsection (2) or
1098 subsection (3).

1099 (17) DISTRIBUTION.—

1100 (a) Following termination of the condominium, the
1101 condominium property, association property, common surplus, and
1102 other assets of the association shall be held by the termination

576-05099-11

2011530c3

1103 trustee pursuant to the plan of termination, as trustee for unit
1104 owners and holders of liens on the units, in their order of
1105 priority unless otherwise set forth in the plan of termination.

1106 (18) ASSOCIATION STATUS.—The termination of a condominium
1107 does not change the corporate status of the association that
1108 operated the condominium property. The association continues to
1109 exist to conclude its affairs, prosecute and defend actions by
1110 or against it, collect and discharge obligations, dispose of and
1111 convey its property, and collect and divide its assets, but not
1112 to act except as necessary to conclude its affairs. In a partial
1113 termination, the association may continue as the condominium
1114 association for the property that remains subject to the
1115 declaration of condominium.

1116 (19) CREATION OF ANOTHER CONDOMINIUM.—The termination or
1117 partial termination of a condominium does not bar the filing of
1118 a new declaration of condominium ~~or an amended and restated~~
1119 ~~declaration of condominium~~ by the termination trustee, or the
1120 trustee's successor in interest, for the terminated property or
1121 ~~affecting any portion thereof of the same property~~. The partial
1122 termination of a condominium may provide for the simultaneous
1123 filing of an amendment to the declaration of condominium or an
1124 amended and restated declaration of condominium by the
1125 condominium association for any portion of the property not
1126 terminated from the condominium form of ownership.

1127 Section 9. Subsections (3), (4), and (5) of section
1128 718.303, Florida Statutes, are amended, and subsection (6) is
1129 added to that section, to read:

1130 718.303 Obligations of owners and occupants; remedies.—

1131 (3) ~~If a unit owner is delinquent for more than 90 days in~~

576-05099-11

2011530c3

1132 ~~paying a monetary obligation due to the association, the~~
1133 ~~association may suspend the right of a unit owner or a unit's~~
1134 ~~occupant, licensee, or invitee to use common elements, common~~
1135 ~~facilities, or any other association property until the monetary~~
1136 ~~obligation is paid. This subsection does not apply to limited~~
1137 ~~common elements intended to be used only by that unit, common~~
1138 ~~elements that must be used to access the unit, utility services~~
1139 ~~provided to the unit, parking spaces, or elevators. The~~
1140 ~~association may ~~also~~ levy reasonable fines for the failure of~~
1141 ~~the owner of the unit, or its occupant, licensee, or invitee, to~~
1142 ~~comply with any provision of the declaration, the association~~
1143 ~~bylaws, or reasonable rules of the association. A fine may ~~does~~~~
1144 ~~not become a lien against a unit. A fine ~~may not exceed \$100 per~~~~
1145 ~~violation. However,~~ A fine may be levied on the basis of each
1146 day of a continuing violation, with a single notice and
1147 opportunity for hearing. However, the fine may not exceed \$100
1148 per violation, or \$1,000 in the aggregate ~~exceed \$1,000~~.

1149 (a) An association may suspend, for a reasonable period of
1150 time, the right of a unit owner, or a unit owner's tenant,
1151 guest, or invitee, to use the common elements, common
1152 facilities, or any other association property for failure to
1153 comply with any provision of the declaration, the association
1154 bylaws, or reasonable rules of the association.

1155 (b) A fine or suspension may not be imposed ~~levied and a~~
1156 ~~suspension may not be imposed~~ unless the association first
1157 provides at least 14 days' written notice and an opportunity for
1158 a hearing to the unit owner and, if applicable, its occupant,
1159 licensee, or invitee. The hearing must be held before a
1160 committee of other unit owners who are neither board members nor

576-05099-11

2011530c3

1161 persons residing in a board member's household. If the committee
1162 does not agree ~~with the fine or suspension~~, the fine or
1163 suspension may not be ~~levied or~~ imposed.

1164 (4) If a unit owner is more than 90 days delinquent in
1165 paying a monetary obligation due to the association, the
1166 association may suspend the right of the unit owner or the
1167 unit's occupant, licensee, or invitee to use common elements,
1168 common facilities, or any other association property until the
1169 monetary obligation is paid in full. This subsection does not
1170 apply to limited common elements intended to be used only by
1171 that unit, common elements needed to access the unit, utility
1172 services provided to the unit, parking spaces, or elevators. The
1173 notice and hearing requirements under subsection (3) do not
1174 apply to suspensions imposed under this subsection.

1175 ~~(4) The notice and hearing requirements of subsection (3)~~
1176 ~~do not apply to the imposition of suspensions or fines against a~~
1177 ~~unit owner or a unit's occupant, licensee, or invitee because of~~
1178 ~~failing to pay any amounts due the association. If such a fine~~
1179 ~~or suspension is imposed, the association must levy the fine or~~
1180 ~~impose a reasonable suspension at a properly noticed board~~
1181 ~~meeting, and after the imposition of such fine or suspension,~~
1182 ~~the association must notify the unit owner and, if applicable,~~
1183 ~~the unit's occupant, licensee, or invitee by mail or hand~~
1184 ~~delivery.~~

1185 (5) An association may ~~also~~ suspend the voting rights of a
1186 unit or member due to nonpayment of any monetary obligation due
1187 to the association which is more than 90 days delinquent. A
1188 voting interest or consent right allocated to a unit or member
1189 which has been suspended by the association may not be counted

576-05099-11

2011530c3

1190 towards the total number of voting interests for any purpose,
1191 including, but not limited to, the number of voting interests
1192 necessary to constitute a quorum, conduct an election, or
1193 approve an action under this chapter or pursuant to the
1194 declaration, articles of incorporation, or bylaws. The
1195 suspension ends upon full payment of all obligations currently
1196 due or overdue the association. The notice and hearing
1197 requirements under subsection (3) do not apply to a suspension
1198 imposed under this subsection.

1199 (6) All suspensions imposed pursuant to subsection (4) or
1200 subsection (5) must be approved at a properly noticed board
1201 meeting. Upon approval, the association must notify the unit
1202 owner and, if applicable, the unit's occupant, licensee, or
1203 invitee by mail or hand delivery.

1204 Section 10. Section 718.703, Florida Statutes, is amended
1205 to read:

1206 718.703 Definitions.—As used in this part, the term:

1207 (1) "Bulk assignee" means a person who is not a bulk buyer
1208 and who:

1209 (a) Acquires more than seven condominium parcels in a
1210 single condominium as set forth in s. 718.707; and

1211 (b) Receives an assignment of any of the developer rights,
1212 other than or in addition to those rights described in
1213 subsection (2), ~~some or all of the rights of the developer~~ as
1214 set forth in the declaration of condominium or this chapter: ~~by~~

1215 1. By a written instrument recorded as part of or as an
1216 exhibit to the deed; ~~or as~~

1217 2. By a separate instrument recorded in the public records
1218 of the county in which the condominium is located; or

576-05099-11

2011530c3

1219 3. Pursuant to a final judgment or certificate of title
1220 issued in favor of a purchaser at a foreclosure sale.

1221
1222 A mortgagee or its assignee may not be deemed a bulk assignee or
1223 a developer by reason of the acquisition of condominium units
1224 and receipt of an assignment of some or all of a developer
1225 rights unless the mortgagee or its assignee exercises any of the
1226 developer rights other than those described in subsection (2).

1227 (2) "Bulk buyer" means a person who acquires more than
1228 seven condominium parcels in a single condominium as set forth
1229 in s. 718.707, but who does not receive an assignment of any
1230 developer rights, or receives only some or all of the following
1231 rights: ~~other than~~

1232 (a) The right to conduct sales, leasing, and marketing
1233 activities within the condominium;

1234 (b) The right to be exempt from the payment of working
1235 capital contributions to the condominium association arising out
1236 of, or in connection with, the bulk buyer's acquisition of ~~the a~~
1237 ~~bulk number of~~ units; and

1238 (c) The right to be exempt from any rights of first refusal
1239 which may be held by the condominium association and would
1240 otherwise be applicable to subsequent transfers of title from
1241 the bulk buyer to a third party purchaser concerning one or more
1242 units.

1243 Section 11. Section 718.704, Florida Statutes, is amended
1244 to read:

1245 718.704 Assignment and assumption of developer rights by
1246 bulk assignee; bulk buyer.—

1247 (1) A bulk assignee is deemed to have assumed ~~assumes~~ and

576-05099-11

2011530c3

1248 is liable for all duties and responsibilities of the developer
1249 under the declaration and this chapter upon its acquisition of
1250 title to units and continuously thereafter, except that it is
1251 not liable for:

1252 (a) Warranties of the developer under s. 718.203(1) or s.
1253 718.618, except as expressly provided by the bulk assignee in a
1254 prospectus or offering circular, or the contract for purchase
1255 and sale executed with a purchaser, or for design, construction,
1256 development, or repair work performed by or on behalf of the
1257 such bulk assignee.†

1258 (b) The obligation to:

1259 1. Fund converter reserves under s. 718.618 for a unit that
1260 was not acquired by the bulk assignee; or

1261 2. Provide implied converter warranties on any portion of
1262 the condominium property except as expressly provided by the
1263 bulk assignee in a prospectus or offering circular, or the
1264 contract for purchase and sale executed with a purchaser, or for
1265 and pertaining to any design, construction, development, or
1266 repair work performed by or on behalf of the bulk assignee.†

1267 (c) The requirement to provide the association with a
1268 cumulative audit of the association's finances from the date of
1269 formation of the condominium association as required by s.
1270 718.301(4)(c). However, the bulk assignee must provide an audit
1271 for the period during which the bulk assignee elects or appoints
1272 a majority of the members of the board of administration.†

1273 (d) Any liability arising out of or in connection with
1274 actions taken by the board of administration or the developer-
1275 appointed directors before the bulk assignee elects or appoints
1276 a majority of the members of the board of administration.† ~~and~~

576-05099-11

2011530c3

1277 (e) Any liability for or arising out of the developer's
1278 failure to fund previous assessments or to resolve budgetary
1279 deficits in relation to a developer's right to guarantee
1280 assessments, except as otherwise provided in subsection (2).

1281
1282 The bulk assignee is ~~also~~ responsible only for delivering
1283 documents and materials in accordance with s. 718.705(3). A bulk
1284 assignee may expressly assume some or all of the developer
1285 obligations ~~of the developer~~ described in paragraphs (a)-(e).

1286 (2) A bulk assignee assigned the developer right receiving
1287 ~~the assignment of the rights of the developer~~ to guarantee the
1288 level of assessments and fund budgetary deficits pursuant to s.
1289 718.116 assumes and is liable for all obligations of the
1290 developer with respect to such guarantee upon its acquisition of
1291 title to the units and continuously thereafter, including any
1292 applicable funding of reserves to the extent required by law,
1293 for as long as the guarantee remains in effect. A bulk assignee
1294 not receiving such assignment, or a bulk buyer, does not assume
1295 and is not liable for the obligations of the developer with
1296 respect to such guarantee, but is responsible for payment of
1297 assessments due on or after acquisition of the units in the same
1298 manner as all other owners of condominium parcels or as
1299 otherwise provided in s. 718.116.

1300 (3) A bulk buyer is liable for the duties and
1301 responsibilities of a ~~the~~ developer under the declaration and
1302 this chapter only to the extent that such ~~provided in this part,~~
1303 ~~together with any other~~ duties or responsibilities are of the
1304 ~~developer~~ expressly assumed in writing by the bulk buyer.

1305 (4) An acquirer of condominium parcels is not a bulk

576-05099-11

2011530c3

1306 assignee or a bulk buyer if the transfer to such acquirer was
1307 made:

1308 (a) Before the effective date of this part;

1309 (b) With the intent to hinder, delay, or defraud any
1310 purchaser, unit owner, or the association;~~7~~ ~~or if the acquirer~~
1311 ~~is~~

1312 (c) By a person who would be considered an insider under s.
1313 726.102(7).

1314 (5) An assignment of developer rights to a bulk assignee
1315 may be made by a the developer, a previous bulk assignee, a
1316 mortgagee or assignee who has acquired title to the units and
1317 received an assignment of rights, or a court acting on behalf of
1318 the developer or the previous bulk assignee if such developer
1319 rights are held by the predecessor in title to the bulk
1320 assignee. At any particular time, there may not be ~~no~~ more than
1321 one bulk assignee within a condominium; however, ~~but~~ there may
1322 be more than one bulk buyer. If more than one acquirer of
1323 condominium parcels in the same condominium receives an
1324 assignment of developer rights in addition to those rights
1325 described in s. 718.703(2) from the same person, the bulk
1326 assignee is the acquirer whose instrument of assignment is
1327 recorded first in the public records of the county in which the
1328 condominium is located, and any subsequent purported bulk
1329 assignee may still qualify as a bulk buyer.

1330 Section 12. Subsections (1) and (3) of section 718.705,
1331 Florida Statutes, are amended to read:

1332 718.705 Board of administration; transfer of control.—

1333 (1) If at the time the bulk assignee acquires title to the
1334 units and receives an assignment of developer rights, the

576-05099-11

2011530c3

1335 developer has not relinquished control of the board of
1336 administration, for purposes of determining the timing for
1337 transfer of control of the board of administration of the
1338 association ~~to unit owners other than the developer under s.~~
1339 ~~718.301(1)(a) and (b), if a bulk assignee is entitled to elect a~~
1340 ~~majority of the members of the board,~~ a condominium parcel
1341 acquired by the bulk assignee is not deemed to be conveyed to a
1342 purchaser, or owned by an owner other than the developer, until
1343 the condominium parcel is conveyed to an owner who is not a bulk
1344 assignee.

1345 (3) If a bulk assignee relinquishes control of the board of
1346 administration as set forth in s. 718.301, the bulk assignee
1347 must deliver all of those items required by s. 718.301(4).
1348 However, the bulk assignee is not required to deliver items and
1349 documents not in the possession of the bulk assignee if some
1350 items were or should have been in existence before the bulk
1351 assignee's acquisition of the units ~~during the period during~~
1352 ~~which the bulk assignee was entitled to elect at least a~~
1353 ~~majority of the members of the board of administration.~~ In
1354 conjunction with the acquisition of units ~~condominium parcels,~~ a
1355 bulk assignee shall undertake a good faith effort to obtain the
1356 documents and materials that must be provided to the association
1357 pursuant to s. 718.301(4). If the bulk assignee is not able to
1358 obtain ~~all of~~ such documents and materials, the bulk assignee
1359 must certify in writing to the association the names or
1360 descriptions of the documents and materials that were not
1361 obtainable by the bulk assignee. Delivery of the certificate
1362 relieves the bulk assignee of responsibility for delivering the
1363 documents and materials referenced in the certificate as

576-05099-11

2011530c3

1364 otherwise required under ss. 718.112 and 718.301 and this part.
1365 The responsibility of the bulk assignee for the audit required
1366 by s. 718.301(4) commences as of the date on which the bulk
1367 assignee elected or appointed a majority of the members of the
1368 board of administration.

1369 Section 13. Section 718.706, Florida Statutes, is amended
1370 to read:

1371 718.706 Specific provisions pertaining to offering of units
1372 by a bulk assignee or bulk buyer.—

1373 (1) Before offering more than seven ~~any~~ units in a single
1374 condominium for sale or for lease for a term exceeding 5 years,
1375 a bulk assignee or a bulk buyer must file the following
1376 documents with the division and provide such documents to a
1377 prospective purchaser or tenant:

1378 (a) An updated prospectus or offering circular, or a
1379 supplement to the prospectus or offering circular, filed by the
1380 original developer prepared in accordance with s. 718.504, which
1381 must include the form of contract for sale and for lease in
1382 compliance with s. 718.503(2);

1383 (b) An updated Frequently Asked Questions and Answers
1384 sheet;

1385 (c) The executed escrow agreement if required under s.
1386 718.202; and

1387 (d) The financial information required by s. 718.111(13).
1388 However, if a financial information report did ~~does~~ not exist
1389 ~~for the fiscal year~~ before the acquisition of title by the bulk
1390 assignee or bulk buyer, and if ~~or~~ accounting records that ~~cannot~~
1391 ~~be obtained in good faith by the bulk assignee or the bulk buyer~~
1392 ~~which would~~ permit preparation of the required financial

576-05099-11

2011530c3

1393 information report for that period cannot be obtained despite
1394 good faith efforts by the bulk assignee or the bulk buyer, the
1395 bulk assignee or bulk buyer is excused from the requirement of
1396 this paragraph. However, the bulk assignee or bulk buyer must
1397 include in the purchase contract the following statement in
1398 conspicuous type:

1399
1400 ALL OR A PORTION OF THE FINANCIAL INFORMATION REPORT
1401 REQUIRED UNDER S. 718.111(13) FOR THE TIME PERIOD
1402 BEFORE THE SELLER'S ACQUISITION OF THE UNIT
1403 ~~IMMEDIATELY PRECEDING FISCAL YEAR OF THE ASSOCIATION~~
1404 IS NOT AVAILABLE OR CANNOT BE OBTAINED DESPITE THE
1405 GOOD FAITH EFFORTS OF ~~CREATED BY THE SELLER DUE TO THE~~
1406 ~~INSUFFICIENT ACCOUNTING RECORDS OF THE ASSOCIATION.~~

1407
1408 (2) Before offering more than seven ~~any~~ units in a single
1409 condominium for sale or for lease for a term exceeding 5 years,
1410 a bulk assignee or a bulk buyer must file with the division and
1411 provide to a prospective purchaser or tenant under a lease for a
1412 term exceeding 5 years a disclosure statement that includes, but
1413 is not limited to:

1414 (a) A description of any ~~rights~~ of the developer rights
1415 that developer which have been assigned to the bulk assignee or
1416 bulk buyer;

1417 (b) The following statement in conspicuous type:

1418
1419 THE SELLER IS NOT OBLIGATED FOR ANY WARRANTIES OF THE
1420 DEVELOPER UNDER S. 718.203(1) OR S. 718.618, AS
1421 APPLICABLE, EXCEPT FOR DESIGN, CONSTRUCTION,

576-05099-11

2011530c3

1422 DEVELOPMENT, OR REPAIR WORK PERFORMED BY OR ON BEHALF
1423 OF THE SELLER; and

1424

1425 (c) If the condominium is a conversion subject to part VI,
1426 the following statement in conspicuous type:

1427

1428 THE SELLER HAS NO OBLIGATION TO FUND CONVERTER
1429 RESERVES OR TO PROVIDE CONVERTER WARRANTIES UNDER S.
1430 718.618 ON ANY PORTION OF THE CONDOMINIUM PROPERTY
1431 EXCEPT AS ~~MAY BE~~ EXPRESSLY REQUIRED OF THE SELLER IN
1432 THE CONTRACT FOR PURCHASE AND SALE EXECUTED BY THE
1433 SELLER AND THE PREVIOUS DEVELOPER AND PERTAINING TO
1434 ANY DESIGN, CONSTRUCTION, DEVELOPMENT, OR REPAIR WORK
1435 PERFORMED BY OR ON BEHALF OF THE SELLER.

1436

1437 (3) A bulk assignee, while ~~it is~~ in control of the board of
1438 administration of the association, may not authorize, on behalf
1439 of the association:

1440 (a) The waiver of reserves or the reduction of funding of
1441 the reserves pursuant to s. 718.112(2)(f)2., unless approved by
1442 a majority of the voting interests not controlled by the
1443 developer, bulk assignee, and bulk buyer; or

1444 (b) The use of reserve expenditures for other purposes
1445 pursuant to s. 718.112(2)(f)3., unless approved by a majority of
1446 the voting interests not controlled by the developer, bulk
1447 assignee, and bulk buyer.

1448 (4) A bulk assignee or a bulk buyer must comply with ~~all~~
1449 ~~the requirements of~~ s. 718.302 regarding any contracts entered
1450 into by the association during the period the bulk assignee or

576-05099-11

2011530c3

1451 bulk buyer maintains control of the board of administration.
1452 Unit owners shall be provided ~~afforded~~ all of the rights and the
1453 protections contained in s. 718.302 regarding agreements entered
1454 into by the association which are under the control of ~~before~~
1455 ~~unit owners other than the developer, bulk assignee, or bulk~~
1456 ~~buyer elected a majority of the board of administration.~~

1457 (5) Notwithstanding any other provision of this part, a
1458 bulk assignee or a bulk buyer is not required to comply with the
1459 filing or disclosure requirements of subsections (1) and (2) if
1460 all of the units owned by the bulk assignee or bulk buyer are
1461 offered and conveyed to a single purchaser in a single
1462 transaction. ~~A bulk buyer must comply with the requirements~~
1463 ~~contained in the declaration regarding any transfer of a unit,~~
1464 ~~including sales, leases, and subleases. A bulk buyer is not~~
1465 ~~entitled to any exemptions afforded a developer or successor~~
1466 ~~developer under this chapter regarding the transfer of a unit,~~
1467 ~~including sales, leases, or subleases.~~

1468 Section 14. Section 718.707, Florida Statutes, is amended
1469 to read:

1470 718.707 Time limitation for classification as bulk assignee
1471 or bulk buyer.—A person acquiring condominium parcels may not be
1472 classified as a bulk assignee or bulk buyer unless the
1473 condominium parcels were acquired on or after July 1, 2010, but
1474 before July 1, 2012. The date of such acquisition shall be
1475 determined by the date of recording ~~of~~ a deed or other
1476 instrument of conveyance for such parcels in the public records
1477 of the county in which the condominium is located, or by the
1478 date of issuing ~~issuance of~~ a certificate of title in a
1479 foreclosure proceeding with respect to such condominium parcels.

576-05099-11

2011530c3

1480 Section 15. Subsections (4) and (10) of section 719.108,
1481 Florida Statutes, are amended to read:

1482 719.108 Rents and assessments; liability; lien and
1483 priority; interest; collection; cooperative ownership.—

1484 (4) The association has a lien on each cooperative parcel
1485 for any unpaid rents and assessments, plus interest, ~~any~~
1486 ~~authorized administrative late fees, and any reasonable costs~~
1487 ~~for collection services for which the association has contracted~~
1488 against the unit owner of the cooperative parcel. If authorized
1489 by the cooperative documents, the lien also secures reasonable
1490 attorney's fees incurred by the association incident to the
1491 collection of the rents and assessments or enforcement of such
1492 lien. The lien is effective from and after recording a claim of
1493 lien in the public records in the county in which the
1494 cooperative parcel is located which states the description of
1495 the cooperative parcel, the name of the unit owner, the amount
1496 due, and the due dates. The lien expires if a claim of lien is
1497 not filed within 1 year after the date the assessment was due,
1498 and the lien does not continue for longer than 1 year after the
1499 claim of lien has been recorded unless, within that time, an
1500 action to enforce the lien is commenced. Except as otherwise
1501 provided in this chapter, a lien may not be filed by the
1502 association against a cooperative parcel until 30 days after the
1503 date on which a notice of intent to file a lien has been
1504 delivered to the owner.

1505 (a) The notice must be sent to the unit owner at the
1506 address of the unit by first-class United States mail and:

1507 1. If the most recent address of the unit owner on the
1508 records of the association is the address of the unit, the

576-05099-11

2011530c3

1509 notice must be sent by registered or certified mail, return
1510 receipt requested, to the unit owner at the address of the unit.

1511 2. If the most recent address of the unit owner on the
1512 records of the association is in the United States, but is not
1513 the address of the unit, the notice must be sent by registered
1514 or certified mail, return receipt requested, to the unit owner
1515 at his or her most recent address.

1516 3. If the most recent address of the unit owner on the
1517 records of the association is not in the United States, the
1518 notice must be sent by first-class United States mail to the
1519 unit owner at his or her most recent address.

1520 (b) A notice that is sent pursuant to this subsection is
1521 deemed delivered upon mailing.

1522 (10) If the unit is occupied by a tenant and the unit owner
1523 is delinquent in paying any monetary obligation due to the
1524 association, the association may make a written demand that the
1525 tenant pay rent to the association ~~the future monetary~~
1526 ~~obligations related to the cooperative share to the association~~
1527 and continue to the tenant must make such payments until all
1528 monetary obligations of the unit owner related to the unit have
1529 been paid in full to the association ~~payment. The demand is~~
1530 ~~continuing in nature, and upon demand,~~ The tenant must pay the
1531 rent ~~the monetary obligations~~ to the association until the
1532 association releases the tenant or the tenant discontinues
1533 tenancy in the unit. The association must mail written notice to
1534 the unit owner of the association's demand that the tenant make
1535 payments to the association. The association shall, upon
1536 request, provide the tenant with written receipts for payments
1537 made. A tenant who acts in good faith in response to a written

576-05099-11

2011530c3

1538 demand from an association is immune from any claim by ~~from~~ the
1539 unit owner.

1540 (a) If the tenant paid ~~prepaid~~ rent to the unit owner for a
1541 given rental period before receiving the demand from the
1542 association and provides written evidence of prepaying ~~paying~~
1543 the rent to the association within 14 days after receiving the
1544 demand, the tenant shall receive credit for the prepaid rent for
1545 the applicable period but ~~and~~ must make any subsequent rental
1546 payments to the association to be credited against the monetary
1547 obligations of the unit owner ~~to the association~~.

1548 (b) The tenant is not liable for increases in the amount of
1549 the regular monetary obligations due unless the tenant was
1550 notified in writing of the increase at least 10 days before the
1551 date on which the rent is due. The liability of the tenant may
1552 not exceed the amount due from the tenant to the tenant's
1553 landlord. The tenant's landlord shall provide the tenant a
1554 credit against rents due to the unit owner in the amount of
1555 moneys paid to the association ~~under this section~~.

1556 (c) The association may issue notices under s. 83.56 and
1557 may sue for eviction under ss. 83.59-83.625 as if the
1558 association were a landlord under part II of chapter 83 if the
1559 tenant fails to pay a required payment. However, the association
1560 is not otherwise considered a landlord under chapter 83 and
1561 specifically has no obligations ~~duties~~ under s. 83.51.

1562 (d) The tenant does not, by virtue of payment of monetary
1563 obligations, have any of the rights of a unit owner to vote in
1564 any election or to examine the books and records of the
1565 association.

1566 (e) A court may supersede the effect of this subsection by

576-05099-11

2011530c3

1567 appointing a receiver.

1568 Section 16. Subsection (3) of section 719.303, Florida
1569 Statutes, is amended, and subsections (4), (5), and (6) are
1570 added to that section, to read:

1571 719.303 Obligations of owners.—

1572 (3) ~~If the cooperative documents so provide,~~ The
1573 association may levy reasonable fines ~~against a unit owner~~ for
1574 failure of the unit owner or the unit's occupant, his or her
1575 licensee, or invitee ~~or the unit's occupant~~ to comply with any
1576 provision of the cooperative documents or reasonable rules of
1577 the association. A fine may not ~~No fine shall~~ become a lien
1578 against a unit. ~~No fine shall exceed \$100 per violation.~~
1579 ~~However,~~ A fine may be levied on the basis of each day of a
1580 continuing violation, with a single notice and opportunity for
1581 hearing. However, the fine may not exceed \$100 per violation, or
1582 \$1,000 provided that no such fine shall in the aggregate ~~exceed~~
1583 ~~\$1,000.~~

1584 (a) An association may suspend, for a reasonable period of
1585 time, the right of a unit owner, or a unit owner's tenant,
1586 guest, or invitee, to use the common elements, common
1587 facilities, or any other association property for failure to
1588 comply with any provision of the cooperative documents or
1589 reasonable rules of the association.

1590 (b) A ~~No~~ fine or suspension may not be imposed levied
1591 except after giving reasonable notice and opportunity for a
1592 hearing to the unit owner and, if applicable, the unit's ~~his or~~
1593 ~~her~~ licensee or invitee. The hearing must ~~shall~~ be held before a
1594 committee of other unit owners. If the committee does not agree
1595 with the fine or suspension, it may ~~shall~~ not be imposed levied.

576-05099-11

2011530c3

1596 ~~This subsection does not apply to unoccupied units.~~

1597 (4) If a unit owner is more than 90 days delinquent in
1598 paying a monetary obligation due to the association, the
1599 association may suspend the right of the unit owner or the
1600 unit's occupant, licensee, or invitee to use common elements,
1601 common facilities, or any other association property until the
1602 monetary obligation is paid in full. This subsection does not
1603 apply to limited common elements intended to be used only by
1604 that unit, common elements needed to access the unit, utility
1605 services provided to the unit, parking spaces, or elevators. The
1606 notice and hearing requirements under subsection (3) do not
1607 apply to suspensions imposed under this subsection.

1608 (5) An association may suspend the voting rights of a unit
1609 or member due to nonpayment of any monetary obligation due to
1610 the association which is more than 90 days delinquent. A voting
1611 interest or consent right allocated to a unit or member which
1612 has been suspended by the association may not be counted towards
1613 the total number of voting interests for any purpose, including,
1614 but not limited to, the number of voting interests necessary to
1615 constitute a quorum, conduct an election, or approve an action
1616 under this chapter or pursuant to the declaration, articles of
1617 incorporation, or bylaws. The suspension ends upon full payment
1618 of all obligations currently due or overdue the association. The
1619 notice and hearing requirements under subsection (3) do not
1620 apply to a suspension imposed under this subsection.

1621 (6) All suspensions imposed pursuant to subsection (4) or
1622 subsection (5) must be approved at a properly noticed board
1623 meeting. Upon approval, the association must notify the unit
1624 owner and, if applicable, the unit's occupant, licensee, or

576-05099-11

2011530c3

1625 invitee by mail or hand delivery.

1626 Section 17. Subsection (4) of section 720.301, Florida
1627 Statutes, is amended to read:

1628 720.301 Definitions.—As used in this chapter, the term:

1629 (4) "Declaration of covenants," or "declaration," means a
1630 recorded written instrument or instruments in the nature of
1631 covenants running with the land which subject ~~subjects~~ the land
1632 comprising the community to the jurisdiction and control of an
1633 association or associations in which the owners of the parcels,
1634 or their association representatives, must be members.

1635 Section 18. Paragraph (c) of subsection (5) of section
1636 720.303, Florida Statutes, is amended to read:

1637 720.303 Association powers and duties; meetings of board;
1638 official records; budgets; financial reporting; association
1639 funds; recalls.—

1640 (5) INSPECTION AND COPYING OF RECORDS.—The official records
1641 shall be maintained within the state and must be open to
1642 inspection and available for photocopying by members or their
1643 authorized agents at reasonable times and places within 10
1644 business days after receipt of a written request for access.
1645 This subsection may be complied with by having a copy of the
1646 official records available for inspection or copying in the
1647 community. If the association has a photocopy machine available
1648 where the records are maintained, it must provide parcel owners
1649 with copies on request during the inspection if the entire
1650 request is limited to no more than 25 pages.

1651 (c) The association may adopt reasonable written rules
1652 governing the frequency, time, location, notice, records to be
1653 inspected, and manner of inspections, but may not require a

576-05099-11

2011530c3

1654 parcel owner to demonstrate any proper purpose for the
1655 inspection, state any reason for the inspection, or limit a
1656 parcel owner's right to inspect records to less than one 8-hour
1657 business day per month. The association may impose fees to cover
1658 the costs of providing copies of the official records,
1659 including, without limitation, the costs of copying. The
1660 association may charge up to 50 cents per page for copies made
1661 on the association's photocopier. If the association does not
1662 have a photocopy machine available where the records are kept,
1663 or if the records requested to be copied exceed 25 pages in
1664 length, the association may have copies made by an outside
1665 vendor or association management company personnel and may
1666 charge the actual cost of copying, including any reasonable
1667 costs involving personnel fees and charges at an hourly rate for
1668 vendor or employee time to cover administrative costs to the
1669 vendor or association. The association shall maintain an
1670 adequate number of copies of the recorded governing documents,
1671 to ensure their availability to members and prospective members.
1672 Notwithstanding this paragraph, the following records are not
1673 accessible to members or parcel owners:

1674 1. Any record protected by the lawyer-client privilege as
1675 described in s. 90.502 and any record protected by the work-
1676 product privilege, including, but not limited to, a ~~any~~ record
1677 prepared by an association attorney or prepared at the
1678 attorney's express direction which reflects a mental impression,
1679 conclusion, litigation strategy, or legal theory of the attorney
1680 or the association and which was prepared exclusively for civil
1681 or criminal litigation or for adversarial administrative
1682 proceedings or which was prepared in anticipation of such

576-05099-11

2011530c3

1683 ~~imminent civil or criminal~~ litigation or ~~imminent adversarial~~
1684 ~~administrative~~ proceedings until the conclusion of the
1685 litigation or ~~administrative~~ proceedings.

1686 2. Information obtained by an association in connection
1687 with the approval of the lease, sale, or other transfer of a
1688 parcel.

1689 3. Personnel records of the association's employees,
1690 including, but not limited to, disciplinary, payroll, health,
1691 and insurance records. For purposes of this paragraph, the term
1692 "personnel records" does not include written employment
1693 agreements with an association employee or budgetary or
1694 financial records that indicate the compensation paid to an
1695 association employee.

1696 4. Medical records of parcel owners or community residents.

1697 5. Social security numbers, driver's license numbers,
1698 credit card numbers, electronic mailing addresses, telephone
1699 numbers, facsimile numbers, emergency contact information, any
1700 addresses for a parcel owner other than as provided for
1701 association notice requirements, and other personal identifying
1702 information of any person, excluding the person's name, parcel
1703 designation, mailing address, and property address. However, an
1704 owner may consent in writing to the disclosure of protected
1705 information described in this subparagraph. The association is
1706 not liable for the disclosure of information that is protected
1707 under this subparagraph if the information is included in an
1708 official record of the association and is voluntarily provided
1709 by an owner and not requested by the association.

1710 6. Any electronic security measure that is used by the
1711 association to safeguard data, including passwords.

576-05099-11

2011530c3

1712 7. The software and operating system used by the
1713 association which allows the manipulation of data, even if the
1714 owner owns a copy of the same software used by the association.
1715 The data is part of the official records of the association.

1716 Section 19. Subsection (2) of section 720.305, Florida
1717 Statutes, is amended, present subsection (3) of that section is
1718 amended and renumbered as subsection (4), and a new subsection
1719 (3) and subsection (5) are added to that section, to read:

1720 720.305 Obligations of members; remedies at law or in
1721 equity; levy of fines and suspension of use rights.—

1722 (2) The association ~~If a member is delinquent for more than~~
1723 ~~90 days in paying a monetary obligation due the association, an~~
1724 ~~association may suspend, until such monetary obligation is paid,~~
1725 ~~the rights of a member or a member's tenants, guests, or~~
1726 ~~invitees, or both, to use common areas and facilities and may~~
1727 ~~levy reasonable fines of up to \$100 per violation, against any~~
1728 ~~member or any member's tenant, guest, or invitee for the failure~~
1729 ~~of the owner of the parcel, or its occupant, licensee, or~~
1730 ~~invitee, to comply with any provision of the declaration, the~~
1731 ~~association bylaws, or reasonable rules of the association. A~~
1732 ~~fine may be levied for each day of a continuing violation, with~~
1733 ~~a single notice and opportunity for hearing, except that the a~~
1734 ~~fine may not exceed \$1,000 in the aggregate unless otherwise~~
1735 ~~provided in the governing documents. A fine of less than \$1,000~~
1736 ~~may not become a lien against a parcel. In any action to recover~~
1737 ~~a fine, the prevailing party is entitled to collect its~~
1738 ~~reasonable attorney's fees and costs from the nonprevailing~~
1739 ~~party as determined by the court.~~

1740 (a) An association may suspend, for a reasonable period of

576-05099-11

2011530c3

1741 time, the right of a member, or a member's tenant, guest, or
1742 invitee, to use common areas and facilities for the failure of
1743 the owner of the parcel, or its occupant, licensee, or invitee,
1744 to comply with any provision of the declaration, the association
1745 bylaws, or reasonable rules of the association. The provisions
1746 regarding the suspension of use rights do not apply to the
1747 portion of common areas that must be used to provide access to
1748 the parcel or utility services provided to the parcel.

1749 (b) (a) A fine or suspension may not be imposed without at
1750 least 14 days' notice to the person sought to be fined or
1751 suspended and an opportunity for a hearing before a committee of
1752 at least three members appointed by the board who are not
1753 officers, directors, or employees of the association, or the
1754 spouse, parent, child, brother, or sister of an officer,
1755 director, or employee. If the committee, by majority vote, does
1756 not approve a proposed fine or suspension, it may not be
1757 imposed. If the association imposes a fine or suspension, the
1758 association must provide written notice of such fine or
1759 suspension by mail or hand delivery to the parcel owner and, if
1760 applicable, to any tenant, licensee, or invitee of the parcel
1761 owner.

1762 (3) If a member is more than 90 days delinquent in paying a
1763 monetary obligation due to the association, the association may
1764 suspend the right of the member, or the member's tenant, guest,
1765 or invitee, to use common areas and facilities until the
1766 monetary obligation is paid in full. The subsection does not
1767 apply to that portion of common areas used to provide access to
1768 the parcel or to utility services provided to the parcel.

1769 ~~(b)~~ Suspension does ~~of common area use rights do~~ not impair

576-05099-11

2011530c3

1770 the right of an owner or tenant of a parcel to have vehicular
1771 and pedestrian ingress to and egress from the parcel, including,
1772 but not limited to, the right to park. The notice and hearing
1773 requirements under subsection (2) do not apply to a suspension
1774 imposed under this subsection.

1775 ~~(4)(3) If the governing documents so provide,~~ An
1776 association may suspend the voting rights of a parcel or member
1777 for the nonpayment of any monetary obligation that is more than
1778 ~~regular annual assessments that are delinquent in excess of 90~~
1779 days delinquent. A voting interest or consent right allocated to
1780 a parcel or member which has been suspended by the association
1781 may not be counted towards the total number of voting interests
1782 for any purpose, including, but not limited to, the number of
1783 voting interests necessary to constitute a quorum, conduct an
1784 election, or approve an action under this chapter or pursuant to
1785 the governing documents. The suspension ends upon full payment
1786 of all obligations currently due or overdue to the association.
1787 The notice and hearing requirements under subsection (2) do not
1788 apply to a suspension imposed under this subsection.

1789 (5) All suspensions imposed pursuant to subsection (3) or
1790 subsection (4) must be approved at a properly noticed board
1791 meeting. Upon approval, the association must notify the parcel
1792 owner and, if applicable, the parcel's occupant, licensee, or
1793 invitee by mail or hand delivery.

1794 Section 20. Subsection (9) of section 720.306, Florida
1795 Statutes, is amended to read:

1796 720.306 Meetings of members; voting and election
1797 procedures; amendments.—

1798 (9) ELECTIONS AND BOARD VACANCIES.—Elections of directors

576-05099-11

2011530c3

1799 must be conducted in accordance with the procedures set forth in
1800 the governing documents of the association.

1801 (a) All members of the association are eligible to serve on
1802 the board of directors, and a member may nominate himself or
1803 herself as a candidate for the board at a meeting where the
1804 election is to be held or, if the election process allows voting
1805 by absentee ballot, in advance of the balloting. However:

1806 1. A person who is delinquent in the payment of any fee,
1807 fine, or other monetary obligation to the association for more
1808 than 90 days is not eligible for board membership.

1809 2. A person who has been convicted of any felony in this
1810 state or in a United States District or Territorial Court, or
1811 has been convicted of any offense in another jurisdiction which
1812 would be considered a felony if committed in this state, is not
1813 eligible for board membership unless such felon's civil rights
1814 have been restored for at least 5 years as of the date on which
1815 such person seeks election to the board. The validity of any
1816 action by the board is not affected if it is later determined
1817 that a member of the board is ineligible for board membership
1818 due to having been convicted of a felony.

1819 (b) Except as otherwise provided in the governing
1820 documents, boards of directors must be elected by a plurality of
1821 the votes cast by eligible voters.

1822 (c) Any election dispute between a member and an
1823 association must be submitted to mandatory binding arbitration
1824 with the division. Such proceedings must be conducted in the
1825 manner provided by s. 718.1255 and the procedural rules adopted
1826 by the division.

1827 (d) Unless otherwise provided in the bylaws, any vacancy

576-05099-11

2011530c3

1828 occurring on the board before the expiration of a term may be
1829 filled by an affirmative vote of the majority of the remaining
1830 directors, even if the remaining directors constitute less than
1831 a quorum, or by the sole remaining director. In the alternative,
1832 a board may hold an election to fill the vacancy, in which case
1833 the election procedures must conform to the requirements of the
1834 governing documents.

1835 (e) Unless otherwise provided in the bylaws, a board member
1836 appointed or elected under this section is appointed for the
1837 unexpired term of the seat being filled.

1838 (f) Filling vacancies created by recall is governed by s.
1839 720.303(10) and rules adopted by the division.

1840 Section 21. Subsections (2) and (8) of section 720.3085,
1841 Florida Statutes, are amended to read:

1842 720.3085 Payment for assessments; lien claims.—

1843 (2) ~~(a)~~ A parcel owner, regardless of how his or her title
1844 to property has been acquired, including by purchase at a
1845 foreclosure sale or by deed in lieu of foreclosure, is liable
1846 for all assessments that come due while he or she is the parcel
1847 owner. The parcel owner's liability for assessments may not be
1848 avoided by waiver or suspension of the use or enjoyment of any
1849 common area or by abandonment of the parcel upon which the
1850 assessments are made.

1851 (a) ~~(b)~~ A parcel owner is jointly and severally liable with
1852 the previous parcel owner for all unpaid assessments that came
1853 due up to the time of transfer of title. This liability is
1854 without prejudice to any right the present parcel owner may have
1855 to recover any amounts paid by the present owner from the
1856 previous owner.

576-05099-11

2011530c3

1857 (b) ~~(e)~~ Notwithstanding any other provision of anything to
1858 ~~the contrary contained in~~ this section, the liability of a first
1859 mortgagee, or its successor or assignee as a subsequent holder
1860 of the first mortgage who acquires title to a parcel by
1861 foreclosure or by deed in lieu of foreclosure for the unpaid
1862 assessments that became due before the mortgagee's acquisition
1863 of title is limited to, ~~shall be~~ the lesser of:

1864 1. The parcel's unpaid common expenses and regular periodic
1865 or special assessments that accrued or came due during the 12
1866 months immediately preceding the acquisition of title and for
1867 which payment in full has not been received by the association;
1868 or

1869 2. One percent of the original mortgage debt.

1870
1871 The limitations on first mortgagee liability provided by this
1872 paragraph apply only if the first mortgagee filed suit against
1873 the parcel owner and initially joined the association as a
1874 defendant in the mortgagee foreclosure action. Joinder of the
1875 association is not required if, on the date the complaint is
1876 filed, the association was dissolved or did not maintain an
1877 office or agent for service of process at a location that was
1878 known to or reasonably discoverable by the mortgagee.

1879 (c) An association, or its successor or assignee, which
1880 acquires title to a parcel through the foreclosure of its lien
1881 for assessments is not liable for any unpaid assessments, late
1882 fees, interest, or reasonable attorney's fees and costs that
1883 came due before the association's acquisition of title in favor
1884 of any other association, as defined in s. 718.103(2) or s.
1885 720.301(9), which hold a superior lien interest on the parcel.

576-05099-11

2011530c3

1886 This paragraph is intended to clarify existing law.

1887 (8) If the parcel is occupied by a tenant and the parcel
1888 owner is delinquent in paying any monetary obligation due to the
1889 association, the association may demand that the tenant pay rent
1890 to the association and continue to make such payments until all
1891 the monetary obligations of the parcel owner related to the
1892 parcel have been paid in full and ~~the future monetary~~
1893 ~~obligations related to the parcel. The demand is continuing in~~
1894 ~~nature, and upon demand, the tenant must continue to pay the~~
1895 ~~monetary obligations until~~ the association releases the tenant
1896 or until the tenant discontinues tenancy in the parcel. A tenant
1897 who acts in good faith in response to a written demand from an
1898 association is immune from any claim by ~~from~~ the parcel owner.

1899 (a) If the tenant paid ~~prepaid~~ rent to the parcel owner for
1900 a given rental period before receiving the demand from the
1901 association and provides written evidence of prepaying ~~paying~~
1902 the rent to the association within 14 days after receiving the
1903 demand, the tenant shall receive credit for the prepaid rent for
1904 the applicable period but ~~and~~ must make any subsequent rental
1905 payments to the association to be credited against the monetary
1906 obligations of the parcel owner to the association. The
1907 association shall, upon request, provide the tenant with written
1908 receipts for payments made. The association shall mail written
1909 notice to the parcel owner of the association's demand that the
1910 tenant pay monetary obligations to the association.

1911 (b) The tenant is not liable for increases in the amount of
1912 the monetary obligations due unless the tenant was notified in
1913 writing of the increase at least 10 days before the date on
1914 which the rent is due. The liability of the tenant may not

576-05099-11

2011530c3

1915 exceed the amount due from the tenant to the tenant's landlord.

1916 The tenant shall be given a credit against rents due to the
1917 parcel owner in the amount of assessments paid to the
1918 association.

1919 (c) The association may issue notices under s. 83.56 and
1920 may sue for eviction under ss. 83.59-83.625 as if the
1921 association were a landlord under part II of chapter 83 if the
1922 tenant fails to pay a monetary obligation. However, the
1923 association is not otherwise considered a landlord under chapter
1924 83 and specifically has no obligations ~~duties~~ under s. 83.51.

1925 (d) The tenant does not, by virtue of payment of monetary
1926 obligations, have any of the rights of a parcel owner to vote in
1927 any election or to examine the books and records of the
1928 association.

1929 (e) A court may supersede the effect of this subsection by
1930 appointing a receiver.

1931 Section 22. Section 720.309, Florida Statutes, is amended
1932 to read:

1933 720.309 Agreements entered into by the association.—

1934 (1) Any grant or reservation made by any document, and any
1935 contract that has ~~with~~ a term greater than ~~in excess of~~ 10
1936 years, that is made by an association before control of the
1937 association is turned over to the members other than the
1938 developer, and that provides ~~which provide~~ for the operation,
1939 maintenance, or management of the association or common areas,
1940 must be fair and reasonable.

1941 (2) If the governing documents provide for the cost of
1942 communication services as defined in s. 202.11, information
1943 services or Internet services obtained pursuant to a bulk

576-05099-11

2011530c3

1944 contract shall be deemed an operating expense of the
1945 association. If the governing documents do not provide for such
1946 services, the board may contract for the services, and the cost
1947 shall be deemed an operating expense of the association but must
1948 be allocated on a per-parcel basis rather than a percentage
1949 basis, notwithstanding that the governing documents provide for
1950 other than an equal sharing of operating expenses. Any contract
1951 entered into before July 1, 2011, in which the cost of the
1952 service is not equally divided among all parcel owners may be
1953 changed by a majority of the voting interests present at a
1954 regular or special meeting of the association in order to
1955 allocate the cost equally among all parcels.

1956 (a) Any contract entered into may be canceled by a majority
1957 of the voting interests present at the next regular or special
1958 meeting of the association, whichever occurs first. Any member
1959 may make a motion to cancel such contract, but if no motion is
1960 made or if such motion fails to obtain the required vote, the
1961 contract shall be deemed ratified for the term expressed
1962 therein.

1963 (b) Any contract entered into must provide, and shall be
1964 deemed to provide if not expressly set forth therein, that a
1965 hearing-impaired or legally blind parcel owner who does not
1966 occupy the parcel along with a nonhearing-impaired or sighted
1967 person, or a parcel owner who receives supplemental security
1968 income under Title XVI of the Social Security Act or food stamps
1969 as administered by the Department of Children and Family
1970 Services pursuant to s. 414.31, may discontinue the service
1971 without incurring disconnect fees, penalties, or subsequent
1972 service charges, and may not be required to pay any operating

576-05099-11

2011530c3

1973 expenses charge related to such service for those parcels. If
1974 fewer than all parcel owners share the expenses of the
1975 communication services, information services, or Internet
1976 services, the expense must be shared by all participating parcel
1977 owners. The association may use the provisions of s. 720.3085 to
1978 enforce payment by the parcel owners receiving such services.

1979 (c) A resident of any parcel, whether a tenant or parcel
1980 owner, may not be denied access to available franchised,
1981 licensed, or certificated cable or video service providers if
1982 the resident pays the provider directly for services. A resident
1983 or a cable or video service provider may not be required to pay
1984 anything of value in order to obtain or provide such service
1985 except for the charges normally paid for like services by
1986 residents of single-family homes located outside the community
1987 but within the same franchised, licensed, or certificated area,
1988 and except for installation charges agreed to between the
1989 resident and the service provider.

1990 Section 23. This act shall take effect July 1, 2011.