

1 A bill to be entitled
2 An act relating to residential properties; amending s.
3 399.02, F.S.; exempting certain elevators from
4 specific code update requirements; amending s.
5 468.433, F.S.; prohibiting the Department of Business
6 and Professional Regulation from publishing a
7 community association manager's personal home address
8 unless it is for the purpose of satisfying a public
9 records request; amending s. 718.112, F.S.; revising
10 provisions relating to the terms of condominium board
11 of administration members; revising condominium unit
12 owner meeting notice requirements; providing
13 application of certain provisions relating to
14 elections; revising recordkeeping requirements of a
15 condominium association board; requiring challenges to
16 an election to commence within a certain time period;
17 providing requirements for challenging the failure of
18 a board to duly notice and hold the required board
19 meeting or to file the required petition for a recall;
20 providing requirements for recalled board members to
21 challenge the recall; providing duties of the division
22 regarding recall petitions; amending s. 718.113, F.S.;
23 providing requirements for a condominium association
24 board relating to the installation of hurricane
25 shutters, impact glass, code-compliant windows or
26 doors, and other types of code-compliant hurricane
27 protection under certain circumstances; amending s.
28 718.115, F.S.; conforming provisions to changes made

29 | by the act; amending s. 718.116, F.S.; revising
30 | liability of certain condominium unit owners acquiring
31 | title; amending s. 718.303, F.S.; revising provisions
32 | relating to imposing remedies against a noncompliant
33 | or delinquent condominium unit owner or member;
34 | revising voting requirements under certain conditions;
35 | amending s. 718.403, F.S.; providing requirements for
36 | the completion of phase condominiums; creating s.
37 | 718.406, F.S.; providing definitions; providing
38 | requirements for condominiums created within
39 | condominium parcels; providing for the establishment
40 | of primary condominium and secondary condominium
41 | units; providing requirements for association
42 | declarations; authorizing a primary condominium
43 | association to provide insurance and adopt hurricane
44 | shutter or hurricane protection specifications under
45 | certain conditions; providing requirements relating to
46 | assessments; providing for resolution of conflicts
47 | between primary condominium declarations and secondary
48 | condominium declarations; providing requirements
49 | relating to common expenses due the primary
50 | condominium association; amending s. 718.5011, F.S.;
51 | revising the restriction on officers and full-time
52 | employees of the ombudsman from engaging in other
53 | businesses or professions; amending s. 718.707, F.S.;
54 | revising the time limitation for classification as a
55 | bulk assignee or bulk buyer; amending s. 719.104,
56 | F.S.; specifying additional records that are not

57 | accessible to unit owners; amending s. 719.1055, F.S.;
58 | revising provisions relating to the amendment of
59 | cooperative documents; providing legislative findings
60 | and a finding of compelling state interest; providing
61 | criteria for consent or joinder to an amendment;
62 | requiring notice regarding proposed amendments to
63 | mortgagees; providing criteria for notification;
64 | providing for voiding certain amendments; amending s.
65 | 719.106, F.S.; revising applicability of certain board
66 | of administration meeting requirements; requiring
67 | challenges to an election to commence within a certain
68 | time period; providing requirements for challenging
69 | the failure of a board to duly notice and hold the
70 | required board meeting or to file the required
71 | petition for a recall; providing requirements for
72 | recalled board members to challenge the recall;
73 | providing duties of the division regarding recall
74 | petitions; amending s. 719.108, F.S.; revising
75 | language with respect to assessments and liens;
76 | revising liability of unit owners; providing liability
77 | limitations of a first mortgagee or its successor or
78 | assignees who acquire title to a unit by foreclosure;
79 | providing requirements for persons acquiring title;
80 | authorizing the association to record a claim of lien
81 | under certain conditions; amending s. 719.303, F.S.;
82 | revising provisions relating to imposing remedies
83 | against a noncompliant or delinquent cooperative unit
84 | owner or member; revising voting requirements under

85 | certain conditions; amending s. 720.303, F.S.;

86 | revising the types of records that are not accessible

87 | to homeowners' association members and parcel owners;

88 | providing requirements for challenging the failure of

89 | a board to duly notice and hold the required board

90 | meeting or to file the required petition for a recall;

91 | providing requirements for recalled board members to

92 | challenge the recall; providing duties of the division

93 | regarding recall petitions; amending s. 720.305, F.S.;

94 | revising provisions relating to imposing remedies

95 | against a noncompliant or delinquent homeowners'

96 | association member and parcel owner; revising voting

97 | requirements under certain conditions; amending s.

98 | 720.306, F.S.; revising provisions relating to the

99 | amendment of homeowners' association declarations;

100 | providing legislative findings and a finding of

101 | compelling state interest; providing criteria for

102 | consent or joinder to an amendment; requiring notice

103 | to mortgagees regarding proposed amendments; providing

104 | criteria for notification; providing for voiding

105 | certain amendments; revising provisions relating to

106 | right to speak at a homeowners' association meeting;

107 | requiring challenges to an election to commence within

108 | a certain time period; amending s. 720.307, F.S.;

109 | revising when members other than the developer are

110 | entitled to elect at least a majority of the members

111 | of the board of directors of the homeowners'

112 | association; amending s. 720.3085, F.S.; revising

113 liability of certain parcel owners acquiring title;
 114 requiring a person acquiring title to pay certain
 115 amounts due within a certain time period; amending s.
 116 721.16, F.S.; conforming a cross-reference; providing
 117 an effective date.

118

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

120

121 Section 1. Subsection (9) of section 399.02, Florida
 122 Statutes, is amended to read:

123 399.02 General requirements.—

124 (9) Updates to the Safety Code for Existing Elevators and
 125 Escalators, ASME A17.1 and A17.3, which require Phase II
 126 Firefighters' Service on elevators may not be enforced ~~until~~
 127 ~~July 1, 2015, or~~ until the elevator is replaced or requires
 128 major modification, ~~whichever occurs first,~~ on elevators in
 129 condominiums or multifamily residential buildings, including
 130 those that are part of a continuing care facility licensed under
 131 chapter 651, or similar retirement community with apartments,
 132 having a certificate of occupancy by the local building
 133 authority that was issued before July 1, 2008. This exception
 134 does not prevent an elevator owner from requesting a variance
 135 from the applicable codes ~~before or after July 1, 2015.~~ This
 136 subsection does not prohibit the division from granting
 137 variances pursuant to s. 120.542 and subsection (8). The
 138 division shall adopt rules to administer this subsection.

139 Section 2. Subsection (5) is added to section 468.433,
 140 Florida Statutes, to read:

141 468.433 Licensure by examination.—

142 (5) The department may not publish a licensee's personal
 143 home address unless it is for the purpose of satisfying a public
 144 records request.

145 Section 3. Paragraphs (d) and (j) of subsection (2) of
 146 section 718.112, Florida Statutes, are amended to read:

147 718.112 Bylaws.—

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

151 (d) Unit owner meetings.—

152 1. An annual meeting of the unit owners shall be held at
 153 the location provided in the association bylaws and, if the
 154 bylaws are silent as to the location, the meeting shall be held
 155 within 45 miles of the condominium property. However, such
 156 distance requirement does not apply to an association governing
 157 a timeshare condominium.

158 2. Unless the bylaws provide otherwise, a vacancy on the
 159 board caused by the expiration of a director's term shall be
 160 filled by electing a new board member, and the election must be
 161 by secret ballot. An election is not required if the number of
 162 vacancies equals or exceeds the number of candidates. For
 163 purposes of this paragraph, the term "candidate" means an
 164 eligible person who has timely submitted the written notice, as
 165 described in sub-subparagraph 4.a., of his or her intention to
 166 become a candidate. Except in a timeshare condominium, or if the
 167 staggered term of a board member does not expire until a later
 168 annual meeting, or if all members' terms would otherwise expire

169 but there are no candidates, the terms of all board members
170 expire at the annual meeting, and such members may stand for
171 reelection unless prohibited by the bylaws. If the bylaws or
172 articles of incorporation permit ~~staggered~~ terms of no more than
173 2 years and ~~upon approval of a majority of the total voting~~
174 ~~interests~~, the association board members may serve 2-year
175 ~~staggered~~ terms. If the number of board members whose terms
176 expire at the annual meeting equals or exceeds the number of
177 candidates, the candidates become members of the board effective
178 upon the adjournment of the annual meeting. Unless the bylaws
179 provide otherwise, any remaining vacancies shall be filled by
180 the affirmative vote of the majority of the directors making up
181 the newly constituted board even if the directors constitute
182 less than a quorum or there is only one director. In a
183 condominium association of more than 10 units or in a
184 condominium association that does not include timeshare units or
185 timeshare interests, coowners of a unit may not serve as members
186 of the board of directors at the same time unless they own more
187 than one unit or unless there are not enough eligible candidates
188 to fill the vacancies on the board at the time of the vacancy.
189 Any unit owner desiring to be a candidate for board membership
190 must comply with sub-subparagraph 4.a. and must be eligible to
191 serve on the board of directors at the time of the deadline for
192 submitting a notice of intent to run in order to have his or her
193 name listed as a proper candidate on the ballot or to serve on
194 the board. A person who has been suspended or removed by the
195 division under this chapter, or who is delinquent in the payment
196 of any fee, fine, or special or regular assessment as provided

197 in paragraph (n), is not eligible for board membership. A person
198 who has been convicted of any felony in this state or in a
199 United States District or Territorial Court, or who has been
200 convicted of any offense in another jurisdiction which would be
201 considered a felony if committed in this state, is not eligible
202 for board membership unless such felon's civil rights have been
203 restored for at least 5 years as of the date such person seeks
204 election to the board. The validity of an action by the board is
205 not affected if it is later determined that a board member is
206 ineligible for board membership due to having been convicted of
207 a felony.

208 3. The bylaws must provide the method of calling meetings
209 of unit owners, including annual meetings. Written notice must
210 include an agenda, must be mailed, hand delivered, or
211 electronically transmitted to each unit owner at least 14 days
212 before the annual meeting, and must be posted in a conspicuous
213 place on the condominium property at least 14 continuous days
214 before the annual meeting. Upon notice to the unit owners, the
215 board shall, by duly adopted rule, designate a specific location
216 on the condominium property or association property where all
217 notices of unit owner meetings shall be posted. This requirement
218 does not apply if there is no condominium property or
219 association property for posting notices. In lieu of, or in
220 addition to, the physical posting of meeting notices, the
221 association may, by reasonable rule, adopt a procedure for
222 conspicuously posting and repeatedly broadcasting the notice and
223 the agenda on a closed-circuit cable television system serving
224 the condominium association. However, if broadcast notice is

225 | used in lieu of a notice posted physically on the condominium
226 | property, the notice and agenda must be broadcast at least four
227 | times every broadcast hour of each day that a posted notice is
228 | otherwise required under this section. If broadcast notice is
229 | provided, the notice and agenda must be broadcast in a manner
230 | and for a sufficient continuous length of time so as to allow an
231 | average reader to observe the notice and read and comprehend the
232 | entire content of the notice and the agenda. Unless a unit owner
233 | waives in writing the right to receive notice of the annual
234 | meeting, such notice must be hand delivered, mailed, or
235 | electronically transmitted to each unit owner. Notice for
236 | meetings and notice for all other purposes must be mailed to
237 | each unit owner at the address last furnished to the association
238 | by the unit owner, or hand delivered to each unit owner.
239 | However, if a unit is owned by more than one person, the
240 | association must provide notice to the address that the
241 | developer identifies for that purpose and thereafter as one or
242 | more of the owners of the unit advise the association in
243 | writing, or if no address is given or the owners of the unit do
244 | not agree, to the address provided on the deed of record. An
245 | officer of the association, or the manager or other person
246 | providing notice of the association meeting, must provide an
247 | affidavit or United States Postal Service certificate of
248 | mailing, to be included in the official records of the
249 | association affirming that the notice was mailed or hand
250 | delivered in accordance with this provision.

251 | 4. The members of the board shall be elected by written
252 | ballot or voting machine. Proxies may not be used in electing

253 the board in general elections or elections to fill vacancies
254 caused by recall, resignation, or otherwise, unless otherwise
255 provided in this chapter. This subparagraph does not apply to an
256 association governing a timeshare condominium.

257 a. At least 60 days before a scheduled election, the
258 association shall mail, deliver, or electronically transmit, by
259 separate association mailing or included in another association
260 mailing, delivery, or transmission, including regularly
261 published newsletters, to each unit owner entitled to a vote, a
262 first notice of the date of the election. Any unit owner or
263 other eligible person desiring to be a candidate for the board
264 must give written notice of his or her intent to be a candidate
265 to the association at least 40 days before a scheduled election.
266 Together with the written notice and agenda as set forth in
267 subparagraph 3., the association shall mail, deliver, or
268 electronically transmit a second notice of the election to all
269 unit owners entitled to vote, together with a ballot that lists
270 all candidates. Upon request of a candidate, an information
271 sheet, no larger than 8 1/2 inches by 11 inches, which must be
272 furnished by the candidate at least 35 days before the election,
273 must be included with the mailing, delivery, or transmission of
274 the ballot, with the costs of mailing, delivery, or electronic
275 transmission and copying to be borne by the association. The
276 association is not liable for the contents of the information
277 sheets prepared by the candidates. In order to reduce costs, the
278 association may print or duplicate the information sheets on
279 both sides of the paper. The division shall by rule establish
280 voting procedures consistent with this sub-subparagraph,

281 including rules establishing procedures for giving notice by
282 electronic transmission and rules providing for the secrecy of
283 ballots. Elections shall be decided by a plurality of ballots
284 cast. There is no quorum requirement; however, at least 20
285 percent of the eligible voters must cast a ballot in order to
286 have a valid election. A unit owner may not permit any other
287 person to vote his or her ballot, and any ballots improperly
288 cast are invalid. A unit owner who violates this provision may
289 be fined by the association in accordance with s. 718.303. A
290 unit owner who needs assistance in casting the ballot for the
291 reasons stated in s. 101.051 may obtain such assistance. The
292 regular election must occur on the date of the annual meeting.
293 Notwithstanding this sub-subparagraph, an election is not
294 required unless more candidates file notices of intent to run or
295 are nominated than board vacancies exist.

296 b. Within 90 days after being elected or appointed to the
297 board, each newly elected or appointed director shall certify in
298 writing to the secretary of the association that he or she has
299 read the association's declaration of condominium, articles of
300 incorporation, bylaws, and current written policies; that he or
301 she will work to uphold such documents and policies to the best
302 of his or her ability; and that he or she will faithfully
303 discharge his or her fiduciary responsibility to the
304 association's members. In lieu of this written certification,
305 within 90 days after being elected or appointed to the board,
306 the newly elected or appointed director may submit a certificate
307 of having satisfactorily completed the educational curriculum
308 administered by a division-approved condominium education

309 provider within 1 year before or 90 days after the date of
310 election or appointment. The written certification or
311 educational certificate is valid and does not have to be
312 resubmitted as long as the director serves on the board without
313 interruption. A director who fails to timely file the written
314 certification or educational certificate is suspended from
315 service on the board until he or she complies with this sub-
316 subparagraph. The board may temporarily fill the vacancy during
317 the period of suspension. The secretary shall cause the
318 association to retain a director's written certification or
319 educational certificate for inspection by the members for 5
320 years after a director's election or the duration of the
321 director's uninterrupted tenure, whichever is longer. Failure to
322 have such written certification or educational certificate on
323 file does not affect the validity of any board action.

324 c. Any challenge to the election process must be commenced
325 within 60 days after the election results are announced.

326 5. Any approval by unit owners called for by this chapter
327 or the applicable declaration or bylaws, including, but not
328 limited to, the approval requirement in s. 718.111(8), must be
329 made at a duly noticed meeting of unit owners and is subject to
330 all requirements of this chapter or the applicable condominium
331 documents relating to unit owner decisionmaking, except that
332 unit owners may take action by written agreement, without
333 meetings, on matters for which action by written agreement
334 without meetings is expressly allowed by the applicable bylaws
335 or declaration or any law that provides for such action.

336 6. Unit owners may waive notice of specific meetings if

337 allowed by the applicable bylaws or declaration or any law. If
338 authorized by the bylaws, notice of meetings of the board of
339 administration, unit owner meetings, except unit owner meetings
340 called to recall board members under paragraph (j), and
341 committee meetings may be given by electronic transmission to
342 unit owners who consent to receive notice by electronic
343 transmission.

344 7. Unit owners have the right to participate in meetings
345 of unit owners with reference to all designated agenda items.
346 However, the association may adopt reasonable rules governing
347 the frequency, duration, and manner of unit owner participation.

348 8. A unit owner may tape record or videotape a meeting of
349 the unit owners subject to reasonable rules adopted by the
350 division.

351 9. Unless otherwise provided in the bylaws, any vacancy
352 occurring on the board before the expiration of a term may be
353 filled by the affirmative vote of the majority of the remaining
354 directors, even if the remaining directors constitute less than
355 a quorum, or by the sole remaining director. In the alternative,
356 a board may hold an election to fill the vacancy, in which case
357 the election procedures must conform to sub-subparagraph 4.a.
358 unless the association governs 10 units or fewer and has opted
359 out of the statutory election process, in which case the bylaws
360 of the association control. Unless otherwise provided in the
361 bylaws, a board member appointed or elected under this section
362 shall fill the vacancy for the unexpired term of the seat being
363 filled. Filling vacancies created by recall is governed by
364 paragraph (j) and rules adopted by the division.

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365 10. This chapter does not limit the use of general or
366 limited proxies, require the use of general or limited proxies,
367 or require the use of a written ballot or voting machine for any
368 agenda item or election at any meeting of a timeshare
369 condominium association.

370
371 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
372 association of 10 or fewer units may, by affirmative vote of a
373 majority of the total voting interests, provide for different
374 voting and election procedures in its bylaws, which may be by a
375 proxy specifically delineating the different voting and election
376 procedures. The different voting and election procedures may
377 provide for elections to be conducted by limited or general
378 proxy.

379 (j) Recall of board members.—Subject to ~~the provisions of~~
380 s. 718.301, any member of the board of administration may be
381 recalled and removed from office with or without cause by the
382 vote or agreement in writing by a majority of all the voting
383 interests. A special meeting of the unit owners to recall a
384 member or members of the board of administration may be called
385 by 10 percent of the voting interests giving notice of the
386 meeting as required for a meeting of unit owners, and the notice
387 shall state the purpose of the meeting. Electronic transmission
388 may not be used as a method of giving notice of a meeting called
389 in whole or in part for this purpose.

390 1. If the recall is approved by a majority of all voting
391 interests by a vote at a meeting, the recall will be effective
392 as provided in this paragraph herein. The board shall duly

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393 notice and hold a board meeting within 5 full business days
394 after ~~of~~ the adjournment of the unit owner meeting to recall one
395 or more board members. At the meeting, the board shall either
396 certify the recall, in which case such member or members shall
397 be recalled effective immediately and shall turn over to the
398 board within 5 full business days any and all records and
399 property of the association in their possession, or shall
400 proceed as set forth in subparagraph 3.

401 2. If the proposed recall is by an agreement in writing by
402 a majority of all voting interests, the agreement in writing or
403 a copy thereof shall be served on the association by certified
404 mail or by personal service in the manner authorized by chapter
405 48 and the Florida Rules of Civil Procedure. The board of
406 administration shall duly notice and hold a meeting of the board
407 within 5 full business days after receipt of the agreement in
408 writing. At the meeting, the board shall either certify the
409 written agreement to recall a member or members of the board, in
410 which case such member or members shall be recalled effective
411 immediately and shall turn over to the board within 5 full
412 business days any and all records and property of the
413 association in their possession, or proceed as described in
414 subparagraph 3.

415 3. If the board determines not to certify the written
416 agreement to recall a member or members of the board, or does
417 not certify the recall by a vote at a meeting, the board shall,
418 within 5 full business days after the meeting, file with the
419 division a petition for arbitration pursuant to the procedures
420 in s. 718.1255. For the purposes of this section, the unit

421 owners who voted at the meeting or who executed the agreement in
422 writing shall constitute one party under the petition for
423 arbitration. If the arbitrator certifies the recall as to any
424 member or members of the board, the recall will be effective
425 upon mailing of the final order of arbitration to the
426 association. If the association fails to comply with the order
427 of the arbitrator, the division may take action pursuant to s.
428 718.501. Any member or members so recalled shall deliver to the
429 board any and all records of the association in their possession
430 within 5 full business days after ~~of~~ the effective date of the
431 recall.

432 4. If the board fails to duly notice and hold a board
433 meeting within 5 full business days after ~~of~~ service of an
434 agreement in writing or within 5 full business days after ~~of~~ the
435 adjournment of the unit owner recall meeting, the recall shall
436 be deemed effective and the board members so recalled shall
437 immediately turn over to the board any and all records and
438 property of the association.

439 5. If the board fails to duly notice and hold the required
440 meeting or fails to file the required petition, the unit owner
441 representative may file a petition pursuant to s. 718.1255
442 challenging the board's failure to act. The petition must be
443 filed within 60 days after the expiration of the applicable 5-
444 full-business-day period. The review of a petition under this
445 subparagraph is limited to the sufficiency of service on the
446 board and the facial validity of the written agreement or
447 ballots filed.

448 ~~6.5.~~ If a vacancy occurs on the board as a result of a

449 recall or removal and less than a majority of the board members
450 are removed, the vacancy may be filled by the affirmative vote
451 of a majority of the remaining directors, notwithstanding any
452 provision to the contrary contained in this subsection. If
453 vacancies occur on the board as a result of a recall and a
454 majority or more of the board members are removed, the vacancies
455 shall be filled in accordance with procedural rules to be
456 adopted by the division, which rules need not be consistent with
457 this subsection. The rules must provide procedures governing the
458 conduct of the recall election as well as the operation of the
459 association during the period after a recall but prior to the
460 recall election.

461 7. A board member who has been recalled may file a
462 petition pursuant to s. 718.1255 challenging the validity of a
463 recall. The petition must be filed within 60 days after the
464 recall is deemed certified. The association and the unit owner
465 representative shall be named as the respondents.

466 8. The division may not accept for filing a recall
467 petition, whether filed pursuant to subparagraph 1.,
468 subparagraph 2., subparagraph 5., or subparagraph 7. and
469 regardless of whether the recall was certified, when there are
470 60 or fewer days until the scheduled reelection of the board
471 member sought to be recalled or when 60 or fewer days have
472 elapsed since the election of the board member sought to be
473 recalled.

474 Section 4. Subsection (5) of section 718.113, Florida
475 Statutes, is amended to read:

476 718.113 Maintenance; limitation upon improvement; display

477 of flag; hurricane shutters and protection; display of religious
 478 decorations.—

479 (5) Each board of administration shall adopt hurricane
 480 shutter specifications for each building within each condominium
 481 operated by the association which shall include color, style,
 482 and other factors deemed relevant by the board. All
 483 specifications adopted by the board must comply with the
 484 applicable building code.

485 (a) The board may, subject to ~~the provisions of s.~~
 486 718.3026~~7~~, and the approval of a majority of voting interests of
 487 the condominium, install hurricane shutters, impact glass, ~~or~~
 488 ~~other~~ code-compliant windows or doors, or other types of code-
 489 compliant hurricane protection that comply ~~complies~~ with or
 490 exceed ~~exceeds~~ the applicable building code. However, a vote of
 491 the owners is not required if the maintenance, repair, and
 492 replacement of hurricane shutters, impact glass, ~~or other~~ code-
 493 compliant windows or doors, or other types of code-compliant
 494 hurricane protection are the responsibility of the association
 495 pursuant to the declaration of condominium. If hurricane
 496 protection or laminated glass or window film architecturally
 497 designed to function as hurricane protection that ~~which~~ complies
 498 with or exceeds the current applicable building code has been
 499 previously installed, the board may not install hurricane
 500 shutters, ~~hurricane protection, or~~ impact glass, ~~or other~~ code-
 501 compliant windows or doors, or other types of code-compliant
 502 hurricane protection except upon approval by a majority vote of
 503 the voting interests.

504 (b) The association is responsible for the maintenance,

505 repair, and replacement of the hurricane shutters, impact glass,
506 code-compliant windows or doors, or other types of code-
507 compliant hurricane protection authorized by this subsection if
508 such property hurricane shutters or other hurricane protection
509 is the responsibility of the association pursuant to the
510 declaration of condominium. If the hurricane shutters, impact
511 glass, code-compliant windows or doors, or other types of code-
512 compliant hurricane protection ~~authorized by this subsection~~ are
513 the responsibility of the unit owners pursuant to the
514 declaration of condominium, the maintenance, repair, and
515 replacement of such items are the responsibility of the unit
516 owner.

517 (c) The board may operate shutters, impact glass, code-
518 compliant windows or doors, or other types of code-compliant
519 hurricane protection installed pursuant to this subsection
520 without permission of the unit owners only if such operation is
521 necessary to preserve and protect the condominium property and
522 association property. The installation, replacement, operation,
523 repair, and maintenance of such shutters, impact glass, code-
524 compliant windows or doors, or other types of code-compliant
525 hurricane protection in accordance with the procedures set forth
526 in this paragraph are not a material alteration to the common
527 elements or association property within the meaning of this
528 section.

529 (d) Notwithstanding any other provision in the condominium
530 documents, if approval is required by the documents, a board may
531 not refuse to approve the installation or replacement of
532 hurricane shutters, impact glass, code-compliant windows or

533 doors, or other types of code-compliant hurricane protection by
 534 a unit owner conforming to the specifications adopted by the
 535 board.

536 Section 5. Paragraph (e) of subsection (1) of section
 537 718.115, Florida Statutes, is amended to read:

538 718.115 Common expenses and common surplus.—

539 (1)

540 (e) The expense of installation, replacement, operation,
 541 repair, and maintenance of hurricane shutters, impact glass,
 542 code-compliant windows or doors, or other types of code-
 543 compliant hurricane protection by the board pursuant to s.
 544 718.113(5) constitutes ~~shall constitute~~ a common expense ~~as~~
 545 ~~defined herein~~ and shall be collected as provided in this
 546 section if the association is responsible for the maintenance,
 547 repair, and replacement of the hurricane shutters, impact glass,
 548 code-compliant windows or doors, or other types of code-
 549 compliant hurricane protection pursuant to the declaration of
 550 condominium. However, if the maintenance, repair, and
 551 replacement of the hurricane shutters, impact glass, code-
 552 compliant windows or doors, or other types of code-compliant
 553 hurricane protection are ~~is~~ the responsibility of the unit
 554 owners pursuant to the declaration of condominium, the cost of
 555 the installation of the hurricane shutters, impact glass, code-
 556 compliant windows or doors, or other types of code-compliant
 557 hurricane protection is ~~shall not be~~ a common expense and, ~~but~~
 558 shall be charged individually to the unit owners based on the
 559 cost of installation of the hurricane shutters, impact glass,
 560 code-compliant windows or doors, or other types of code-

561 compliant hurricane protection appurtenant to the unit.
562 Notwithstanding ~~the provisions of~~ s. 718.116(9), and regardless
563 of whether or not the declaration requires the association or
564 unit owners to maintain, repair, or replace hurricane shutters,
565 impact glass, code-compliant windows or doors, or other types of
566 code-compliant hurricane protection, a unit owner who has
567 previously installed hurricane shutters in accordance with s.
568 718.113(5) that comply with the current applicable building code
569 shall receive a credit when the shutters are installed; a unit
570 owner who has previously installed impact glass or code-
571 compliant windows or doors that comply with the current
572 applicable building code shall receive a credit when the impact
573 glass or code-compliant windows or doors are installed; and a
574 unit owner who has installed, other types of code-compliant
575 hurricane protection that comply with the current applicable
576 building code shall receive a credit when the same type of other
577 code-compliant hurricane protection is installed, and the ~~or~~
578 ~~laminated glass architecturally designed to function as~~
579 ~~hurricane protection, which hurricane shutters or other~~
580 ~~hurricane protection or laminated glass comply with the current~~
581 ~~applicable building code, shall receive a credit~~ shall be equal
582 to the pro rata portion of the assessed installation cost
583 assigned to each unit. However, such unit owner remains ~~shall~~
584 ~~remain~~ responsible for the pro rata share of expenses for
585 hurricane shutters, impact glass, code-compliant windows or
586 doors, or other types of code-compliant hurricane protection
587 installed on common elements and association property by the
588 board pursuant to s. 718.113(5), ~~and~~ remains ~~shall remain~~

589 responsible for a pro rata share of the expense of the
 590 replacement, operation, repair, and maintenance of such
 591 shutters, impact glass, code-compliant windows or doors, or
 592 other types of code-compliant hurricane protection.

593 Section 6. Paragraphs (a), (b), and (c) of subsection (1)
 594 of section 718.116, Florida Statutes, are amended to read:

595 718.116 Assessments; liability; lien and priority;
 596 interest; collection.-

597 (1) (a) A unit owner, regardless of how the unit owner has
 598 acquired his or her title has been acquired, including, but not
 599 limited to, by purchase at a foreclosure sale ~~or by deed in lieu~~
 600 ~~of foreclosure,~~ is liable for all assessments that ~~which~~ come
 601 due while he or she is the unit owner. Additionally, a unit
 602 owner is jointly and severally liable with the previous unit
 603 owner for all unpaid assessments, late fees, interest, costs,
 604 and reasonable attorney fees incurred by the association in an
 605 attempt to collect all such amounts ~~is jointly and severally~~
 606 ~~liable with the previous owner for all unpaid assessments~~ that
 607 came due up to the time of transfer of title. This liability is
 608 without prejudice to any right the present unit owner may have
 609 to recover from the previous unit owner the amounts paid by the
 610 present unit owner.

611 (b)1. The liability of a first mortgagee or its successors
 612 ~~successor~~ or assignees who acquire title to a unit by
 613 foreclosure or by deed in lieu of foreclosure for the unpaid
 614 assessments, interest, administrative late fees, reasonable
 615 costs and attorney fees, and any other fee, cost, or expense
 616 incurred in the collection process that became due before the

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617 mortgagee's acquisition of title is limited to the lesser of:

618 a. Only the unit's unpaid common expenses and regular
619 periodic assessments that ~~which~~ accrued or came due during the
620 12 months immediately preceding the acquisition of title and for
621 which payment in full has not been received by the association;
622 or

623 b. One percent of the original mortgage debt.

624 2. Subparagraph 1. applies ~~The provisions of this~~
625 ~~paragraph apply~~ only if the first mortgagee joined the
626 association as a defendant in the foreclosure action. Joinder of
627 the association is not required if, on the date the complaint is
628 filed, the association was dissolved or did not maintain an
629 office or agent for service of process at a location that ~~which~~
630 was known to or reasonably discoverable by the mortgagee.

631 3. The first mortgagee or its successors or assignees who
632 acquire title to a unit by foreclosure or by deed in lieu of
633 foreclosure are not liable for any interest, administrative late
634 fee, reasonable cost or attorney fee, or any other fee, cost, or
635 expense that came due prior to its acquisition of title. This
636 subparagraph is intended to clarify existing law.

637 4.2. An association, or its successor or assignee, that
638 acquires title to a unit through the foreclosure of its lien for
639 assessments is not liable for any unpaid assessments, late fees,
640 interest, or reasonable attorney ~~attorney's~~ fees and costs that
641 came due before the association's acquisition of title in favor
642 of any other association, as defined in s. 718.103(2) or s.
643 720.301(9), which holds a ~~superior~~ lien interest on the unit.
644 This subparagraph is intended to clarify existing law.

645 (c) The person acquiring title shall pay the amount owed
 646 to the association within 30 days after transfer of title.
 647 Failure to pay the full amount when due entitles ~~shall entitle~~
 648 the association to record a claim of lien against the parcel for
 649 the amounts specified in this subsection and proceed in the same
 650 manner as provided in this section for the collection of the
 651 amount owed and any unpaid assessments coming due after the
 652 acquisition of title and other charges authorized by subsection
 653 (3) on any unpaid assessments coming due after the acquisition
 654 of title.

655 Section 7. Paragraph (a) of subsection (3) and subsection
 656 (5) of section 718.303, Florida Statutes, are amended to read:

657 718.303 Obligations of owners and occupants; remedies.—

658 (3) The association may levy reasonable fines for the
 659 failure of the owner of the unit or its occupant, licensee, or
 660 invitee to comply with any provision of the declaration, the
 661 association bylaws, or reasonable rules of the association. A
 662 fine may not become a lien against a unit. A fine may be levied
 663 on the basis of each day of a continuing violation, with a
 664 single notice and opportunity for hearing. However, the fine may
 665 not exceed \$100 per violation, or \$1,000 in the aggregate.

666 (a) An association may suspend, for a reasonable period of
 667 time, the right of a unit owner, or a unit owner's tenant,
 668 guest, or invitee, to use the common elements, common
 669 facilities, or any other association property for failure to
 670 comply with any provision of the declaration, the association
 671 bylaws, or reasonable rules of the association. This paragraph
 672 does not apply to limited common elements intended to be used

673 only by that unit, common elements needed to access the unit,
674 utility services provided to the unit, parking spaces, or
675 elevators.

676 (5) An association may suspend the voting rights of a unit
677 or member due to nonpayment of any monetary obligation due to
678 the association which is more than 90 days delinquent. ~~A voting~~
679 ~~interest or consent right allocated to a unit or member which~~
680 ~~has been suspended by the association may not be counted towards~~
681 ~~the total number of voting interests necessary to constitute a~~
682 ~~quorum, the number of voting interests required to conduct an~~
683 ~~election, or the number of voting interests required to approve~~
684 ~~an action under this chapter or pursuant to the declaration,~~
685 ~~articles of incorporation, or bylaws.~~ The suspension ends upon
686 full payment of all obligations currently due or overdue the
687 association. The notice and hearing requirements under
688 subsection (3) do not apply to a suspension imposed under this
689 subsection.

690 Section 8. Subsection (1) of section 718.403, Florida
691 Statutes, is amended to read:

692 718.403 Phase condominiums.—

693 (1) Notwithstanding ~~the provisions of~~ s. 718.110, a
694 developer may develop a condominium in phases, if the original
695 declaration of condominium submitting the initial phase to
696 condominium ownership or an amendment to the declaration which
697 has been approved by all of the unit owners and unit mortgagees
698 provides for and describes in detail all anticipated phases; the
699 impact, if any, which the completion of subsequent phases would
700 have upon the initial phase; and the time period (which may not

701 exceed 7 years from the date of recording the declaration of
 702 condominium, unless extended as provided in this subsection)
 703 within which all phases must be added to the condominium and
 704 comply with the requirements of this section and at the end of
 705 which the right to add additional phases expires.

706 (a) All phases must be added to the condominium within 7
 707 years after the date of recording the original declaration of
 708 condominium submitting the initial phase to condominium
 709 ownership unless an amendment extending the 7-year period is
 710 approved by the unit owners.

711 (b) An amendment to extend the 7-year period requires the
 712 approval of the owners necessary to amend the declaration of
 713 condominium consistent with s. 718.110(1)(a). An extension of
 714 the 7-year period may be submitted for approval only during the
 715 last 3 years of the 7-year period.

716 (c) An amendment must describe the time period within
 717 which all phases must be added to the condominium and such time
 718 period may not exceed 10 years after the date of recording the
 719 original declaration of condominium submitting the initial phase
 720 to condominium ownership.

721 (d) Notwithstanding s. 718.110, an amendment extending the
 722 7-year period is not an amendment subject to s. 718.110(4).

723 Section 9. Section 718.406, Florida Statutes, is created
 724 to read:

725 718.406 Condominiums created within condominium parcels.-

726 (1) Unless otherwise expressed in the declaration of
 727 condominium, if a condominium is created within a condominium
 728 parcel, the term:

729 (a) "Primary condominium" means any condominium that is
 730 not a secondary condominium and contains one or more subdivided
 731 parcels.

732 (b) "Primary condominium association" means any entity
 733 that operates a primary condominium.

734 (c) "Primary condominium declaration" means the instrument
 735 or instruments by which a primary condominium is created, as
 736 they are from time to time amended.

737 (d) "Secondary condominium" means one or more condominium
 738 parcels that have been submitted to condominium ownership
 739 pursuant to a secondary condominium declaration.

740 (e) "Secondary condominium association" means any entity
 741 responsible for the operation of a secondary condominium.

742 (f) "Secondary condominium declaration" means the
 743 instrument or instruments by which a secondary condominium is
 744 created, as they are from time to time amended.

745 (g) "Secondary unit" means a unit that is part of a
 746 secondary condominium.

747 (h) "Subdivided parcel" means a condominium parcel in a
 748 primary condominium that has been submitted to condominium
 749 ownership pursuant to a secondary condominium declaration.

750 (2) Unless otherwise provided in the primary condominium
 751 declaration, if a condominium parcel is a subdivided parcel, the
 752 secondary condominium association responsible for operating the
 753 secondary condominium upon the subdivided parcel shall act on
 754 behalf of all of the unit owners of secondary units in the
 755 secondary condominium and shall exercise all rights of the
 756 secondary unit owners in the primary condominium association,

757 other than the right of possession of the secondary unit. The
758 secondary condominium association shall designate a
759 representative who shall cast the vote of the subdivided parcel
760 in the primary condominium association and, if no person is
761 designated by the secondary condominium association to cast such
762 vote, the vote shall be cast by the president of the secondary
763 condominium association or the designee of the president.

764 (3) Unless otherwise provided in the primary condominium
765 declaration as originally recorded, no secondary condominium may
766 be created upon any condominium parcel in the primary
767 condominium, and no amendment to the primary condominium
768 declaration may permit secondary condominiums to be created upon
769 parcels in the primary condominium, unless the record owners of
770 a majority of the condominium parcels join in the execution of
771 the amendment.

772 (4) If the primary condominium declaration permits the
773 creation of a secondary condominium and a condominium parcel in
774 the primary condominium is being submitted for condominium
775 ownership to create a secondary condominium upon the primary
776 condominium parcel, the approval of the board of administration
777 of the primary condominium association is required in order to
778 create the secondary condominium on the primary condominium
779 parcel. Unless otherwise provided in the primary condominium
780 declaration, the owners of condominium parcels in the primary
781 condominium that will not be part of the proposed secondary
782 condominium and the holders of liens upon such primary
783 condominium parcels shall not have approval rights regarding the
784 creation of the secondary condominium or the contents of the

785 secondary condominium declaration being submitted. Only the
786 board of administration of the primary condominium association,
787 the owner of the subdivided parcel, and the holders of liens
788 upon the subdivided parcel shall have approval rights regarding
789 the creation of the secondary condominium and the contents of
790 the secondary condominium declaration. In order for the
791 recording of the secondary condominium declaration to be
792 effective to create the secondary condominium, the board of
793 administration of the primary condominium association, the owner
794 of the subdivided parcel, and all holders of liens on the
795 subdivided parcel must execute the secondary condominium
796 declaration for the purpose of evidencing their approval.

797 (5) An owner of a secondary unit is subject to both the
798 primary condominium declaration and the secondary condominium
799 declaration.

800 (6) The primary condominium association may provide
801 insurance required by s. 718.111(11) for common elements and
802 other improvements within the secondary condominium if the
803 primary condominium declaration permits the primary condominium
804 association to provide such insurance for the benefit of the
805 condominium property included in the subdivided parcel, in lieu
806 of such insurance being provided by the secondary condominium
807 association.

808 (7) Unless otherwise provided in the primary condominium
809 declaration, the board of administration of the primary
810 condominium association may adopt hurricane shutter or hurricane
811 protection specifications for each building within which
812 subdivided parcels are located and govern any subdivided parcels

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813 in the primary condominium.

814 (8) Any unit owner of, or holder of a first mortgage on, a
815 secondary unit may register such unit owner's or mortgagee's
816 interest in the secondary unit with the primary condominium
817 association by delivering written notice to the primary
818 condominium association. Once registered, the primary
819 condominium association must provide written notice to such
820 secondary unit owner and his, her, or its first mortgagee at
821 least 30 days before instituting any foreclosure action against
822 the subdivided parcel in which the secondary unit owner and his,
823 her, or its first mortgagee hold an interest for failure of the
824 subdivided parcel owner to pay any assessments or other amounts
825 due to the primary condominium association. A foreclosure action
826 against a subdivided parcel is not effective without an
827 affidavit indicating that written notice of the foreclosure was
828 timely sent to the names and addresses of secondary unit owners
829 and first mortgagees registered with the primary condominium
830 association pursuant to this subsection. The registered
831 secondary unit owner or mortgagee has a right to pay the
832 proportionate amount of the delinquent assessment attributable
833 to the secondary unit in which the registered unit owner or
834 mortgagee holds an interest. Upon such payment, the primary
835 condominium association shall be obligated to promptly modify or
836 partially release the record of lien on the primary condominium
837 association so that the lien no longer encumbers such secondary
838 unit. Alternatively, a registered secondary unit owner or
839 mortgagee may pay the amount of all delinquent assessments
840 attributed to the subdivided parcel and seek reimbursement for

841 all such amounts paid and all costs incurred from the secondary
842 condominium association, including, without limitation, the
843 costs of collection other than the share allocable to the
844 secondary unit on behalf of which such payment was made.

845 (9) In the event of a conflict between the primary
846 condominium declaration and the secondary condominium
847 declaration, the primary condominium declaration controls.

848 (10) All common expenses due to the primary condominium
849 association with respect to a subdivided parcel are a common
850 expense of the secondary condominium association and shall be
851 collected by the secondary condominium association from its
852 members and paid to the primary condominium association.

853 Section 10. Subsection (2) of section 718.5011, Florida
854 Statutes, is amended to read:

855 718.5011 Ombudsman; appointment; administration.—

856 (2) The Governor shall appoint the ombudsman. The
857 ombudsman must be an attorney admitted to practice before the
858 Florida Supreme Court and shall serve at the pleasure of the
859 Governor. A vacancy in the office shall be filled in the same
860 manner as the original appointment. An officer or full-time
861 employee of the ombudsman's office may not actively engage in
862 any other business or profession that directly or indirectly
863 relates to or conflicts with his or her work in the ombudsman's
864 office; serve as the representative of any political party,
865 executive committee, or other governing body of a political
866 party; serve as an executive, officer, or employee of a
867 political party; receive remuneration for activities on behalf
868 of any candidate for public office; or engage in soliciting

869 votes or other activities on behalf of a candidate for public
 870 office. The ombudsman or any employee of his or her office may
 871 not become a candidate for election to public office unless he
 872 or she first resigns from his or her office or employment.

873 Section 11. Section 718.707, Florida Statutes, is amended
 874 to read:

875 718.707 Time limitation for classification as bulk
 876 assignee or bulk buyer.—A person acquiring condominium parcels
 877 may not be classified as a bulk assignee or bulk buyer unless
 878 the condominium parcels were acquired on or after July 1, 2010,
 879 but before July 1, 2015 ~~2012~~. The date of such acquisition shall
 880 be determined by the date of recording a deed or other
 881 instrument of conveyance for such parcels in the public records
 882 of the county in which the condominium is located, or by the
 883 date of issuing a certificate of title in a foreclosure
 884 proceeding with respect to such condominium parcels.

885 Section 12. Paragraph (c) of subsection (2) of section
 886 719.104, Florida Statutes, is amended to read:

887 719.104 Cooperatives; access to units; records; financial
 888 reports; assessments; purchase of leases.—

889 (2) OFFICIAL RECORDS.—

890 (c) The official records of the association shall be open
 891 to inspection by any association member or the authorized
 892 representative of such member at all reasonable times. Failure
 893 to permit inspection of the association records as provided in
 894 this subsection ~~herein~~ entitles any person prevailing in an
 895 enforcement action to recover reasonable attorney ~~attorney's~~
 896 fees from the person in control of the records who, directly or

897 indirectly, knowingly denies access to the records for
898 inspection. The right to inspect the records includes the right
899 to make or obtain copies, at the reasonable expense, if any, of
900 the association member. The association may adopt reasonable
901 rules regarding the frequency, time, location, notice, and
902 manner of record inspections and copying. The failure of an
903 association to provide the records within 10 working days after
904 receipt of a written request creates a rebuttable presumption
905 that the association willfully failed to comply with this
906 paragraph. A unit owner who is denied access to official records
907 is entitled to the actual damages or minimum damages for the
908 association's willful failure to comply with this paragraph. The
909 minimum damages shall be \$50 per calendar day up to 10 days, the
910 calculation to begin on the 11th day after receipt of the
911 written request. The association shall maintain an adequate
912 number of copies of the declaration, articles of incorporation,
913 bylaws, and rules, and all amendments to each of the foregoing,
914 as well as the question and answer sheet provided for in s.
915 719.504, on the cooperative property to ensure their
916 availability to unit owners and prospective purchasers, and may
917 charge its actual costs for preparing and furnishing these
918 documents to those requesting the same. Notwithstanding ~~the~~
919 ~~provisions of~~ this paragraph, the following records shall not be
920 accessible to unit owners:

921 1. Any record protected by the lawyer-client privilege as
922 provided in s. 90.502; protected by the work-product privilege,
923 including any record ~~A record that was prepared by an~~
924 association attorney or prepared at the attorney's express

925 direction; reflecting ~~that reflects~~ a mental impression,
926 conclusion, litigation strategy, or legal theory of the attorney
927 or the association; or ~~that was~~ prepared exclusively for civil
928 or criminal litigation or for adversarial administrative
929 proceedings or in anticipation of imminent civil or criminal
930 litigation or imminent adversarial administrative proceedings,
931 until the conclusion of the litigation or adversarial
932 administrative proceedings.

933 2. Information obtained by an association in connection
934 with the approval of the lease, sale, or other transfer of a
935 unit.

936 3. Medical records of unit owners.

937 4. Personnel records of association employees, including,
938 but not limited to, disciplinary, payroll, health, and insurance
939 records. For purposes of this subparagraph, the term "personnel
940 records" does not include written employment agreements with an
941 association employee or budgetary or financial records that
942 indicate the compensation paid to an association employee.

943 5. Social security numbers, driver license numbers, credit
944 card numbers, e-mail addresses, telephone numbers, emergency
945 contact information, any addresses of a unit owner other than
946 addresses provided to fulfill the association's notice
947 requirements, and other personal identifying information of any
948 person, excluding the person's name, unit designation, mailing
949 address, and property address.

950 6. Any electronic security measures that are used by the
951 association to safeguard data, including passwords.

952 7. The software and operating system used by the
953 association which allows manipulation of data, even if the owner
954 owns a copy of the same software used by the association. The
955 data is part of the official records of the association.

956 Section 13. Subsection (7) is added to section 719.1055,
957 Florida Statutes, to read:

958 719.1055 Amendment of cooperative documents; alteration
959 and acquisition of property.—

960 (7) The Legislature finds that the procurement of
961 mortgagee consent to amendments that do not affect the rights or
962 interests of mortgagees is an unreasonable and substantial
963 logistical and financial burden on the unit owners and that
964 there is a compelling state interest in enabling the members of
965 an association to approve amendments to the association's
966 cooperative documents through legal means. Accordingly, and
967 notwithstanding any provision to the contrary contained in this
968 subsection:

969 (a) As to any mortgage recorded on or after July 1, 2012,
970 any provision in the association's cooperative documents that
971 requires the consent or joinder of some or all mortgagees of
972 units or any other portion of the association's common areas to
973 amend the association's cooperative documents or for any other
974 matter is enforceable only as to amendments to the association's
975 cooperative documents that adversely affect the priority of the
976 mortgagee's lien or the mortgagee's rights to foreclose its lien
977 or that otherwise materially affect the rights and interests of
978 the mortgagees.

979 (b) As to mortgages recorded before July 1, 2012, any
980 existing provisions in the association's cooperative documents
981 requiring mortgagee consent are enforceable.

982 (c) In securing consent or joinder, the association is
983 entitled to rely upon the public records to identify the holders
984 of outstanding mortgages. The association may use the address
985 provided in the original recorded mortgage document, unless
986 there is a different address for the holder of the mortgage in a
987 recorded assignment or modification of the mortgage, which
988 recorded assignment or modification must reference the official
989 records book and page on which the original mortgage was
990 recorded. Once the association has identified the recorded
991 mortgages of record, the association shall, in writing, request
992 of each unit owner whose unit is encumbered by a mortgage of
993 record any information the owner has in his or her possession
994 regarding the name and address of the person to whom mortgage
995 payments are currently being made. Notice shall be sent to such
996 person if the address provided in the original recorded mortgage
997 document is different from the name and address of the mortgagee
998 or assignee of the mortgage as shown by the public record. The
999 association is deemed to have complied with this requirement by
1000 making the written request of the unit owners required under
1001 this paragraph. Any notices required to be sent to the
1002 mortgagees under this paragraph shall be sent to all available
1003 addresses provided to the association.

1004 (d) Any notice to the mortgagees required under paragraph
1005 (c) may be sent by a method that establishes proof of delivery,

1006 and any mortgagee who fails to respond within 60 days after the
 1007 date of mailing is deemed to have consented to the amendment.

1008 (e) For those amendments requiring mortgagee consent on or
 1009 after July 1, 2012, in the event mortgagee consent is provided
 1010 other than by properly recorded joinder, such consent shall be
 1011 evidenced by affidavit of the association recorded in the public
 1012 records of the county in which the declaration is recorded.

1013 (f) Any amendment adopted without the required consent of
 1014 a mortgagee is voidable only by a mortgagee who was entitled to
 1015 notice and an opportunity to consent. An action to void an
 1016 amendment is subject to the statute of limitations beginning 5
 1017 years after the date of discovery as to the amendments described
 1018 in paragraph (a) and 5 years after the date of recordation of
 1019 the certificate of amendment for all other amendments. This
 1020 paragraph applies to all mortgages, regardless of the date of
 1021 recordation of the mortgage.

1022 Section 14. Paragraphs (c), (d), and (f) of subsection (1)
 1023 of section 719.106, Florida Statutes, are amended to read:

1024 719.106 Bylaws; cooperative ownership.—

1025 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
 1026 documents shall provide for the following, and if they do not,
 1027 they shall be deemed to include the following:

1028 (c) Board of administration meetings.—Meetings of the
 1029 board of administration at which a quorum of the members is
 1030 present shall be open to all unit owners. Any unit owner may
 1031 tape record or videotape meetings of the board of
 1032 administration. The right to attend such meetings includes the
 1033 right to speak at such meetings with reference to all designated

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1034 agenda items. The division shall adopt reasonable rules
1035 governing the tape recording and videotaping of the meeting. The
1036 association may adopt reasonable written rules governing the
1037 frequency, duration, and manner of unit owner statements.
1038 Adequate notice of all meetings shall be posted in a conspicuous
1039 place upon the cooperative property at least 48 continuous hours
1040 preceding the meeting, except in an emergency. Any item not
1041 included on the notice may be taken up on an emergency basis by
1042 at least a majority plus one of the members of the board. Such
1043 emergency action shall be noticed and ratified at the next
1044 regular meeting of the board. However, written notice of any
1045 meeting at which nonemergency special assessments, or at which
1046 amendment to rules regarding unit use, will be considered shall
1047 be mailed, delivered, or electronically transmitted to the unit
1048 owners and posted conspicuously on the cooperative property not
1049 less than 14 days prior to the meeting. Evidence of compliance
1050 with this 14-day notice shall be made by an affidavit executed
1051 by the person providing the notice and filed among the official
1052 records of the association. Upon notice to the unit owners, the
1053 board shall by duly adopted rule designate a specific location
1054 on the cooperative property upon which all notices of board
1055 meetings shall be posted. In lieu of or in addition to the
1056 physical posting of notice of any meeting of the board of
1057 administration on the cooperative property, the association may,
1058 by reasonable rule, adopt a procedure for conspicuously posting
1059 and repeatedly broadcasting the notice and the agenda on a
1060 closed-circuit cable television system serving the cooperative
1061 association. However, if broadcast notice is used in lieu of a

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1062 notice posted physically on the cooperative property, the notice
1063 and agenda must be broadcast at least four times every broadcast
1064 hour of each day that a posted notice is otherwise required
1065 under this section. When broadcast notice is provided, the
1066 notice and agenda must be broadcast in a manner and for a
1067 sufficient continuous length of time so as to allow an average
1068 reader to observe the notice and read and comprehend the entire
1069 content of the notice and the agenda. Notice of any meeting in
1070 which regular assessments against unit owners are to be
1071 considered for any reason shall specifically contain a statement
1072 that assessments will be considered and the nature of any such
1073 assessments. Meetings of a committee to take final action on
1074 behalf of the board or to make recommendations to the board
1075 regarding the association budget are subject to the provisions
1076 of this paragraph. Meetings of a committee that does not take
1077 final action on behalf of the board or make recommendations to
1078 the board regarding the association budget are subject to the
1079 provisions of this section, unless those meetings are exempted
1080 from this section by the bylaws of the association.

1081 Notwithstanding any other law to the contrary, the requirement
1082 that board meetings and committee meetings be open to the unit
1083 owners does not apply ~~is inapplicable~~ to board or committee
1084 meetings held for the purpose of discussing personnel matters or
1085 meetings between the board or a committee and the association's
1086 attorney, with respect to proposed or pending litigation, if
1087 ~~when~~ the meeting is held for the purpose of seeking or rendering
1088 legal advice.

1089 (d) Shareholder meetings.—There shall be an annual meeting

1090 of the shareholders. All members of the board of administration
1091 shall be elected at the annual meeting unless the bylaws provide
1092 for staggered election terms or for their election at another
1093 meeting. Any unit owner desiring to be a candidate for board
1094 membership must comply with subparagraph 1. The bylaws must
1095 provide the method for calling meetings, including annual
1096 meetings. Written notice, which must incorporate an
1097 identification of agenda items, shall be given to each unit
1098 owner at least 14 days before the annual meeting and posted in a
1099 conspicuous place on the cooperative property at least 14
1100 continuous days preceding the annual meeting. Upon notice to the
1101 unit owners, the board must by duly adopted rule designate a
1102 specific location on the cooperative property upon which all
1103 notice of unit owner meetings are posted. In lieu of or in
1104 addition to the physical posting of the meeting notice, the
1105 association may, by reasonable rule, adopt a procedure for
1106 conspicuously posting and repeatedly broadcasting the notice and
1107 the agenda on a closed-circuit cable television system serving
1108 the cooperative association. However, if broadcast notice is
1109 used in lieu of a posted notice, the notice and agenda must be
1110 broadcast at least four times every broadcast hour of each day
1111 that a posted notice is otherwise required under this section.
1112 If broadcast notice is provided, the notice and agenda must be
1113 broadcast in a manner and for a sufficient continuous length of
1114 time to allow an average reader to observe the notice and read
1115 and comprehend the entire content of the notice and the agenda.
1116 Unless a unit owner waives in writing the right to receive
1117 notice of the annual meeting, the notice of the annual meeting

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1118 must be sent by mail, hand delivered, or electronically
1119 transmitted to each unit owner. An officer of the association
1120 must provide an affidavit or United States Postal Service
1121 certificate of mailing, to be included in the official records
1122 of the association, affirming that notices of the association
1123 meeting were mailed, hand delivered, or electronically
1124 transmitted, in accordance with this provision, to each unit
1125 owner at the address last furnished to the association.

1126 1. The board of administration shall be elected by written
1127 ballot or voting machine. A proxy may not be used in electing
1128 the board of administration in general elections or elections to
1129 fill vacancies caused by recall, resignation, or otherwise
1130 unless otherwise provided in this chapter. At least 60 days
1131 before a scheduled election, the association shall mail,
1132 deliver, or transmit, whether by separate association mailing,
1133 delivery, or electronic transmission or included in another
1134 association mailing, delivery, or electronic transmission,
1135 including regularly published newsletters, to each unit owner
1136 entitled to vote, a first notice of the date of the election.
1137 Any unit owner or other eligible person desiring to be a
1138 candidate for the board of administration must give written
1139 notice to the association at least 40 days before a scheduled
1140 election. Together with the written notice and agenda as set
1141 forth in this section, the association shall mail, deliver, or
1142 electronically transmit a second notice of election to all unit
1143 owners entitled to vote, together with a ballot that ~~which~~ lists
1144 all candidates. Upon request of a candidate, the association
1145 shall include an information sheet, no larger than 8 1/2 inches

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1146 | by 11 inches, which must be furnished by the candidate at least
1147 | 35 days before the election, to be included with the mailing,
1148 | delivery, or electronic transmission of the ballot, with the
1149 | costs of mailing, delivery, or transmission and copying to be
1150 | borne by the association. The association is not liable for the
1151 | contents of the information sheets provided by the candidates.
1152 | In order to reduce costs, the association may print or duplicate
1153 | the information sheets on both sides of the paper. The division
1154 | shall by rule establish voting procedures consistent with this
1155 | subparagraph, including rules establishing procedures for giving
1156 | notice by electronic transmission and rules providing for the
1157 | secrecy of ballots. Elections shall be decided by a plurality of
1158 | those ballots cast. There is no quorum requirement. However, at
1159 | least 20 percent of the eligible voters must cast a ballot in
1160 | order to have a valid election. A unit owner may not permit any
1161 | other person to vote his or her ballot, and any such ballots
1162 | improperly cast are invalid. A unit owner who needs assistance
1163 | in casting the ballot for the reasons stated in s. 101.051 may
1164 | obtain assistance in casting the ballot. Any unit owner
1165 | violating this provision may be fined by the association in
1166 | accordance with s. 719.303. The regular election must occur on
1167 | the date of the annual meeting. This subparagraph does not apply
1168 | to timeshare cooperatives. Notwithstanding this subparagraph, an
1169 | election and balloting are not required unless more candidates
1170 | file a notice of intent to run or are nominated than vacancies
1171 | exist on the board. Any challenge to the election process must
1172 | be commenced within 60 days after the election results are
1173 | announced.

1174 2. Any approval by unit owners called for by this chapter,
1175 or the applicable cooperative documents, must be made at a duly
1176 noticed meeting of unit owners and is subject to this chapter or
1177 the applicable cooperative documents relating to unit owner
1178 decisionmaking, except that unit owners may take action by
1179 written agreement, without meetings, on matters for which action
1180 by written agreement without meetings is expressly allowed by
1181 the applicable cooperative documents or law which provides for
1182 the unit owner action.

1183 3. Unit owners may waive notice of specific meetings if
1184 allowed by the applicable cooperative documents or law. If
1185 authorized by the bylaws, notice of meetings of the board of
1186 administration, shareholder meetings, except shareholder
1187 meetings called to recall board members under paragraph (f), and
1188 committee meetings may be given by electronic transmission to
1189 unit owners who consent to receive notice by electronic
1190 transmission.

1191 4. Unit owners have the right to participate in meetings
1192 of unit owners with reference to all designated agenda items.
1193 However, the association may adopt reasonable rules governing
1194 the frequency, duration, and manner of unit owner participation.

1195 5. Any unit owner may tape record or videotape meetings of
1196 the unit owners subject to reasonable rules adopted by the
1197 division.

1198 6. Unless otherwise provided in the bylaws, a vacancy
1199 occurring on the board before the expiration of a term may be
1200 filled by the affirmative vote of the majority of the remaining
1201 directors, even if the remaining directors constitute less than

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1202 a quorum, or by the sole remaining director. In the alternative,
1203 a board may hold an election to fill the vacancy, in which case
1204 the election procedures must conform to the requirements of
1205 subparagraph 1. unless the association has opted out of the
1206 statutory election process, in which case the bylaws of the
1207 association control. Unless otherwise provided in the bylaws, a
1208 board member appointed or elected under this subparagraph shall
1209 fill the vacancy for the unexpired term of the seat being
1210 filled. Filling vacancies created by recall is governed by
1211 paragraph (f) and rules adopted by the division.

1212
1213 Notwithstanding subparagraphs (b)2. and (d)1., an association
1214 may, by the affirmative vote of a majority of the total voting
1215 interests, provide for a different voting and election procedure
1216 in its bylaws, which vote may be by a proxy specifically
1217 delineating the different voting and election procedures. The
1218 different voting and election procedures may provide for
1219 elections to be conducted by limited or general proxy.

1220 (f) Recall of board members.—Subject to ~~the provisions of~~
1221 s. 719.301, any member of the board of administration may be
1222 recalled and removed from office with or without cause by the
1223 vote or agreement in writing by a majority of all the voting
1224 interests. A special meeting of the voting interests to recall
1225 any member of the board of administration may be called by 10
1226 percent of the unit owners giving notice of the meeting as
1227 required for a meeting of unit owners, and the notice shall
1228 state the purpose of the meeting. Electronic transmission may
1229 not be used as a method of giving notice of a meeting called in

1230 whole or in part for this purpose.

1231 1. If the recall is approved by a majority of all voting
 1232 interests by a vote at a meeting, the recall shall be effective
 1233 as provided in this paragraph ~~herein~~. The board shall duly
 1234 notice and hold a board meeting within 5 full business days
 1235 after ~~of~~ the adjournment of the unit owner meeting to recall one
 1236 or more board members. At the meeting, the board shall either
 1237 certify the recall, in which case such member or members shall
 1238 be recalled effective immediately and shall turn over to the
 1239 board within 5 full business days any and all records and
 1240 property of the association in their possession, or shall
 1241 proceed as set forth in subparagraph 3.

1242 2. If the proposed recall is by an agreement in writing by
 1243 a majority of all voting interests, the agreement in writing or
 1244 a copy thereof shall be served on the association by certified
 1245 mail or by personal service in the manner authorized by chapter
 1246 48 and the Florida Rules of Civil Procedure. The board of
 1247 administration shall duly notice and hold a meeting of the board
 1248 within 5 full business days after receipt of the agreement in
 1249 writing. At the meeting, the board shall either certify the
 1250 written agreement to recall members of the board, in which case
 1251 such members shall be recalled effective immediately and shall
 1252 turn over to the board, within 5 full business days, any and all
 1253 records and property of the association in their possession, or
 1254 proceed as described in subparagraph 3.

1255 3. If the board determines not to certify the written
 1256 agreement to recall members of the board, or does not certify
 1257 the recall by a vote at a meeting, the board shall, within 5

1258 full business days after the board meeting, file with the
 1259 division a petition for binding arbitration pursuant to the
 1260 procedures of s. 719.1255. For purposes of this paragraph, the
 1261 unit owners who voted at the meeting or who executed the
 1262 agreement in writing shall constitute one party under the
 1263 petition for arbitration. If the arbitrator certifies the recall
 1264 as to any member of the board, the recall shall be effective
 1265 upon mailing of the final order of arbitration to the
 1266 association. If the association fails to comply with the order
 1267 of the arbitrator, the division may take action pursuant to s.
 1268 719.501. Any member so recalled shall deliver to the board any
 1269 and all records and property of the association in the member's
 1270 possession within 5 full business days after ~~of~~ the effective
 1271 date of the recall.

1272 4. If the board fails to duly notice and hold a board
 1273 meeting within 5 full business days after ~~of~~ service of an
 1274 agreement in writing or within 5 full business days after ~~of~~ the
 1275 adjournment of the unit owner recall meeting, the recall shall
 1276 be deemed effective and the board members so recalled shall
 1277 immediately turn over to the board any and all records and
 1278 property of the association.

1279 5. If the board fails to duly notice and hold the required
 1280 meeting or fails to file the required petition, the unit owner
 1281 representative may file a petition pursuant to s. 719.1255
 1282 challenging the board's failure to act. The petition must be
 1283 filed within 60 days after the expiration of the applicable 5-
 1284 full-business-day period. The review of a petition under this
 1285 subparagraph is limited to the sufficiency of service on the

1286 board and the facial validity of the written agreement or
 1287 ballots filed.

1288 ~~6.5.~~ If a vacancy occurs on the board as a result of a
 1289 recall and less than a majority of the board members are
 1290 removed, the vacancy may be filled by the affirmative vote of a
 1291 majority of the remaining directors, notwithstanding any
 1292 provision to the contrary contained in this chapter. If
 1293 vacancies occur on the board as a result of a recall and a
 1294 majority or more of the board members are removed, the vacancies
 1295 shall be filled in accordance with procedural rules to be
 1296 adopted by the division, which rules need not be consistent with
 1297 this chapter. The rules must provide procedures governing the
 1298 conduct of the recall election as well as the operation of the
 1299 association during the period after a recall but prior to the
 1300 recall election.

1301 7. A board member who has been recalled may file a
 1302 petition pursuant to s. 719.1255 challenging the validity of a
 1303 recall. The petition must be filed within 60 days after the
 1304 recall is deemed certified. The association and the unit owner
 1305 representative shall be named as the respondents.

1306 8. The division may not accept for filing a recall
 1307 petition, whether filed pursuant to subparagraph 1.,
 1308 subparagraph 2., subparagraph 5., or subparagraph 7. and
 1309 regardless of whether the recall was certified, when there are
 1310 60 or fewer days until the scheduled reelection of the board
 1311 member sought to be recalled or when 60 or fewer days have not
 1312 elapsed since the election of the board member sought to be
 1313 recalled.

1314 Section 15. Section 719.108, Florida Statutes, is amended
 1315 to read:

1316 719.108 Rents and assessments; liability; lien and
 1317 priority; interest; collection; cooperative ownership.—

1318 (1) A unit owner, regardless of how title is acquired,
 1319 including, without limitation, a purchaser at a judicial sale,
 1320 ~~is shall be~~ liable for all rents and assessments coming due
 1321 while the unit owner owns the unit ~~is in exclusive possession of~~
 1322 ~~a unit. Additionally, a In a voluntary transfer, the~~ unit owner
 1323 ~~is in exclusive possession shall be~~ jointly and severally liable
 1324 with the previous unit owner for all unpaid rents and
 1325 assessments, late fees, interest, costs, and reasonable attorney
 1326 fees incurred in an attempt to collect all such amounts that
 1327 came due against the previous unit owner for his or her share of
 1328 the common expenses up to the time of the transfer of title.
 1329 This liability is, without prejudice to the rights of the
 1330 present unit owner ~~in exclusive possession~~ to recover from the
 1331 previous unit owner any the amounts paid by the present unit
 1332 owner ~~in exclusive possession therefor.~~

1333 (2) The liability for rents and assessments may not be
 1334 avoided by waiver of the use or enjoyment of any common areas or
 1335 by abandonment of the unit for which the rents and assessments
 1336 are made.

1337 (3) Notwithstanding any other provision of this section,
 1338 the liability of a first mortgagee or its successor or assignees
 1339 who acquire title to a unit by foreclosure or by deed in lieu of
 1340 foreclosure for the unpaid assessments that became due before
 1341 the mortgagee's acquisition of title is limited to the lesser

1342 of:

1343 (a) The unit's unpaid common expenses and regular periodic
 1344 or special assessments which accrued or came due during the 12
 1345 months immediately preceding the acquisition of title and for
 1346 which payment in full has not been received by the association;

1347 or

1348 (b) One percent of the original mortgage debt. This
 1349 paragraph applies only if the first mortgagee joined the
 1350 association as a defendant in the foreclosure action. Joinder of
 1351 the association is not required if, on the date the complaint is
 1352 filed, the association was dissolved or did not maintain an
 1353 office or agent for service of process at a location that was
 1354 known to or reasonably discoverable by the mortgagee.

1355 (4) The person acquiring title shall pay the amount owed
 1356 to the association within 30 days after transfer of title.
 1357 Failure to pay the full amount when due entitles the association
 1358 to record a claim of lien against the parcel and proceed in the
 1359 same manner as provided in this section for the collection of
 1360 unpaid assessments.

1361 (5)~~(3)~~ Rents and assessments, and installments on them,
 1362 not paid when due bear interest at the rate provided in the
 1363 cooperative documents from the date due until paid. This rate
 1364 may not exceed the rate allowed by law and, if a rate is not
 1365 provided in the cooperative documents, accrues at 18 percent per
 1366 annum. If the cooperative documents or bylaws so provide, the
 1367 association may charge an administrative late fee in addition to
 1368 such interest, not to exceed the greater of \$25 or 5 percent of
 1369 each installment of the assessment for each delinquent

1370 installment that the payment is late. Any payment received by an
 1371 association must be applied first to any interest accrued by the
 1372 association, then to any administrative late fee, then to any
 1373 costs and reasonable attorney ~~attorney's~~ fees incurred in
 1374 collection, and then to the delinquent assessment. The foregoing
 1375 applies notwithstanding any restrictive endorsement,
 1376 designation, or instruction placed on or accompanying a payment.
 1377 A late fee is not subject to chapter 687 or s. 719.303(4).

1378 (6)~~(4)~~ The association has a lien on each cooperative
 1379 parcel for any unpaid rents and assessments, plus interest, and
 1380 any authorized administrative late fees. If authorized by the
 1381 cooperative documents, the lien also secures reasonable attorney
 1382 ~~attorney's~~ fees incurred by the association incident to the
 1383 collection of the rents and assessments or enforcement of such
 1384 lien. The lien is effective from and after recording a claim of
 1385 lien in the public records in the county in which the
 1386 cooperative parcel is located which states the description of
 1387 the cooperative parcel, the name of the unit owner, the amount
 1388 due, and the due dates. The lien expires if a claim of lien is
 1389 not filed within 1 year after the date the assessment was due,
 1390 and the lien does not continue for longer than 1 year after the
 1391 claim of lien has been recorded unless, within that time, an
 1392 action to enforce the lien is commenced. Except as otherwise
 1393 provided in this chapter, a lien may not be filed by the
 1394 association against a cooperative parcel until 30 days after the
 1395 date on which a notice of intent to file a lien has been
 1396 delivered to the owner.

1397 (a) The notice must be sent to the unit owner at the

1398 address of the unit by first-class United States mail and:
 1399 1. If the most recent address of the unit owner on the
 1400 records of the association is the address of the unit, the
 1401 notice must be sent by registered or certified mail, return
 1402 receipt requested, to the unit owner at the address of the unit.
 1403 2. If the most recent address of the unit owner on the
 1404 records of the association is in the United States, but is not
 1405 the address of the unit, the notice must be sent by registered
 1406 or certified mail, return receipt requested, to the unit owner
 1407 at his or her most recent address.
 1408 3. If the most recent address of the unit owner on the
 1409 records of the association is not in the United States, the
 1410 notice must be sent by first-class United States mail to the
 1411 unit owner at his or her most recent address.
 1412 (b) A notice that is sent pursuant to this subsection is
 1413 deemed delivered upon mailing.
 1414 (7)~~(5)~~ Liens for rents and assessments may be foreclosed
 1415 by suit brought in the name of the association, in like manner
 1416 as a foreclosure of a mortgage on real property. In any
 1417 foreclosure, the unit owner shall pay a reasonable rental for
 1418 the cooperative parcel, if so provided in the cooperative
 1419 documents, and the plaintiff in the foreclosure is entitled to
 1420 the appointment of a receiver to collect the rent. The
 1421 association has the power, unless prohibited by the cooperative
 1422 documents, to bid on the cooperative parcel at the foreclosure
 1423 sale and to acquire and hold, lease, mortgage, or convey it.
 1424 Suit to recover a money judgment for unpaid rents and
 1425 assessments may be maintained without waiving the lien securing

1426 | them.

1427 | (8)~~(6)~~ Within 15 days after request by a unit owner or
 1428 | mortgagee, the association shall provide a certificate stating
 1429 | all assessments and other moneys owed to the association by the
 1430 | unit owner with respect to the cooperative parcel. Any person
 1431 | other than the unit owner who relies upon such certificate shall
 1432 | be protected thereby. Notwithstanding any limitation on transfer
 1433 | fees contained in s. 719.106(1)(i), the association or its
 1434 | authorized agent may charge a reasonable fee for the preparation
 1435 | of the certificate.

1436 | (9)~~(7)~~ The remedies provided in this section do not
 1437 | exclude other remedies provided by the cooperative documents and
 1438 | permitted by law.

1439 | (10)~~(8)~~(a) A ~~No~~ unit owner may not be excused from the
 1440 | payment of his or her share of the rents or assessments of a
 1441 | cooperative unless all unit owners are likewise proportionately
 1442 | excused from payment, except as provided in subsection (8) ~~(6)~~
 1443 | and in the following cases:

1444 | 1. If the cooperative documents so provide, a developer or
 1445 | other person owning cooperative units offered for sale may be
 1446 | excused from the payment of the share of the common expenses,
 1447 | assessments, and rents related to those units for a stated
 1448 | period of time. The period must terminate no later than the
 1449 | first day of the fourth calendar month following the month in
 1450 | which the right of exclusive possession is first granted to a
 1451 | unit owner. However, the developer must pay the portion of
 1452 | common expenses incurred during that period which exceed the
 1453 | amount assessed against other unit owners.

1454 2. A developer, or other person with an ownership interest
1455 in cooperative units or having an obligation to pay common
1456 expenses, may be excused from the payment of his or her share of
1457 the common expenses which would have been assessed against those
1458 units during the period of time that he or she shall have
1459 guaranteed to each purchaser in the purchase contract or in the
1460 cooperative documents, or by agreement between the developer and
1461 a majority of the unit owners other than the developer, that the
1462 assessment for common expenses of the cooperative imposed upon
1463 the unit owners would not increase over a stated dollar amount
1464 and shall have obligated himself or herself to pay any amount of
1465 common expenses incurred during that period and not produced by
1466 the assessments at the guaranteed level receivable from other
1467 unit owners.

1468 (b) If the purchase contract, cooperative documents, or
1469 agreement between the developer and a majority of unit owners
1470 other than the developer provides for the developer or another
1471 person to be excused from the payment of assessments pursuant to
1472 paragraph (a), ~~no~~ funds receivable from unit owners payable to
1473 the association or collected by the developer on behalf of the
1474 association, other than regular periodic assessments for common
1475 expenses as provided in the cooperative documents and disclosed
1476 in the estimated operating budget pursuant to s. 719.503(1)(b)6.
1477 or s. 719.504(20)(b), may not be used for payment of common
1478 expenses prior to the expiration of the period during which the
1479 developer or other person is so excused. This restriction
1480 applies to funds including, but not limited to, capital
1481 contributions or startup funds collected from unit purchasers at

1482 closing.

1483 (11)~~(9)~~ The specific purposes of any special assessment,
 1484 including any contingent special assessment levied in
 1485 conjunction with the purchase of an insurance policy authorized
 1486 by s. 719.104(3), approved in accordance with the cooperative
 1487 documents shall be set forth in a written notice of such
 1488 assessment sent or delivered to each unit owner. The funds
 1489 collected pursuant to a special assessment may ~~shall~~ be used
 1490 only for the specific purpose or purposes set forth in such
 1491 notice or returned to the unit owners. However, upon completion
 1492 of such specific purposes, any excess funds shall be considered
 1493 common surplus and may, at the discretion of the board, either
 1494 be returned to the unit owners or applied as a credit toward
 1495 future assessments.

1496 (12)~~(10)~~(a) If the unit is occupied by a tenant and the
 1497 unit owner is delinquent in paying any monetary obligation due
 1498 to the association, the association may make a written demand
 1499 that the tenant pay to the association the subsequent rental
 1500 payments and continue to make such payments until all monetary
 1501 obligations of the unit owner related to the unit have been paid
 1502 in full to the association. The tenant must pay the monetary
 1503 obligations to the association until the association releases
 1504 the tenant or the tenant discontinues tenancy in the unit.

1505 1. The association must provide the tenant a notice, by
 1506 hand delivery or United States mail, in substantially the
 1507 following form:

1508

1509 Pursuant to section 719.108(12) ~~719.108(10)~~, Florida

1510 Statutes, we demand that you make your rent payments
 1511 directly to the cooperative association and continue doing
 1512 so until the association notifies you otherwise.

1513
 1514 Payment due the cooperative association may be in the same
 1515 form as you paid your landlord and must be sent by United
 1516 States mail or hand delivery to ...(full address)...,
 1517 payable to ...(name)....

1518
 1519 Your obligation to pay your rent to the association begins
 1520 immediately, unless you have already paid rent to your
 1521 landlord for the current period before receiving this
 1522 notice. In that case, you must provide the association
 1523 written proof of your payment within 14 days after
 1524 receiving this notice and your obligation to pay rent to
 1525 the association would then begin with the next rental
 1526 period.

1527
 1528 Pursuant to section 719.108(12) ~~719.108(10)~~, Florida
 1529 Statutes, your payment of rent to the association gives you
 1530 complete immunity from any claim for the rent by your
 1531 landlord.

1532
 1533 2. The association must mail written notice to the unit
 1534 owner of the association's demand that the tenant make payments
 1535 to the association.

1536 3. The association shall, upon request, provide the tenant
 1537 with written receipts for payments made.

1538 4. A tenant is immune from any claim by the landlord or
1539 unit owner related to the rent timely paid to the association
1540 after the association has made written demand.

1541 (b) If the tenant paid rent to the landlord or unit owner
1542 for a given rental period before receiving the demand from the
1543 association and provides written evidence to the association of
1544 having paid the rent within 14 days after receiving the demand,
1545 the tenant shall begin making rental payments to the association
1546 for the following rental period and shall continue making rental
1547 payments to the association to be credited against the monetary
1548 obligations of the unit owner until the association releases the
1549 tenant or the tenant discontinues tenancy in the unit.

1550 (c) The liability of the tenant may not exceed the amount
1551 due from the tenant to the tenant's landlord. The tenant's
1552 landlord shall provide the tenant a credit against rents due to
1553 the landlord in the amount of moneys paid to the association.

1554 (d) The association may issue notice under s. 83.56 and
1555 sue for eviction under ss. 83.59-83.625 as if the association
1556 were a landlord under part II of chapter 83 if the tenant fails
1557 to pay a required payment to the association after written
1558 demand has been made to the tenant. However, the association is
1559 not otherwise considered a landlord under chapter 83 and
1560 specifically has no obligations under s. 83.51.

1561 (e) The tenant does not, by virtue of payment of monetary
1562 obligations to the association, have any of the rights of a unit
1563 owner to vote in any election or to examine the books and
1564 records of the association.

1565 (f) A court may supersede the effect of this subsection by
 1566 appointing a receiver.

1567 Section 16. Paragraph (a) of subsection (3) and subsection
 1568 (5) of section 719.303, Florida Statutes, are amended to read:

1569 719.303 Obligations of owners.—

1570 (3) The association may levy reasonable fines for failure
 1571 of the unit owner or the unit's occupant, licensee, or invitee
 1572 to comply with any provision of the cooperative documents or
 1573 reasonable rules of the association. A fine may not become a
 1574 lien against a unit. A fine may be levied on the basis of each
 1575 day of a continuing violation, with a single notice and
 1576 opportunity for hearing. However, the fine may not exceed \$100
 1577 per violation, or \$1,000 in the aggregate.

1578 (a) An association may suspend, for a reasonable period of
 1579 time, the right of a unit owner, or a unit owner's tenant,
 1580 guest, or invitee, to use the common elements, common
 1581 facilities, or any other association property for failure to
 1582 comply with any provision of the cooperative documents or
 1583 reasonable rules of the association. This paragraph does not
 1584 apply to limited common elements intended to be used only by
 1585 that unit, common elements needed to access the unit, utility
 1586 services provided to the unit, parking spaces, or elevators.

1587 (5) An association may suspend the voting rights of a unit
 1588 or member due to nonpayment of any monetary obligation due ~~to~~
 1589 the association which is more than 90 days delinquent. ~~A voting~~
 1590 ~~interest or consent right allocated to a unit or member which~~
 1591 ~~has been suspended by the association may not be counted towards~~
 1592 ~~the total number of voting interests for any purpose, including,~~

1593 ~~but not limited to, the number of voting interests necessary to~~
 1594 ~~constitute a quorum, the number of voting interests required to~~
 1595 ~~conduct an election, or the number of voting interests required~~
 1596 ~~to approve an action under this chapter or pursuant to the~~
 1597 ~~cooperative documents, articles of incorporation, or bylaws. The~~
 1598 suspension ends upon full payment of all obligations currently
 1599 due or overdue the association. The notice and hearing
 1600 requirements under subsection (3) do not apply to a suspension
 1601 imposed under this subsection.

1602 Section 17. Paragraph (c) of subsection (5) and subsection
 1603 (10) of section 720.303, Florida Statutes, are amended to read:

1604 720.303 Association powers and duties; meetings of board;
 1605 official records; budgets; financial reporting; association
 1606 funds; recalls.—

1607 (5) INSPECTION AND COPYING OF RECORDS.—The official
 1608 records shall be maintained within the state and must be open to
 1609 inspection and available for photocopying by members or their
 1610 authorized agents at reasonable times and places within 10
 1611 business days after receipt of a written request for access.
 1612 This subsection may be complied with by having a copy of the
 1613 official records available for inspection or copying in the
 1614 community. If the association has a photocopy machine available
 1615 where the records are maintained, it must provide parcel owners
 1616 with copies on request during the inspection if the entire
 1617 request is limited to no more than 25 pages.

1618 (c) The association may adopt reasonable written rules
 1619 governing the frequency, time, location, notice, records to be
 1620 inspected, and manner of inspections, but may not require a

1621 parcel owner to demonstrate any proper purpose for the
1622 inspection, state any reason for the inspection, or limit a
1623 parcel owner's right to inspect records to less than one 8-hour
1624 business day per month. The association may impose fees to cover
1625 the costs of providing copies of the official records,
1626 including, without limitation, the costs of copying. The
1627 association may charge up to 50 cents per page for copies made
1628 on the association's photocopier. If the association does not
1629 have a photocopy machine available where the records are kept,
1630 or if the records requested to be copied exceed 25 pages in
1631 length, the association may have copies made by an outside
1632 vendor or association management company personnel and may
1633 charge the actual cost of copying, including any reasonable
1634 costs involving personnel fees and charges at an hourly rate for
1635 vendor or employee time to cover administrative costs to the
1636 vendor or association. The association shall maintain an
1637 adequate number of copies of the recorded governing documents,
1638 to ensure their availability to members and prospective members.
1639 Notwithstanding this paragraph, the following records are not
1640 accessible to members or parcel owners:

1641 1. Any record protected by the lawyer-client privilege as
1642 described in s. 90.502 and any record protected by the work-
1643 product privilege, including, but not limited to, a record
1644 prepared by an association attorney or prepared at the
1645 attorney's express direction which reflects a mental impression,
1646 conclusion, litigation strategy, or legal theory of the attorney
1647 or the association and which was prepared exclusively for civil
1648 or criminal litigation or for adversarial administrative

1649 | proceedings or which was prepared in anticipation of such
 1650 | litigation or proceedings until the conclusion of the litigation
 1651 | or proceedings.

1652 | 2. Information obtained by an association in connection
 1653 | with the approval of the lease, sale, or other transfer of a
 1654 | parcel.

1655 | 3. Personnel records of association or management company
 1656 | ~~the association's~~ employees, including, but not limited to,
 1657 | disciplinary, payroll, health, and insurance records. For
 1658 | purposes of this subparagraph, the term "personnel records" does
 1659 | not include written employment agreements with an association or
 1660 | management company employee or budgetary or financial records
 1661 | that indicate the compensation paid to an association or
 1662 | management company employee.

1663 | 4. Medical records of parcel owners or community
 1664 | residents.

1665 | 5. Social security numbers, driver ~~driver's~~ license
 1666 | numbers, credit card numbers, electronic mailing addresses,
 1667 | telephone numbers, facsimile numbers, emergency contact
 1668 | information, any addresses for a parcel owner other than as
 1669 | provided for association notice requirements, and other personal
 1670 | identifying information of any person, excluding the person's
 1671 | name, parcel designation, mailing address, and property address.
 1672 | However, an owner may consent in writing to the disclosure of
 1673 | protected information described in this subparagraph. The
 1674 | association is not liable for the disclosure of information that
 1675 | is protected under this subparagraph if the information is
 1676 | included in an official record of the association and is

1677 voluntarily provided by an owner and not requested by the
1678 association.

1679 6. Any electronic security measure that is used by the
1680 association to safeguard data, including passwords.

1681 7. The software and operating system used by the
1682 association which allows the manipulation of data, even if the
1683 owner owns a copy of the same software used by the association.
1684 The data is part of the official records of the association.

1685 (10) RECALL OF DIRECTORS.—

1686 (a)1. Regardless of any provision to the contrary
1687 contained in the governing documents, subject to the provisions
1688 of s. 720.307 regarding transition of association control, any
1689 member of the board of directors may be recalled and removed
1690 from office with or without cause by a majority of the total
1691 voting interests.

1692 2. When the governing documents, including the
1693 declaration, articles of incorporation, or bylaws, provide that
1694 only a specific class of members is entitled to elect a board
1695 director or directors, only that class of members may vote to
1696 recall those board directors so elected.

1697 (b)1. Board directors may be recalled by an agreement in
1698 writing or by written ballot without a membership meeting. The
1699 agreement in writing or the written ballots, or a copy thereof,
1700 shall be served on the association by certified mail or by
1701 personal service in the manner authorized by chapter 48 and the
1702 Florida Rules of Civil Procedure.

1703 2. The board shall duly notice and hold a meeting of the
1704 board within 5 full business days after receipt of the agreement

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1705 in writing or written ballots. At the meeting, the board shall
1706 either certify the written ballots or written agreement to
1707 recall a director or directors of the board, in which case such
1708 director or directors shall be recalled effective immediately
1709 and shall turn over to the board within 5 full business days any
1710 and all records and property of the association in their
1711 possession, or proceed as described in paragraph (d).

1712 3. When it is determined by the department pursuant to
1713 binding arbitration proceedings that an initial recall effort
1714 was defective, written recall agreements or written ballots used
1715 in the first recall effort and not found to be defective may be
1716 reused in one subsequent recall effort. However, in no event is
1717 a written agreement or written ballot valid for more than 120
1718 days after it has been signed by the member.

1719 4. Any rescission or revocation of a member's written
1720 recall ballot or agreement must be in writing and, in order to
1721 be effective, must be delivered to the association before the
1722 association is served with the written recall agreements or
1723 ballots.

1724 5. The agreement in writing or ballot shall list at least
1725 as many possible replacement directors as there are directors
1726 subject to the recall, when at least a majority of the board is
1727 sought to be recalled; the person executing the recall
1728 instrument may vote for as many replacement candidates as there
1729 are directors subject to the recall.

1730 (c)1. If the declaration, articles of incorporation, or
1731 bylaws specifically provide, the members may also recall and
1732 remove a board director or directors by a vote taken at a

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1733 meeting. If so provided in the governing documents, a special
1734 meeting of the members to recall a director or directors of the
1735 board of administration may be called by 10 percent of the
1736 voting interests giving notice of the meeting as required for a
1737 meeting of members, and the notice shall state the purpose of
1738 the meeting. Electronic transmission may not be used as a method
1739 of giving notice of a meeting called in whole or in part for
1740 this purpose.

1741 2. The board shall duly notice and hold a board meeting
1742 within 5 full business days after the adjournment of the member
1743 meeting to recall one or more directors. At the meeting, the
1744 board shall certify the recall, in which case such member or
1745 members shall be recalled effective immediately and shall turn
1746 over to the board within 5 full business days any and all
1747 records and property of the association in their possession, or
1748 shall proceed as set forth in subparagraph (d).

1749 (d) If the board determines not to certify the written
1750 agreement or written ballots to recall a director or directors
1751 of the board or does not certify the recall by a vote at a
1752 meeting, the board shall, within 5 full business days after the
1753 meeting, file with the department a petition for binding
1754 arbitration pursuant to the applicable procedures in ss.
1755 718.112(2)(j) and 718.1255 and the rules adopted thereunder. For
1756 the purposes of this section, the members who voted at the
1757 meeting or who executed the agreement in writing shall
1758 constitute one party under the petition for arbitration. If the
1759 arbitrator certifies the recall as to any director or directors
1760 of the board, the recall will be effective upon mailing of the

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1761 final order of arbitration to the association. The director or
1762 directors so recalled shall deliver to the board any and all
1763 records of the association in their possession within 5 full
1764 business days after the effective date of the recall.

1765 (e) If a vacancy occurs on the board as a result of a
1766 recall and less than a majority of the board directors are
1767 removed, the vacancy may be filled by the affirmative vote of a
1768 majority of the remaining directors, notwithstanding any
1769 provision to the contrary contained in this subsection or in the
1770 association documents. If vacancies occur on the board as a
1771 result of a recall and a majority or more of the board directors
1772 are removed, the vacancies shall be filled by members voting in
1773 favor of the recall; if removal is at a meeting, any vacancies
1774 shall be filled by the members at the meeting. If the recall
1775 occurred by agreement in writing or by written ballot, members
1776 may vote for replacement directors in the same instrument in
1777 accordance with procedural rules adopted by the division, which
1778 rules need not be consistent with this subsection.

1779 (f) If the board fails to duly notice and hold a board
1780 meeting within 5 full business days after service of an
1781 agreement in writing or within 5 full business days after the
1782 adjournment of the member recall meeting, the recall shall be
1783 deemed effective and the board directors so recalled shall
1784 immediately turn over to the board all records and property of
1785 the association.

1786 (g) If the board fails to duly notice and hold the
1787 required meeting or fails to file the required petition, the
1788 unit owner representative may file a petition pursuant to s.

1789 718.1255 challenging the board's failure to act. The petition
1790 must be filed within 60 days after the expiration of the
1791 applicable 5-full-business-day period. The review of a petition
1792 under this paragraph is limited to the sufficiency of service on
1793 the board and the facial validity of the written agreement or
1794 ballots filed.

1795 (h)~~(g)~~ If a director who is removed fails to relinquish
1796 his or her office or turn over records as required under this
1797 section, the circuit court in the county where the association
1798 maintains its principal office may, upon the petition of the
1799 association, summarily order the director to relinquish his or
1800 her office and turn over all association records upon
1801 application of the association.

1802 (i)~~(h)~~ The minutes of the board meeting at which the board
1803 decides whether to certify the recall are an official
1804 association record. The minutes must record the date and time of
1805 the meeting, the decision of the board, and the vote count taken
1806 on each board member subject to the recall. In addition, when
1807 the board decides not to certify the recall, as to each vote
1808 rejected, the minutes must identify the parcel number and the
1809 specific reason for each such rejection.

1810 (j)~~(i)~~ When the recall of more than one board director is
1811 sought, the written agreement, ballot, or vote at a meeting
1812 shall provide for a separate vote for each board director sought
1813 to be recalled.

1814 (k) A board member who has been recalled may file a
1815 petition pursuant to ss. 718.112(2)(j) and 718.1255 and the
1816 rules adopted challenging the validity of the recall. The

1817 petition must be filed within 60 days after the recall is deemed
 1818 certified. The association and the unit owner representative
 1819 shall be named as respondents.

1820 (1) The division may not accept for filing a recall
 1821 petition, whether filed pursuant to paragraph (b), paragraph
 1822 (c), paragraph (g), or paragraph (k) and regardless of whether
 1823 the recall was certified, when there are 60 or fewer days until
 1824 the scheduled reelection of the board member sought to be
 1825 recalled or when 60 or fewer days have not elapsed since the
 1826 election of the board member sought to be recalled.

1827 Section 18. Subsections (2) and (4) of section 720.305,
 1828 Florida Statutes, are amended to read:

1829 720.305 Obligations of members; remedies at law or in
 1830 equity; levy of fines and suspension of use rights.—

1831 (2) The association may levy reasonable fines of up to
 1832 \$100 per violation against any member or any member's tenant,
 1833 guest, or invitee for the failure of the owner of the parcel or
 1834 its occupant, licensee, or invitee to comply with any provision
 1835 of the declaration, the association bylaws, or reasonable rules
 1836 of the association. A fine may be levied for each day of a
 1837 continuing violation, with a single notice and opportunity for
 1838 hearing, except that the fine may not exceed \$1,000 in the
 1839 aggregate unless otherwise provided in the governing documents.
 1840 A fine of less than \$1,000 may not become a lien against a
 1841 parcel. In any action to recover a fine, the prevailing party is
 1842 entitled to reasonable attorney ~~attorney's~~ fees and costs from
 1843 the nonprevailing party as determined by the court.

1844 (a) An association may suspend, for a reasonable period of

1845 time, the right of a member, or a member's tenant, guest, or
 1846 invitee, to use common areas and facilities for the failure of
 1847 the owner of the parcel or its occupant, licensee, or invitee to
 1848 comply with any provision of the declaration, the association
 1849 bylaws, or reasonable rules of the association. This paragraph
 1850 does not apply to that portion of common areas used to provide
 1851 access or utility services to the parcel. A suspension may not
 1852 impair the right of an owner or tenant of a parcel to have
 1853 vehicular and pedestrian ingress to and egress from the parcel,
 1854 including, but not limited to, the right to park.

1855 (b) A fine or suspension may not be imposed without at
 1856 least 14 days' notice to the person sought to be fined or
 1857 suspended and an opportunity for a hearing before a committee of
 1858 at least three members appointed by the board who are not
 1859 officers, directors, or employees of the association, or the
 1860 spouse, parent, child, brother, or sister of an officer,
 1861 director, or employee. If the committee, by majority vote, does
 1862 not approve a proposed fine or suspension, it may not be
 1863 imposed. If the association imposes a fine or suspension, the
 1864 association must provide written notice of such fine or
 1865 suspension by mail or hand delivery to the parcel owner and, if
 1866 applicable, to any tenant, licensee, or invitee of the parcel
 1867 owner.

1868 (4) An association may suspend the voting rights of a
 1869 parcel or member for the nonpayment of any monetary obligation
 1870 due ~~to~~ the association that is more than 90 days delinquent. A
 1871 ~~voting interest or consent right allocated to a parcel or member~~
 1872 ~~which has been suspended by the association may not be counted~~

1873 ~~towards the total number of voting interests for any purpose,~~
 1874 ~~including, but not limited to, the number of voting interests~~
 1875 ~~necessary to constitute a quorum, the number of voting interests~~
 1876 ~~required to conduct an election, or the number of voting~~
 1877 ~~interests required to approve an action under this chapter or~~
 1878 ~~pursuant to the governing documents. The notice and hearing~~
 1879 requirements under subsection (2) do not apply to a suspension
 1880 imposed under this subsection. The suspension ends upon full
 1881 payment of all obligations currently due or overdue to the
 1882 association.

1883 Section 19. Paragraph (d) is added to subsection (1) of
 1884 section 720.306, Florida Statutes, and subsections (6) and (9)
 1885 of that section are amended, to read:

1886 720.306 Meetings of members; voting and election
 1887 procedures; amendments.—

1888 (1) QUORUM; AMENDMENTS.—

1889 (d) The Legislature finds that the procurement of
 1890 mortgagee consent to amendments that do not affect the rights or
 1891 interests of mortgagees is an unreasonable and substantial
 1892 logistical and financial burden on the parcel owners and that
 1893 there is a compelling state interest in enabling the members of
 1894 an association to approve amendments to the association's
 1895 governing documents through legal means. Accordingly, and
 1896 notwithstanding any provision to the contrary contained in this
 1897 paragraph:

1898 1. As to any mortgage recorded on or after July 1, 2012,
 1899 any provision in the association's governing documents that
 1900 requires the consent or joinder of some or all mortgagees of

1901 parcels or any other portion of the association's common areas
1902 to amend the association's governing documents or for any other
1903 matter is enforceable only as to amendments to the association's
1904 governing documents that adversely affect the priority of the
1905 mortgagee's lien or the mortgagee's rights to foreclose its lien
1906 or that otherwise materially affect the rights and interests of
1907 the mortgagees.

1908 2. As to mortgages recorded before July 1, 2012, any
1909 existing provisions in the association's governing documents
1910 requiring mortgagee consent are enforceable.

1911 3. In securing consent or joinder, the association is
1912 entitled to rely upon the public records to identify the holders
1913 of outstanding mortgages. The association may use the address
1914 provided in the original recorded mortgage document, unless
1915 there is a different address for the holder of the mortgage in a
1916 recorded assignment or modification of the mortgage, which
1917 recorded assignment or modification must reference the official
1918 records book and page on which the original mortgage was
1919 recorded. Once the association has identified the recorded
1920 mortgages of record, the association shall, in writing, request
1921 of each parcel owner whose parcel is encumbered by a mortgage of
1922 record any information the owner has in his or her possession
1923 regarding the name and address of the person to whom mortgage
1924 payments are currently being made. Notice shall be sent to such
1925 person if the address provided in the original recorded mortgage
1926 document is different from the name and address of the mortgagee
1927 or assignee of the mortgage as shown by the public record. The
1928 association is deemed to have complied with this requirement by

1929 making the written request of the parcel owners required under
 1930 this subparagraph. Any notices required to be sent to the
 1931 mortgagees under this subparagraph shall be sent to all
 1932 available addresses provided to the association.

1933 4. Any notice to the mortgagees required under
 1934 subparagraph 3. may be sent by a method that establishes proof
 1935 of delivery, and any mortgagee who fails to respond within 60
 1936 days after the date of mailing is deemed to have consented to
 1937 the amendment.

1938 5. For those amendments requiring mortgagee consent on or
 1939 after July 1, 2012, in the event mortgagee consent is provided
 1940 other than by properly recorded joinder, such consent shall be
 1941 evidenced by affidavit of the association recorded in the public
 1942 records of the county in which the declaration is recorded.

1943 6. Any amendment adopted without the required consent of a
 1944 mortgagee is voidable only by a mortgagee who was entitled to
 1945 notice and an opportunity to consent. An action to void an
 1946 amendment is subject to the statute of limitations beginning 5
 1947 years after the date of discovery as to the amendments described
 1948 in subparagraph 1. and 5 years after the date of recordation of
 1949 the certificate of amendment for all other amendments. This
 1950 subparagraph applies to all mortgages, regardless of the date of
 1951 recordation of the mortgage.

1952 (6) RIGHT TO SPEAK.—Members and parcel owners have the
 1953 right to attend all membership meetings and to speak at any
 1954 meeting with reference to all items opened for discussion or
 1955 included on the agenda. Notwithstanding any provision to the
 1956 contrary in the governing documents or any rules adopted by the

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1957 board or by the membership, a member and a parcel owner have the
 1958 right to speak for at least 3 minutes on any item, ~~provided that~~
 1959 ~~the member or parcel owner submits a written request to speak~~
 1960 ~~prior to the meeting.~~ The association may adopt written
 1961 reasonable rules governing the frequency, duration, and other
 1962 manner of member and parcel owner statements, which rules must
 1963 be consistent with this subsection.

1964 (9) ~~(a)~~ ELECTIONS AND BOARD VACANCIES.—

1965 (a) Elections of directors must be conducted in accordance
 1966 with the procedures set forth in the governing documents of the
 1967 association. All members of the association are eligible to
 1968 serve on the board of directors, and a member may nominate
 1969 himself or herself as a candidate for the board at a meeting
 1970 where the election is to be held or, if the election process
 1971 allows voting by absentee ballot, in advance of the balloting.
 1972 Except as otherwise provided in the governing documents, boards
 1973 of directors must be elected by a plurality of the votes cast by
 1974 eligible voters. Any challenge to the election process must be
 1975 commenced within 60 days after the election results are
 1976 announced.

1977 (b) A person who is delinquent in the payment of any fee,
 1978 fine, or other monetary obligation to the association for more
 1979 than 90 days is not eligible for board membership. A person who
 1980 has been convicted of any felony in this state or in a United
 1981 States District or Territorial Court, or has been convicted of
 1982 any offense in another jurisdiction which would be considered a
 1983 felony if committed in this state, is not eligible for board
 1984 membership unless such felon's civil rights have been restored

1985 | for at least 5 years as of the date on which such person seeks
 1986 | election to the board. The validity of any action by the board
 1987 | is not affected if it is later determined that a member of the
 1988 | board is ineligible for board membership.

1989 | (c) Any election dispute between a member and an
 1990 | association must be submitted to mandatory binding arbitration
 1991 | with the division. Such proceedings must be conducted in the
 1992 | manner provided by s. 718.1255 and the procedural rules adopted
 1993 | by the division. Unless otherwise provided in the bylaws, any
 1994 | vacancy occurring on the board before the expiration of a term
 1995 | may be filled by an affirmative vote of the majority of the
 1996 | remaining directors, even if the remaining directors constitute
 1997 | less than a quorum, or by the sole remaining director. In the
 1998 | alternative, a board may hold an election to fill the vacancy,
 1999 | in which case the election procedures must conform to the
 2000 | requirements of the governing documents. Unless otherwise
 2001 | provided in the bylaws, a board member appointed or elected
 2002 | under this section is appointed for the unexpired term of the
 2003 | seat being filled. Filling vacancies created by recall is
 2004 | governed by s. 720.303(10) and rules adopted by the division.

2005 | Section 20. Subsection (1) of section 720.307, Florida
 2006 | Statutes, is amended to read:

2007 | 720.307 Transition of association control in a community.—
 2008 | With respect to homeowners' associations:

2009 | (1) Members other than the developer are entitled to elect
 2010 | at least a majority of the members of the board of directors of
 2011 | the homeowners' association when the earlier of the following
 2012 | events occurs:

2013 (a) Three months after 90 percent of the parcels in all
 2014 phases of the community that will ultimately be operated by the
 2015 homeowners' association have been conveyed to members; ~~or~~

2016 (b) When development of all of the parcels that will
 2017 ultimately be operated by the homeowners' association has been
 2018 completed, some of the parcels have been conveyed to members,
 2019 and no other parcels are being offered for sale by the developer
 2020 in the ordinary course of business;

2021 (c) When some of the parcels have been conveyed to members
 2022 and no other parcels are being constructed or offered for sale
 2023 by the developer in the ordinary course of business;

2024 (d) When the developer files a petition seeking protection
 2025 in bankruptcy;

2026 (e) When a receiver for the developer is appointed by a
 2027 circuit court and is not discharged within 30 days after such
 2028 appointment, unless the court determines, within 30 days after
 2029 appointment of the receiver, that transfer of control would be
 2030 detrimental to the homeowners' association or its members; or

2031 (f) ~~(b)~~ Such other percentage of the parcels has been
 2032 conveyed to members, or such other date or event has occurred,
 2033 as is set forth in the governing documents in order to comply
 2034 with the requirements of any governmentally chartered entity
 2035 with regard to the mortgage financing of parcels.

2036
 2037 For purposes of this section, the term "members other than the
 2038 developer" shall not include builders, contractors, or others
 2039 who purchase a parcel for the purpose of constructing
 2040 improvements thereon for resale.

2041 Section 21. Paragraphs (b), (c), and (d) of subsection (2)
 2042 of section 720.3085, Florida Statutes, are amended to read:

2043 720.3085 Payment for assessments; lien claims.-

2044 (2)

2045 (b) A parcel owner, regardless of how the parcel owner has
 2046 acquired title, including, but not limited to, by purchase at a
 2047 foreclosure sale, is liable for all assessments that come due
 2048 while he or she is the parcel owner. Additionally, a parcel
 2049 owner is jointly and severally liable with the previous parcel
 2050 owner for all unpaid assessments, late fees, interest, costs,
 2051 and reasonable attorney fees incurred by the association in an
 2052 attempt to collect all such amounts that came due up to the time
 2053 of transfer of title. This liability is without prejudice to any
 2054 right the present parcel owner may have to recover ~~any amounts~~
 2055 ~~paid by the present owner~~ from the previous owner the amounts
 2056 paid by the present owner.

2057 (c) 1. ~~Notwithstanding anything to the contrary contained~~
 2058 ~~in this section,~~ The liability of a first mortgagee, or its
 2059 successors ~~successor~~ or assignees ~~assignee~~ as a subsequent
 2060 ~~holder of the first mortgage~~ who acquire ~~acquires~~ title to a
 2061 parcel by foreclosure or by deed in lieu of foreclosure for the
 2062 unpaid assessments, interest, administrative late fees,
 2063 reasonable costs and attorney fees, and any other fee, cost, or
 2064 expense incurred in the collection process that became due
 2065 before the mortgagee's acquisition of title is limited to, ~~shall~~
 2066 ~~be~~ the lesser of:

2067 a.1. Only the parcel's unpaid common expenses and regular
 2068 periodic or special assessments that accrued or came due during

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2069 the 12 months immediately preceding the acquisition of title and
 2070 for which payment in full has not been received by the
 2071 association; or

2072 ~~b.2.~~ One percent of the original mortgage debt.

2073 2. Subparagraph 1. applies ~~The limitations on first~~
 2074 ~~mortgagee liability provided by this paragraph apply~~ only if the
 2075 first mortgagee ~~filed suit against the parcel owner and~~
 2076 ~~initially~~ joined the association as a defendant in the mortgagee
 2077 foreclosure action. Joinder of the association is not required
 2078 if, on the date the complaint is filed, the association was
 2079 dissolved or did not maintain an office or agent for service of
 2080 process at a location that was known to or reasonably
 2081 discoverable by the mortgagee.

2082 3. The first mortgagee or its successors or assignees who
 2083 acquire title to a parcel by foreclosure or by deed in lieu of
 2084 foreclosure are not liable for any interest, administrative late
 2085 fee, reasonable cost or attorney fee, or any other fee, cost, or
 2086 expense that came due prior to its acquisition of title. This
 2087 subparagraph is intended to clarify existing law.

2088 4.(d) An association, or its successor or assignee, that
 2089 acquires title to a parcel through the foreclosure of its lien
 2090 for assessments is not liable for any unpaid assessments, late
 2091 fees, interest, or reasonable attorney ~~attorney's~~ fees and costs
 2092 that came due before the association's acquisition of title in
 2093 favor of any other association, as defined in s. 718.103(2) or
 2094 s. 720.301(9), which holds a ~~superior~~ lien interest on the
 2095 parcel. This paragraph is intended to clarify existing law.

2096 (d) The person acquiring title shall pay the amount owed

2097 to the association within 30 days after transfer of title.
 2098 Failure to pay the full amount when due entitles the association
 2099 to record a claim of lien against the parcel for the amounts
 2100 specified in this subsection and proceed in the same manner as
 2101 provided in this section for the collection of the amount owed
 2102 and any unpaid assessments coming due after the acquisition of
 2103 title and other charges authorized by subsection (3) on any
 2104 unpaid assessments coming due after the acquisition of title.

2105 Section 22. Subsection (3) of section 721.16, Florida
 2106 Statutes, is amended to read:

2107 721.16 Liens for overdue assessments; liens for labor
 2108 performed on, or materials furnished to, a timeshare unit.—

2109 (3) The lien is effective from the date of recording a
 2110 claim of lien in the official records of the county or counties
 2111 in which the timeshare interest is located. The claim of lien
 2112 shall state the name of the timeshare plan and identify the
 2113 timeshare interest for which the lien is effective, state the
 2114 name of the purchaser, state the assessment amount due, and
 2115 state the due dates. Notwithstanding any provision of s.
 2116 718.116(5) or s. 719.108(6) ~~719.108(4)~~ to the contrary, the lien
 2117 is effective until satisfied or until 5 years have expired after
 2118 the date the claim of lien is recorded unless, within that time,
 2119 an action to enforce the lien is commenced pursuant to
 2120 subsection (2). A claim of lien for assessments may include only
 2121 assessments which are due when the claim is recorded. A claim of
 2122 lien shall be signed and acknowledged by an officer or agent of
 2123 the managing entity. Upon full payment, the person making the
 2124 payment is entitled to receive a satisfaction of the lien.

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Section 23. This act shall take effect July 1, 2012.