



955374

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/27/2012	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Bogdanoff) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

399.02 General requirements.—

(9) Updates to the Safety Code for Existing Elevators and Escalators, ASME A17.1 and A17.3, which require Phase II Firefighters' Service on elevators may not be enforced ~~until July 1, 2015, or~~ until the elevator is replaced or requires major modification, ~~whichever occurs first,~~ on elevators in



955374

13 condominiums or multifamily residential buildings, including
14 those that are part of a continuing care facility licensed under
15 chapter 651, or similar retirement community with apartments,
16 having a certificate of occupancy by the local building
17 authority that was issued before July 1, 2008. This exception
18 does not prevent an elevator owner from requesting a variance
19 from the applicable codes ~~before or after July 1, 2015~~. This
20 subsection does not prohibit the division from granting
21 variances pursuant to s. 120.542 and subsection (8). The
22 division shall adopt rules to administer this subsection.

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

25 468.433 Licensure by examination.—

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

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

31 718.112 Bylaws.—

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

35 (d) *Unit owner meetings*.—

36 1. An annual meeting of the unit owners shall be held at
37 the location provided in the association bylaws and, if the
38 bylaws are silent as to the location, the meeting shall be held
39 within 45 miles of the condominium property. However, such
40 distance requirement does not apply to an association governing
41 a timeshare condominium.



955374

42 2. Unless the bylaws provide otherwise, a vacancy on the
43 board caused by the expiration of a director's term shall be
44 filled by electing a new board member, and the election must be
45 by secret ballot. An election is not required if the number of
46 vacancies equals or exceeds the number of candidates. For
47 purposes of this paragraph, the term "candidate" means an
48 eligible person who has timely submitted the written notice, as
49 described in sub-subparagraph 4.a., of his or her intention to
50 become a candidate. Except in a timeshare condominium, or if the
51 staggered term of a board member does not expire until a later
52 annual meeting, or if all members' terms would otherwise expire
53 but there are no candidates, the terms of all board members
54 expire at the annual meeting, and such members may stand for
55 reelection unless prohibited by the bylaws. If the bylaws or the
56 articles of incorporation permit ~~staggered~~ terms of no more than
57 2 years ~~and upon approval of a majority of the total voting~~
58 ~~interests~~, the association board members may serve 2-year
59 ~~staggered~~ terms. If the number of board members whose terms
60 expire at the annual meeting equals or exceeds the number of
61 candidates, the candidates become members of the board effective
62 upon the adjournment of the annual meeting. Unless the bylaws
63 provide otherwise, any remaining vacancies shall be filled by
64 the affirmative vote of the majority of the directors making up
65 the newly constituted board even if the directors constitute
66 less than a quorum or there is only one director. In a
67 condominium association of more than 10 units or in a
68 condominium association that does not include timeshare units or
69 timeshare interests, coowners of a unit may not serve as members
70 of the board of directors at the same time unless they own more



955374

71 than one unit or unless there are not enough eligible candidates
72 to fill the vacancies on the board at the time of the vacancy.
73 Any unit owner desiring to be a candidate for board membership
74 must comply with sub-subparagraph 4.a. and must be eligible to
75 serve on the board of directors at the time of the deadline for
76 submitting a notice of intent to run in order to have his or her
77 name listed as a proper candidate on the ballot or to serve on
78 the board. A person who has been suspended or removed by the
79 division under this chapter, or who is delinquent in the payment
80 of any fee, fine, or special or regular assessment as provided
81 in paragraph (n), is not eligible for board membership. A person
82 who has been convicted of any felony in this state or in a
83 United States District or Territorial Court, or who has been
84 convicted of any offense in another jurisdiction which would be
85 considered a felony if committed in this state, is not eligible
86 for board membership unless such felon's civil rights have been
87 restored for at least 5 years as of the date such person seeks
88 election to the board. The validity of an action by the board is
89 not affected if it is later determined that a board member is
90 ineligible for board membership due to having been convicted of
91 a felony.

92 3. The bylaws must provide the method of calling meetings
93 of unit owners, including annual meetings. Written notice must
94 include an agenda, must be mailed, hand delivered, or
95 electronically transmitted to each unit owner at least 14 days
96 before the annual meeting, and must be posted in a conspicuous
97 place on the condominium property at least 14 continuous days
98 before the annual meeting. Upon notice to the unit owners, the
99 board shall, by duly adopted rule, designate a specific location



955374

100 on the condominium property or association property where all
101 notices of unit owner meetings shall be posted. This requirement
102 does not apply if there is no condominium property or
103 association property for posting notices. In lieu of, or in
104 addition to, the physical posting of meeting notices, the
105 association may, by reasonable rule, adopt a procedure for
106 conspicuously posting and repeatedly broadcasting the notice and
107 the agenda on a closed-circuit cable television system serving
108 the condominium association. However, if broadcast notice is
109 used in lieu of a notice posted physically on the condominium
110 property, the notice and agenda must be broadcast at least four
111 times every broadcast hour of each day that a posted notice is
112 otherwise required under this section. If broadcast notice is
113 provided, the notice and agenda must be broadcast in a manner
114 and for a sufficient continuous length of time so as to allow an
115 average reader to observe the notice and read and comprehend the
116 entire content of the notice and the agenda. Unless a unit owner
117 waives in writing the right to receive notice of the annual
118 meeting, such notice must be hand delivered, mailed, or
119 electronically transmitted to each unit owner. Notice for
120 meetings and notice for all other purposes must be mailed to
121 each unit owner at the address last furnished to the association
122 by the unit owner, or hand delivered to each unit owner.
123 However, if a unit is owned by more than one person, the
124 association must provide notice to the address that the
125 developer identifies for that purpose and thereafter as one or
126 more of the owners of the unit advise the association in
127 writing, or if no address is given or the owners of the unit do
128 not agree, to the address provided on the deed of record. An



955374

129 officer of the association, or the manager or other person
130 providing notice of the association meeting, must provide an
131 affidavit or United States Postal Service certificate of
132 mailing, to be included in the official records of the
133 association affirming that the notice was mailed or hand
134 delivered in accordance with this provision.

135 4. The members of the board shall be elected by written
136 ballot or voting machine. Proxies may not be used in electing
137 the board in general elections or elections to fill vacancies
138 caused by recall, resignation, or otherwise, unless otherwise
139 provided in this chapter. This subparagraph does not apply to an
140 association governing a timeshare condominium.

141 a. At least 60 days before a scheduled election, the
142 association shall mail, deliver, or electronically transmit, by
143 separate association mailing or included in another association
144 mailing, delivery, or transmission, including regularly
145 published newsletters, to each unit owner entitled to a vote, a
146 first notice of the date of the election. Any unit owner or
147 other eligible person desiring to be a candidate for the board
148 must give written notice of his or her intent to be a candidate
149 to the association at least 40 days before a scheduled election.
150 Together with the written notice and agenda as set forth in
151 subparagraph 3., the association shall mail, deliver, or
152 electronically transmit a second notice of the election to all
153 unit owners entitled to vote, together with a ballot that lists
154 all candidates. Upon request of a candidate, an information
155 sheet, no larger than 8 1/2 inches by 11 inches, which must be
156 furnished by the candidate at least 35 days before the election,
157 must be included with the mailing, delivery, or transmission of



955374

158 the ballot, with the costs of mailing, delivery, or electronic
159 transmission and copying to be borne by the association. The
160 association is not liable for the contents of the information
161 sheets prepared by the candidates. In order to reduce costs, the
162 association may print or duplicate the information sheets on
163 both sides of the paper. The division shall by rule establish
164 voting procedures consistent with this sub-subparagraph,
165 including rules establishing procedures for giving notice by
166 electronic transmission and rules providing for the secrecy of
167 ballots. Elections shall be decided by a plurality of ballots
168 cast. There is no quorum requirement; however, at least 20
169 percent of the eligible voters must cast a ballot in order to
170 have a valid election. A unit owner may not permit any other
171 person to vote his or her ballot, and any ballots improperly
172 cast are invalid. A unit owner who violates this provision may
173 be fined by the association in accordance with s. 718.303. A
174 unit owner who needs assistance in casting the ballot for the
175 reasons stated in s. 101.051 may obtain such assistance. The
176 regular election must occur on the date of the annual meeting.
177 Notwithstanding this sub-subparagraph, an election is not
178 required unless more candidates file notices of intent to run or
179 are nominated than board vacancies exist.

180 b. Within 90 days after being elected or appointed to the
181 board, each newly elected or appointed director shall certify in
182 writing to the secretary of the association that he or she has
183 read the association's declaration of condominium, articles of
184 incorporation, bylaws, and current written policies; that he or
185 she will work to uphold such documents and policies to the best
186 of his or her ability; and that he or she will faithfully



955374

187 discharge his or her fiduciary responsibility to the
188 association's members. In lieu of this written certification,
189 within 90 days after being elected or appointed to the board,
190 the newly elected or appointed director may submit a certificate
191 of having satisfactorily completed the educational curriculum
192 administered by a division-approved condominium education
193 provider within 1 year before or 90 days after the date of
194 election or appointment. The written certification or
195 educational certificate is valid and does not have to be
196 resubmitted as long as the director serves on the board without
197 interruption. A director who fails to timely file the written
198 certification or educational certificate is suspended from
199 service on the board until he or she complies with this sub-
200 subparagraph. The board may temporarily fill the vacancy during
201 the period of suspension. The secretary shall cause the
202 association to retain a director's written certification or
203 educational certificate for inspection by the members for 5
204 years after a director's election or the duration of the
205 director's uninterrupted tenure, whichever is longer. Failure to
206 have such written certification or educational certificate on
207 file does not affect the validity of any board action.

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

210 5. Any approval by unit owners called for by this chapter
211 or the applicable declaration or bylaws, including, but not
212 limited to, the approval requirement in s. 718.111(8), must be
213 made at a duly noticed meeting of unit owners and is subject to
214 all requirements of this chapter or the applicable condominium
215 documents relating to unit owner decisionmaking, except that



955374

216 unit owners may take action by written agreement, without
217 meetings, on matters for which action by written agreement
218 without meetings is expressly allowed by the applicable bylaws
219 or declaration or any law that provides for such action.

220 6. Unit owners may waive notice of specific meetings if
221 allowed by the applicable bylaws or declaration or any law. If
222 authorized by the bylaws, notice of meetings of the board of
223 administration, unit owner meetings, except unit owner meetings
224 called to recall board members under paragraph (j), and
225 committee meetings may be given by electronic transmission to
226 unit owners who consent to receive notice by electronic
227 transmission.

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

232 8. A unit owner may tape record or videotape a meeting of
233 the unit owners subject to reasonable rules adopted by the
234 division.

235 9. Unless otherwise provided in the bylaws, any vacancy
236 occurring on the board before the expiration of a term may be
237 filled by the affirmative vote of the majority of the remaining
238 directors, even if the remaining directors constitute less than
239 a quorum, or by the sole remaining director. In the alternative,
240 a board may hold an election to fill the vacancy, in which case
241 the election procedures must conform to sub-subparagraph 4.a.
242 unless the association governs 10 units or fewer and has opted
243 out of the statutory election process, in which case the bylaws
244 of the association control. Unless otherwise provided in the



245 bylaws, a board member appointed or elected under this section
246 shall fill the vacancy for the unexpired term of the seat being
247 filled. Filling vacancies created by recall is governed by
248 paragraph (j) and rules adopted by the division.

249 10. This chapter does not limit the use of general or
250 limited proxies, require the use of general or limited proxies,
251 or require the use of a written ballot or voting machine for any
252 agenda item or election at any meeting of a timeshare
253 condominium association.

254
255 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
256 association of 10 or fewer units may, by affirmative vote of a
257 majority of the total voting interests, provide for different
258 voting and election procedures in its bylaws, which may be by a
259 proxy specifically delineating the different voting and election
260 procedures. The different voting and election procedures may
261 provide for elections to be conducted by limited or general
262 proxy.

263 (j) *Recall of board members.*—Subject to ~~the provisions of~~
264 s. 718.301, any member of the board of administration may be
265 recalled and removed from office with or without cause by the
266 vote or agreement in writing by a majority of all the voting
267 interests. A special meeting of the unit owners to recall a
268 member or members of the board of administration may be called
269 by 10 percent of the voting interests giving notice of the
270 meeting as required for a meeting of unit owners, and the notice
271 shall state the purpose of the meeting. Electronic transmission
272 may not be used as a method of giving notice of a meeting called
273 in whole or in part for this purpose.



955374

274 1. If the recall is approved by a majority of all voting
275 interests by a vote at a meeting, the recall will be effective
276 as provided in this paragraph herein. The board shall duly
277 notice and hold a board meeting within 5 full business days
278 after ~~of~~ the adjournment of the unit owner meeting to recall one
279 or more board members. At the meeting, the board shall either
280 certify the recall, in which case such member or members shall
281 be recalled effective immediately and shall turn over to the
282 board within 5 full business days any and all records and
283 property of the association in their possession, or shall
284 proceed as set forth in subparagraph 3.

285 2. If the proposed recall is by an agreement in writing by
286 a majority of all voting interests, the agreement in writing or
287 a copy thereof shall be served on the association by certified
288 mail or by personal service in the manner authorized by chapter
289 48 and the Florida Rules of Civil Procedure. The board of
290 administration shall duly notice and hold a meeting of the board
291 within 5 full business days after receipt of the agreement in
292 writing. At the meeting, the board shall either certify the
293 written agreement to recall a member or members of the board, in
294 which case such member or members shall be recalled effective
295 immediately and shall turn over to the board within 5 full
296 business days any and all records and property of the
297 association in their possession, or proceed as described in
298 subparagraph 3.

299 3. If the board determines not to certify the written
300 agreement to recall a member or members of the board, or does
301 not certify the recall by a vote at a meeting, the board shall,
302 within 5 full business days after the meeting, file with the



955374

303 division a petition for arbitration pursuant to the procedures
304 in s. 718.1255. For the purposes of this section, the unit
305 owners who voted at the meeting or who executed the agreement in
306 writing shall constitute one party under the petition for
307 arbitration. If the arbitrator certifies the recall as to any
308 member or members of the board, the recall will be effective
309 upon mailing of the final order of arbitration to the
310 association. If the association fails to comply with the order
311 of the arbitrator, the division may take action pursuant to s.
312 718.501. Any member or members so recalled shall deliver to the
313 board any and all records of the association in their possession
314 within 5 full business days after ~~of~~ the effective date of the
315 recall.

316 4. If the board fails to duly notice and hold a board
317 meeting within 5 full business days after ~~of~~ service of an
318 agreement in writing or within 5 full business days after ~~of~~ the
319 adjournment of the unit owner recall meeting, the recall shall
320 be deemed effective and the board members so recalled shall
321 immediately turn over to the board any and all records and
322 property of the association.

323 5. If the board fails to duly notice and hold the required
324 meeting or fails to file the required petition, the unit owner
325 representative may file a petition pursuant to s. 718.1255
326 challenging the board's failure to act. The petition must be
327 filed within 60 days after the expiration of the applicable 5-
328 full-business-day period. The review of a petition under this
329 subparagraph is limited to the sufficiency of service on the
330 board and the facial validity of the written agreement or
331 ballots filed.



955374

332 ~~6.5.~~ If a vacancy occurs on the board as a result of a
333 recall or removal and less than a majority of the board members
334 are removed, the vacancy may be filled by the affirmative vote
335 of a majority of the remaining directors, notwithstanding any
336 provision to the contrary contained in this subsection. If
337 vacancies occur on the board as a result of a recall and a
338 majority or more of the board members are removed, the vacancies
339 shall be filled in accordance with procedural rules to be
340 adopted by the division, which rules need not be consistent with
341 this subsection. The rules must provide procedures governing the
342 conduct of the recall election as well as the operation of the
343 association during the period after a recall but prior to the
344 recall election.

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

350 8. The division may not accept for filing a recall
351 petition, whether filed pursuant to subparagraph 1.,
352 subparagraph 2., subparagraph 5., or subparagraph 7. and
353 regardless of whether the recall was certified, if there are 60
354 days or less until the scheduled reelection of the board member
355 sought to be recalled or if 60 days or less have elapsed since
356 the election of the board member sought to be recalled.

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

359 718.113 Maintenance; limitation upon improvement; display
360 of flag; hurricane shutters and protection; display of religious



955374

361 decorations.-

362 (5) Each board of administration shall adopt hurricane
363 shutter specifications for each building within each condominium
364 operated by the association which shall include color, style,
365 and other factors deemed relevant by the board. All
366 specifications adopted by the board must comply with the
367 applicable building code.

368 (a) The board may, subject to ~~the provisions of s.~~
369 718.3026~~7~~, and the approval of a majority of voting interests of
370 the condominium, install hurricane shutters, impact glass, ~~or~~
371 ~~either~~ code-compliant windows or doors, or other types of code-
372 compliant hurricane protection that comply ~~complies~~ with or
373 exceed ~~exceeds~~ the applicable building code. However, a vote of
374 the owners is not required if the maintenance, repair, and
375 replacement of hurricane shutters, impact glass, ~~or other~~ code-
376 compliant windows or doors, or other types of code-compliant
377 hurricane protection are the responsibility of the association
378 pursuant to the declaration of condominium. If hurricane
379 protection or laminated glass or window film architecturally
380 designed to function as hurricane protection that ~~which~~ complies
381 with or exceeds the current applicable building code has been
382 previously installed, the board may not install hurricane
383 shutters, ~~hurricane protection, or~~ impact glass, ~~or other~~ code-
384 compliant windows or doors, or other types of code-compliant
385 hurricane protection except upon approval by a majority vote of
386 the voting interests.

387 (b) The association is responsible for the maintenance,
388 repair, and replacement of the hurricane shutters, impact glass,
389 code-compliant windows or doors, or other types of code-



955374

390 compliant hurricane protection authorized by this subsection if
391 such property hurricane shutters or other hurricane protection
392 is the responsibility of the association pursuant to the
393 declaration of condominium. If the hurricane shutters, impact
394 glass, code-compliant windows or doors, or other types of code-
395 compliant hurricane protection ~~authorized by this subsection~~ are
396 the responsibility of the unit owners pursuant to the
397 declaration of condominium, the maintenance, repair, and
398 replacement of such items are the responsibility of the unit
399 owner.

400 (c) The board may operate shutters, impact glass, code-
401 compliant windows or doors, or other types of code-compliant
402 hurricane protection installed pursuant to this subsection
403 without permission of the unit owners only if such operation is
404 necessary to preserve and protect the condominium property and
405 association property. The installation, replacement, operation,
406 repair, and maintenance of such shutters, impact glass, code-
407 compliant windows or doors, or other types of code-compliant
408 hurricane protection in accordance with the procedures set forth
409 in this paragraph are not a material alteration to the common
410 elements or association property within the meaning of this
411 section.

412 (d) Notwithstanding any other provision in the condominium
413 documents, if approval is required by the documents, a board may
414 not refuse to approve the installation or replacement of
415 hurricane shutters, impact glass, code-compliant windows or
416 doors, or other types of code-compliant hurricane protection by
417 a unit owner conforming to the specifications adopted by the
418 board.



955374

419 Section 5. Paragraph (e) of subsection (1) of section
420 718.115, Florida Statutes, is amended to read:
421 718.115 Common expenses and common surplus.—
422 (1)
423 (e) The expense of installation, replacement, operation,
424 repair, and maintenance of hurricane shutters, impact glass,
425 code-compliant windows or doors, or other types of code-
426 compliant hurricane protection by the board pursuant to s.
427 718.113(5) constitutes ~~shall constitute~~ a common expense ~~as~~
428 ~~defined herein~~ and shall be collected as provided in this
429 section if the association is responsible for the maintenance,
430 repair, and replacement of the hurricane shutters, impact glass,
431 code-compliant windows or doors, or other types of code-
432 compliant hurricane protection pursuant to the declaration of
433 condominium. However, if the maintenance, repair, and
434 replacement of the hurricane shutters, impact glass, code-
435 compliant windows or doors, or other types of code-compliant
436 hurricane protection are ~~is~~ the responsibility of the unit
437 owners pursuant to the declaration of condominium, the cost of
438 the installation of the hurricane shutters, impact glass, code-
439 compliant windows or doors, or other types of code-compliant
440 hurricane protection is ~~shall~~ not ~~be~~ a common expense and, ~~but~~
441 shall be charged individually to the unit owners based on the
442 cost of installation of the hurricane shutters, impact glass,
443 code-compliant windows or doors, or other types of code-
444 compliant hurricane protection appurtenant to the unit.
445 Notwithstanding ~~the provisions of~~ s. 718.116(9), and regardless
446 of whether or not the declaration requires the association or
447 unit owners to maintain, repair, or replace hurricane shutters,



955374

448 impact glass, code-compliant windows or doors, or other types of
449 code-compliant hurricane protection, a unit owner who has
450 previously installed hurricane shutters in accordance with s.
451 718.113(5) which comply with the current applicable building
452 code shall receive a credit when the shutters are installed; a
453 unit owner who has previously installed impact glass or code-
454 compliant windows or doors that comply with the current
455 applicable building code shall receive a credit when the impact
456 glass or code-compliant windows or doors are installed; and a
457 unit owner who has installed, other types of code-compliant
458 hurricane protection that comply with the current applicable
459 building code shall receive a credit when the same type of other
460 code-compliant hurricane protection is installed, and the ~~or~~
461 ~~laminated glass architecturally designed to function as~~
462 ~~hurricane protection, which hurricane shutters or other~~
463 ~~hurricane protection or laminated glass comply with the current~~
464 ~~applicable building code, shall receive a credit shall be equal~~
465 to the pro rata portion of the assessed installation cost
466 assigned to each unit. However, such unit owner remains ~~shall~~
467 ~~remain~~ responsible for the pro rata share of expenses for
468 hurricane shutters, impact glass, code-compliant windows or
469 doors, or other types of code-compliant hurricane protection
470 installed on common elements and association property by the
471 board pursuant to s. 718.113(5), and remains ~~shall remain~~
472 responsible for a pro rata share of the expense of the
473 replacement, operation, repair, and maintenance of such
474 shutters, impact glass, code-compliant windows or doors, or
475 other types of code-compliant hurricane protection.

476 Section 6. Paragraphs (a) and (b) of subsection (1) of



955374

477 section 718.116, Florida Statutes, are amended to read:

478 718.116 Assessments; liability; lien and priority;
479 interest; collection.—

480 (1) (a) A unit owner, regardless of how the unit owner has
481 acquired his or her title has been acquired, including, but not
482 limited to, by purchase at a foreclosure sale ~~or by deed in lieu~~
483 ~~of foreclosure~~, is liable for all assessments that which come
484 due while he or she is the unit owner. Additionally, a unit
485 owner is jointly and severally liable with the previous owner
486 for all unpaid assessments, late fees, interest, costs, and
487 reasonable attorney fees incurred by the association in an
488 attempt to collect all such amounts ~~is jointly and severally~~
489 ~~liable with the previous owner for all unpaid assessments~~ that
490 came due up to the time of transfer of title. This liability is
491 without prejudice to any right the owner may have to recover
492 from the previous owner the amounts paid by the owner.

493 (b)1. The liability of a first mortgagee or its successor
494 or assignees who acquire title to a unit by foreclosure or by
495 deed in lieu of foreclosure for the unpaid assessments that
496 became due before the mortgagee's acquisition of title is
497 limited to the lesser of:

498 a. The unit's unpaid common expenses and regular periodic
499 assessments which accrued or came due during the 12 months
500 immediately preceding the acquisition of title and for which
501 payment in full has not been received by the association; or

502 b. One percent of the original mortgage debt.
503

504 The limitations on first mortgagee liability provided by
505 ~~provisions of this subparagraph paragraph~~ apply only if the



955374

506 first mortgagee joined the association as a defendant in the
507 foreclosure action. Joinder of the association is not required
508 if, on the date the complaint is filed, the association was
509 dissolved or did not maintain an office or agent for service of
510 process at a location that ~~which~~ was known to or reasonably
511 discoverable by the mortgagee.

512 2. An association, or its successor or assignee, that
513 acquires title to a unit through the foreclosure of its lien for
514 assessments is not liable for any unpaid assessments, late fees,
515 interest, or reasonable attorney ~~attorney's~~ fees and costs that
516 came due before the association's acquisition of title in favor
517 of any other association, as defined in s. 718.103(2) or s.
518 720.301(9), which holds a ~~superior~~ lien interest on the unit.
519 This subparagraph is intended to clarify existing law.

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

522 718.303 Obligations of owners and occupants; remedies.—

523 (3) The association may levy reasonable fines for the
524 failure of the owner of the unit or its occupant, licensee, or
525 invitee to comply with any provision of the declaration, the
526 association bylaws, or reasonable rules of the association. A
527 fine may not become a lien against a unit. A fine may be levied
528 on the basis of each day of a continuing violation, with a
529 single notice and opportunity for hearing. However, the fine may
530 not exceed \$100 per violation, or \$1,000 in the aggregate.

531 (a) An association may suspend, for a reasonable period of
532 time, the right of a unit owner, or a unit owner's tenant,
533 guest, or invitee, to use the common elements, common
534 facilities, or any other association property for failure to



955374

535 comply with any provision of the declaration, the association
536 bylaws, or reasonable rules of the association. This paragraph
537 does not apply to limited common elements intended to be used
538 only by that unit, common elements needed to access the unit,
539 utility services provided to the unit, parking spaces, or
540 elevators.

541 (5) An association may suspend the voting rights of a unit
542 or member due to nonpayment of any monetary obligation due ~~to~~
543 the association which is more than 90 days delinquent.
544 Notwithstanding an association's declaration, articles of
545 incorporation, or bylaws, the requirements to establish a
546 quorum, conduct an election, or obtain membership approval on
547 actions under this chapter or pursuant to the declaration,
548 articles of incorporation, or bylaws shall be reduced by the
549 number of suspended voting interests or consent rights. A voting
550 ~~interest or consent right allocated to a unit or member which~~
551 ~~has been suspended by the association may not be counted towards~~
552 ~~the total number of voting interests necessary to constitute a~~
553 ~~quorum, the number of voting interests required to conduct an~~
554 ~~election, or the number of voting interests required to approve~~
555 ~~an action under this chapter or pursuant to the declaration,~~
556 ~~articles of incorporation, or bylaws.~~ The suspension ends upon
557 full payment of all obligations currently due or overdue the
558 association. The notice and hearing requirements under
559 subsection (3) do not apply to a suspension imposed under this
560 subsection.

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

563 718.403 Phase condominiums.—



955374

564 (1) Notwithstanding ~~the provisions of~~ s. 718.110, a
565 developer may develop a condominium in phases, if the original
566 declaration of condominium submitting the initial phase to
567 condominium ownership or an amendment to the declaration which
568 has been approved by all of the unit owners and unit mortgagees
569 provides for and describes in detail all anticipated phases; the
570 impact, if any, which the completion of subsequent phases would
571 have upon the initial phase; and the time period (which may not
572 exceed 7 years from the date of recording the declaration of
573 condominium, unless extended as provided in this subsection)
574 within which all phases must be added to the condominium and
575 comply with the requirements of this section and at the end of
576 which the right to add additional phases expires.

577 (a) All phases must be added to the condominium within 7
578 years after the date of recording the original declaration of
579 condominium submitting the initial phase to condominium
580 ownership unless an amendment extending the 7-year period is
581 approved by the unit owners.

582 (b) An amendment to extend the 7-year period requires the
583 approval of the owners necessary to amend the declaration of
584 condominium consistent with s. 718.110(1)(a). An extension of
585 the 7-year period may be submitted for approval only during the
586 last 3 years of the 7-year period.

587 (c) An amendment must describe the time period within which
588 all phases must be added to the condominium and such time period
589 may not exceed 10 years after the date of recording the original
590 declaration of condominium submitting the initial phase to
591 condominium ownership.

592 (d) Notwithstanding s. 718.110, an amendment extending the



955374

593 7-year period is not an amendment subject to s. 718.110(4).

594 Section 9. Section 718.406, Florida Statutes, is created to
595 read:

596 718.406 Condominiums created within condominium parcels.-

597 (1) Unless otherwise expressed in the declaration of
598 condominium, if a condominium is created within a condominium
599 parcel, the term:

600 (a) "Primary condominium" means any condominium that is not
601 a secondary condominium and contains one or more subdivided
602 parcels.

603 (b) "Primary condominium association" means any entity that
604 operates a primary condominium.

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

608 (d) "Secondary condominium" means one or more condominium
609 parcels that have been submitted to condominium ownership
610 pursuant to a secondary condominium declaration.

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

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

616 (g) "Secondary unit" means a unit that is part of a
617 secondary condominium.

618 (h) "Subdivided parcel" means a condominium parcel in a
619 primary condominium that has been submitted to condominium
620 ownership pursuant to a secondary condominium declaration.

621 (2) Unless otherwise provided in the primary condominium



955374

622 declaration, if a condominium parcel is a subdivided parcel, the
623 secondary condominium association responsible for operating the
624 secondary condominium upon the subdivided parcel shall act on
625 behalf of all of the unit owners of secondary units in the
626 secondary condominium and shall exercise all rights of the
627 secondary unit owners in the primary condominium association,
628 other than the right of possession of the secondary unit. The
629 secondary condominium association shall designate a
630 representative who shall cast the vote of the subdivided parcel
631 in the primary condominium association and, if no person is
632 designated by the secondary condominium association to cast such
633 vote, the vote shall be cast by the president of the secondary
634 condominium association or the designee of the president.

635 (3) Unless otherwise provided in the primary condominium
636 declaration as originally recorded, no secondary condominium may
637 be created upon any condominium parcel in the primary
638 condominium, and no amendment to the primary condominium
639 declaration may permit secondary condominiums to be created upon
640 parcels in the primary condominium, unless the record owners of
641 a majority of the condominium parcels join in the execution of
642 the amendment.

643 (4) If the primary condominium declaration permits the
644 creation of a secondary condominium and a condominium parcel in
645 the primary condominium is being submitted for condominium
646 ownership to create a secondary condominium upon the primary
647 condominium parcel, the approval of the board of administration
648 of the primary condominium association is required in order to
649 create the secondary condominium on the primary condominium
650 parcel. Unless otherwise provided in the primary condominium



955374

651 declaration, the owners of condominium parcels in the primary
652 condominium that will not be part of the proposed secondary
653 condominium and the holders of liens upon such primary
654 condominium parcels shall not have approval rights regarding the
655 creation of the secondary condominium or the contents of the
656 secondary condominium declaration being submitted. Only the
657 primary condominium association, the owner of the subdivided
658 parcel, and the holders of liens upon the subdivided parcel
659 shall have approval rights regarding the creation of the
660 secondary condominium and the contents of the secondary
661 condominium declaration. In order for the recording of the
662 secondary condominium declaration to be effective to create the
663 secondary condominium, the board of administration of the
664 primary condominium association, the owner of the subdivided
665 parcel, and all holders of liens on the subdivided parcel must
666 execute the secondary condominium declaration for the purpose of
667 evidencing their approval.

668 (5) An owner of a secondary unit is subject to both the
669 primary condominium declaration and the secondary condominium
670 declaration.

671 (6) The primary condominium association may provide
672 insurance required by s. 718.111(11) for common elements and
673 other improvements within the secondary condominium if the
674 primary condominium declaration permits the primary condominium
675 association to provide such insurance for the benefit of the
676 condominium property included in the subdivided parcel, in lieu
677 of such insurance being provided by the secondary condominium
678 association.

679 (7) Unless otherwise provided in the primary condominium



955374

680 declaration, the board of administration of the primary
681 condominium association may adopt hurricane shutter or hurricane
682 protection specifications for each building within which
683 subdivided parcels are located and govern any subdivided parcels
684 in the primary condominium.

685 (8) Any unit owner of, or holder of a first mortgage on, a
686 secondary unit may register such unit owner's or mortgagee's
687 interest in the secondary unit with the primary condominium
688 association by delivering written notice to the primary
689 condominium association. Once registered, the primary
690 condominium association must provide written notice to such
691 secondary unit owner and his, her, or its first mortgagee at
692 least 30 days before instituting any foreclosure action against
693 the subdivided parcel in which the secondary unit owner and his,
694 her, or its first mortgagee hold an interest for failure of the
695 subdivided parcel owner to pay any assessments or other amounts
696 due to the primary condominium association. A foreclosure action
697 against a subdivided parcel is not effective without an
698 affidavit indicating that written notice of the foreclosure was
699 timely sent to the names and addresses of secondary unit owners
700 and first mortgagees registered with the primary condominium
701 association pursuant to this subsection. The registered
702 secondary unit owner or mortgagee has a right to pay the
703 proportionate amount of the delinquent assessment attributable
704 to the secondary unit in which the registered unit owner or
705 mortgagee holds an interest. Upon such payment, the primary
706 condominium association shall be obligated to promptly modify or
707 partially release the record of lien on the primary condominium
708 association so that the lien no longer encumbers such secondary



955374

709 unit. Alternatively, a registered secondary unit owner or
710 mortgagee may pay the amount of all delinquent assessments
711 attributed to the subdivided parcel and seek reimbursement for
712 all such amounts paid and all costs incurred from the secondary
713 condominium association, including, without limitation, the
714 costs of collection other than the share allocable to the
715 secondary unit on behalf of which such payment was made.

716 (9) In the event of a conflict between the primary
717 condominium declaration and the secondary condominium
718 declaration, the primary condominium declaration controls.

719 (10) All common expenses due to the primary condominium
720 association with respect to a subdivided parcel are a common
721 expense of the secondary condominium association and shall be
722 collected by the secondary condominium association from its
723 members and paid to the primary condominium association.

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

726 718.5011 Ombudsman; appointment; administration.—

727 (2) The Governor shall appoint the ombudsman. The ombudsman
728 must be an attorney admitted to practice before the Florida
729 Supreme Court and shall serve at the pleasure of the Governor. A
730 vacancy in the office shall be filled in the same manner as the
731 original appointment. An officer or full-time employee of the
732 ombudsman's office may not actively engage in any other business
733 or profession that directly or indirectly relates to or
734 conflicts with his or her work in the ombudsman's office; serve
735 as the representative of any political party, executive
736 committee, or other governing body of a political party; serve
737 as an executive, officer, or employee of a political party;



955374

738 receive remuneration for activities on behalf of any candidate
739 for public office; or engage in soliciting votes or other
740 activities on behalf of a candidate for public office. The
741 ombudsman or any employee of his or her office may not become a
742 candidate for election to public office unless he or she first
743 resigns from his or her office or employment.

744 Section 11. Section 718.707, Florida Statutes, is amended
745 to read:

746 718.707 Time limitation for classification as bulk assignee
747 or bulk buyer.—A person acquiring condominium parcels may not be
748 classified as a bulk assignee or bulk buyer unless the
749 condominium parcels were acquired on or after July 1, 2010, but
750 before July 1, 2015 ~~2012~~. The date of such acquisition shall be
751 determined by the date of recording a deed or other instrument
752 of conveyance for such parcels in the public records of the
753 county in which the condominium is located, or by the date of
754 issuing a certificate of title in a foreclosure proceeding with
755 respect to such condominium parcels.

756 Section 12. Paragraph (c) of subsection (2) of section
757 719.104, Florida Statutes, is amended to read:

758 719.104 Cooperatives; access to units; records; financial
759 reports; assessments; purchase of leases.—

760 (2) OFFICIAL RECORDS.—

761 (c) The official records of the association shall be open
762 to inspection by any association member or the authorized
763 representative of such member at all reasonable times. Failure
764 to permit inspection of the association records as provided in
765 this subsection ~~herein~~ entitles any person prevailing in an
766 enforcement action to recover reasonable attorney ~~attorney's~~



955374

767 fees from the person in control of the records who, directly or
768 indirectly, knowingly denies access to the records for
769 inspection. The right to inspect the records includes the right
770 to make or obtain copies, at the reasonable expense, if any, of
771 the association member. The association may adopt reasonable
772 rules regarding the frequency, time, location, notice, and
773 manner of record inspections and copying. The failure of an
774 association to provide the records within 10 working days after
775 receipt of a written request creates a rebuttable presumption
776 that the association willfully failed to comply with this
777 paragraph. A unit owner who is denied access to official records
778 is entitled to the actual damages or minimum damages for the
779 association's willful failure to comply with this paragraph. The
780 minimum damages shall be \$50 per calendar day up to 10 days, the
781 calculation to begin on the 11th day after receipt of the
782 written request. The association shall maintain an adequate
783 number of copies of the declaration, articles of incorporation,
784 bylaws, and rules, and all amendments to each of the foregoing,
785 as well as the question and answer sheet provided for in s.
786 719.504, on the cooperative property to ensure their
787 availability to unit owners and prospective purchasers, and may
788 charge its actual costs for preparing and furnishing these
789 documents to those requesting the same. Notwithstanding ~~the~~
790 ~~provisions of~~ this paragraph, the following records shall not be
791 accessible to unit owners:

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



955374

796 direction; reflecting ~~that reflects~~ a mental impression,
797 conclusion, litigation strategy, or legal theory of the attorney
798 or the association; or ~~that was~~ prepared exclusively for civil
799 or criminal litigation or for adversarial administrative
800 proceedings or in anticipation of imminent civil or criminal
801 litigation or imminent adversarial administrative proceedings,
802 until the conclusion of the litigation or adversarial
803 administrative proceedings.

804 2. Information obtained by an association in connection
805 with the approval of the lease, sale, or other transfer of a
806 unit.

807 3. Medical records of unit owners.

808 4. Personnel records of association employees, including,
809 but not limited to, disciplinary, payroll, health, and insurance
810 records. For purposes of this subparagraph, the term "personnel
811 records" does not include written employment agreements with an
812 association employee or budgetary or financial records that
813 indicate the compensation paid to an association employee.

814 5. Social security numbers, driver license numbers, credit
815 card numbers, e-mail addresses, telephone numbers, emergency
816 contact information, any addresses of a unit owner other than
817 addresses provided to fulfill the association's notice
818 requirements, and other personal identifying information of any
819 person, excluding the person's name, unit designation, mailing
820 address, and property address.

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

823 7. The software and operating system used by the
824 association which allows manipulation of data, even if the owner



955374

825 owns a copy of the same software used by the association. The
826 data is part of the official records of the association.

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

829 719.1055 Amendment of cooperative documents; alteration and
830 acquisition of property.—

831 (7) The Legislature finds that the procurement of mortgagee
832 consent to amendments that do not affect the rights or interests
833 of mortgagees is an unreasonable and substantial logistical and
834 financial burden on the unit owners and that there is a
835 compelling state interest in enabling the members of an
836 association to approve amendments to the association's
837 cooperative documents through legal means. Accordingly, and
838 notwithstanding any provision to the contrary contained in this
839 subsection:

840 (a) As to any mortgage recorded on or after July 1, 2012,
841 any provision in the association's cooperative documents that
842 requires the consent or joinder of some or all mortgagees of
843 units or any other portion of the association's common areas to
844 amend the association's cooperative documents or for any other
845 matter is enforceable only as to amendments to the association's
846 cooperative documents that adversely affect the priority of the
847 mortgagee's lien or the mortgagee's rights to foreclose its lien
848 or that otherwise materially affect the rights and interests of
849 the mortgagees.

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

853 (c) In securing consent or joinder, the association is



955374

854 entitled to rely upon the public records to identify the holders
855 of outstanding mortgages. The association may use the address
856 provided in the original recorded mortgage document, unless
857 there is a different address for the holder of the mortgage in a
858 recorded assignment or modification of the mortgage, which
859 recorded assignment or modification must reference the official
860 records book and page on which the original mortgage was
861 recorded. Once the association has identified the recorded
862 mortgages of record, the association shall, in writing, request
863 of each unit owner whose unit is encumbered by a mortgage of
864 record any information the owner has in his or her possession
865 regarding the name and address of the person to whom mortgage
866 payments are currently being made. Notice shall be sent to such
867 person if the address provided in the original recorded mortgage
868 document is different from the name and address of the mortgagee
869 or assignee of the mortgage as shown by the public record. The
870 association is deemed to have complied with this requirement by
871 making the written request of the unit owners required under
872 this paragraph. Any notices required to be sent to the
873 mortgagees under this paragraph shall be sent to all available
874 addresses provided to the association.

875 (d) Any notice to the mortgagees required under paragraph
876 (c) may be sent by a method that establishes proof of delivery,
877 and any mortgagee who fails to respond within 60 days after the
878 date of mailing is deemed to have consented to the amendment.

879 (e) For those amendments requiring mortgagee consent on or
880 after July 1, 2012, in the event mortgagee consent is provided
881 other than by properly recorded joinder, such consent shall be
882 evidenced by affidavit of the association recorded in the public



955374

883 records of the county in which the declaration is recorded.

884 (f) Any amendment adopted without the required consent of a
885 mortgagee is voidable only by a mortgagee who was entitled to
886 notice and an opportunity to consent. An action to void an
887 amendment is subject to the statute of limitations beginning 5
888 years after the date of discovery as to the amendments described
889 in paragraph (a) and 5 years after the date of recordation of
890 the certificate of amendment for all other amendments. This
891 paragraph applies to all mortgages, regardless of the date of
892 recordation of the mortgage.

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

895 719.106 Bylaws; cooperative ownership.—

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

899 (c) *Board of administration meetings.*—Meetings of the board
900 of administration at which a quorum of the members is present
901 shall be open to all unit owners. Any unit owner may tape record
902 or videotape meetings of the board of administration. The right
903 to attend such meetings includes the right to speak at such
904 meetings with reference to all designated agenda items. The
905 division shall adopt reasonable rules governing the tape
906 recording and videotaping of the meeting. The association may
907 adopt reasonable written rules governing the frequency,
908 duration, and manner of unit owner statements. Adequate notice
909 of all meetings shall be posted in a conspicuous place upon the
910 cooperative property at least 48 continuous hours preceding the
911 meeting, except in an emergency. Any item not included on the



955374

912 notice may be taken up on an emergency basis by at least a
913 majority plus one of the members of the board. Such emergency
914 action shall be noticed and ratified at the next regular meeting
915 of the board. However, written notice of any meeting at which
916 nonemergency special assessments, or at which amendment to rules
917 regarding unit use, will be considered shall be mailed,
918 delivered, or electronically transmitted to the unit owners and
919 posted conspicuously on the cooperative property not less than
920 14 days prior to the meeting. Evidence of compliance with this
921 14-day notice shall be made by an affidavit executed by the
922 person providing the notice and filed among the official records
923 of the association. Upon notice to the unit owners, the board
924 shall by duly adopted rule designate a specific location on the
925 cooperative property upon which all notices of board meetings
926 shall be posted. In lieu of or in addition to the physical
927 posting of notice of any meeting of the board of administration
928 on the cooperative property, the association may, by reasonable
929 rule, adopt a procedure for conspicuously posting and repeatedly
930 broadcasting the notice and the agenda on a closed-circuit cable
931 television system serving the cooperative association. However,
932 if broadcast notice is used in lieu of a notice posted
933 physically on the cooperative property, the notice and agenda
934 must be broadcast at least four times every broadcast hour of
935 each day that a posted notice is otherwise required under this
936 section. When broadcast notice is provided, the notice and
937 agenda must be broadcast in a manner and for a sufficient
938 continuous length of time so as to allow an average reader to
939 observe the notice and read and comprehend the entire content of
940 the notice and the agenda. Notice of any meeting in which



955374

941 regular assessments against unit owners are to be considered for
942 any reason shall specifically contain a statement that
943 assessments will be considered and the nature of any such
944 assessments. Meetings of a committee to take final action on
945 behalf of the board or to make recommendations to the board
946 regarding the association budget are subject to the provisions
947 of this paragraph. Meetings of a committee that does not take
948 final action on behalf of the board or make recommendations to
949 the board regarding the association budget are subject to the
950 provisions of this section, unless those meetings are exempted
951 from this section by the bylaws of the association.

952 Notwithstanding any other law to the contrary, the requirement
953 that board meetings and committee meetings be open to the unit
954 owners does not apply ~~is inapplicable~~ to board or committee
955 meetings held for the purpose of discussing personnel matters or
956 meetings between the board or a committee and the association's
957 attorney, with respect to proposed or pending litigation, if
958 ~~when~~ the meeting is held for the purpose of seeking or rendering
959 legal advice.

960 (d) *Shareholder meetings.*—There shall be an annual meeting
961 of the shareholders. All members of the board of administration
962 shall be elected at the annual meeting unless the bylaws provide
963 for staggered election terms or for their election at another
964 meeting. Any unit owner desiring to be a candidate for board
965 membership must comply with subparagraph 1. The bylaws must
966 provide the method for calling meetings, including annual
967 meetings. Written notice, which must incorporate an
968 identification of agenda items, shall be given to each unit
969 owner at least 14 days before the annual meeting and posted in a



955374

970 conspicuous place on the cooperative property at least 14
971 continuous days preceding the annual meeting. Upon notice to the
972 unit owners, the board must by duly adopted rule designate a
973 specific location on the cooperative property upon which all
974 notice of unit owner meetings are posted. In lieu of or in
975 addition to the physical posting of the meeting notice, the
976 association may, by reasonable rule, adopt a procedure for
977 conspicuously posting and repeatedly broadcasting the notice and
978 the agenda on a closed-circuit cable television system serving
979 the cooperative association. However, if broadcast notice is
980 used in lieu of a posted notice, the notice and agenda must be
981 broadcast at least four times every broadcast hour of each day
982 that a posted notice is otherwise required under this section.
983 If broadcast notice is provided, the notice and agenda must be
984 broadcast in a manner and for a sufficient continuous length of
985 time to allow an average reader to observe the notice and read
986 and comprehend the entire content of the notice and the agenda.
987 Unless a unit owner waives in writing the right to receive
988 notice of the annual meeting, the notice of the annual meeting
989 must be sent by mail, hand delivered, or electronically
990 transmitted to each unit owner. An officer of the association
991 must provide an affidavit or United States Postal Service
992 certificate of mailing, to be included in the official records
993 of the association, affirming that notices of the association
994 meeting were mailed, hand delivered, or electronically
995 transmitted, in accordance with this provision, to each unit
996 owner at the address last furnished to the association.

997 1. The board of administration shall be elected by written
998 ballot or voting machine. A proxy may not be used in electing



955374

999 the board of administration in general elections or elections to
1000 fill vacancies caused by recall, resignation, or otherwise
1001 unless otherwise provided in this chapter.

1002 a. At least 60 days before a scheduled election, the
1003 association shall mail, deliver, or transmit, whether by
1004 separate association mailing, delivery, or electronic
1005 transmission or included in another association mailing,
1006 delivery, or electronic transmission, including regularly
1007 published newsletters, to each unit owner entitled to vote, a
1008 first notice of the date of the election. Any unit owner or
1009 other eligible person desiring to be a candidate for the board
1010 of administration must give written notice to the association at
1011 least 40 days before a scheduled election. Together with the
1012 written notice and agenda as set forth in this section, the
1013 association shall mail, deliver, or electronically transmit a
1014 second notice of election to all unit owners entitled to vote,
1015 together with a ballot that ~~which~~ lists all candidates. Upon
1016 request of a candidate, the association shall include an
1017 information sheet, no larger than 8 1/2 inches by 11 inches,
1018 which must be furnished by the candidate at least 35 days before
1019 the election, to be included with the mailing, delivery, or
1020 electronic transmission of the ballot, with the costs of
1021 mailing, delivery, or transmission and copying to be borne by
1022 the association. The association is not liable for the contents
1023 of the information sheets provided by the candidates. In order
1024 to reduce costs, the association may print or duplicate the
1025 information sheets on both sides of the paper. The division
1026 shall by rule establish voting procedures consistent with this
1027 subparagraph, including rules establishing procedures for giving



955374

1028 notice by electronic transmission and rules providing for the
1029 secrecy of ballots. Elections shall be decided by a plurality of
1030 those ballots cast. There is no quorum requirement. However, at
1031 least 20 percent of the eligible voters must cast a ballot in
1032 order to have a valid election. A unit owner may not permit any
1033 other person to vote his or her ballot, and any such ballots
1034 improperly cast are invalid. A unit owner who needs assistance
1035 in casting the ballot for the reasons stated in s. 101.051 may
1036 obtain assistance in casting the ballot. Any unit owner
1037 violating this provision may be fined by the association in
1038 accordance with s. 719.303. The regular election must occur on
1039 the date of the annual meeting. This subparagraph does not apply
1040 to timeshare cooperatives. Notwithstanding this subparagraph, an
1041 election and balloting are not required unless more candidates
1042 file a notice of intent to run or are nominated than vacancies
1043 exist on the board. Any challenge to the election process must
1044 be commenced within 60 days after the election results are
1045 announced.

1046 b. Within 90 days after being elected or appointed to the
1047 board, each new director shall certify in writing to the
1048 secretary of the association that he or she has read the
1049 association's bylaws, articles of incorporation, proprietary
1050 lease, and current written policies; that he or she will work to
1051 uphold such documents and policies to the best of his or her
1052 ability; and that he or she will faithfully discharge his or her
1053 fiduciary responsibility to the association's members. Within 90
1054 days after being elected or appointed to the board, in lieu of
1055 this written certification, the newly elected or appointed
1056 director may submit a certificate of having satisfactorily



955374

1057 completed the educational curriculum administered by an
1058 education provider as approved by the division pursuant to the
1059 requirements established in chapter 718 within 1 year before or
1060 90 days after the date of election or appointment. The
1061 educational certificate is valid and does not have to be
1062 resubmitted as long as the director serves on the board without
1063 interruption. A director who fails to timely file the written
1064 certification or educational certificate is suspended from
1065 service on the board until he or she complies with this sub-
1066 subparagraph. The board may temporarily fill the vacancy during
1067 the period of suspension. The secretary shall cause the
1068 association to retain a director's written certification or
1069 educational certificate for inspection by the members for 5
1070 years after a director's election or the duration of the
1071 director's uninterrupted tenure, whichever is longer. Failure to
1072 have such written certification or educational certificate on
1073 file does not affect the validity of any board action.

1074 2. Any approval by unit owners called for by this chapter,
1075 or the applicable cooperative documents, must be made at a duly
1076 noticed meeting of unit owners and is subject to this chapter or
1077 the applicable cooperative documents relating to unit owner
1078 decisionmaking, except that unit owners may take action by
1079 written agreement, without meetings, on matters for which action
1080 by written agreement without meetings is expressly allowed by
1081 the applicable cooperative documents or law which provides for
1082 the unit owner action.

1083 3. Unit owners may waive notice of specific meetings if
1084 allowed by the applicable cooperative documents or law. If
1085 authorized by the bylaws, notice of meetings of the board of



955374

1086 administration, shareholder meetings, except shareholder
1087 meetings called to recall board members under paragraph (f), and
1088 committee meetings may be given by electronic transmission to
1089 unit owners who consent to receive notice by electronic
1090 transmission.

1091 4. Unit owners have the right to participate in meetings of
1092 unit owners with reference to all designated agenda items.
1093 However, the association may adopt reasonable rules governing
1094 the frequency, duration, and manner of unit owner participation.

1095 5. Any unit owner may tape record or videotape meetings of
1096 the unit owners subject to reasonable rules adopted by the
1097 division.

1098 6. Unless otherwise provided in the bylaws, a vacancy
1099 occurring on the board before the expiration of a term may be
1100 filled by the affirmative vote of the majority of the remaining
1101 directors, even if the remaining directors constitute less than
1102 a quorum, or by the sole remaining director. In the alternative,
1103 a board may hold an election to fill the vacancy, in which case
1104 the election procedures must conform to the requirements of
1105 subparagraph 1. unless the association has opted out of the
1106 statutory election process, in which case the bylaws of the
1107 association control. Unless otherwise provided in the bylaws, a
1108 board member appointed or elected under this subparagraph shall
1109 fill the vacancy for the unexpired term of the seat being
1110 filled. Filling vacancies created by recall is governed by
1111 paragraph (f) and rules adopted by the division.

1112
1113 Notwithstanding subparagraphs (b)2. and (d)1., an association
1114 may, by the affirmative vote of a majority of the total voting



955374

1115 interests, provide for a different voting and election procedure
1116 in its bylaws, which vote may be by a proxy specifically
1117 delineating the different voting and election procedures. The
1118 different voting and election procedures may provide for
1119 elections to be conducted by limited or general proxy.

1120 (f) *Recall of board members.*—Subject to ~~the provisions of~~
1121 s. 719.301, any member of the board of administration may be
1122 recalled and removed from office with or without cause by the
1123 vote or agreement in writing by a majority of all the voting
1124 interests. A special meeting of the voting interests to recall
1125 any member of the board of administration may be called by 10
1126 percent of the unit owners giving notice of the meeting as
1127 required for a meeting of unit owners, and the notice shall
1128 state the purpose of the meeting. Electronic transmission may
1129 not be used as a method of giving notice of a meeting called in
1130 whole or in part for this purpose.

1131 1. If the recall is approved by a majority of all voting
1132 interests by a vote at a meeting, the recall shall be effective
1133 as provided in this paragraph herein. The board shall duly
1134 notice and hold a board meeting within 5 full business days
1135 after ~~of~~ the adjournment of the unit owner meeting to recall one
1136 or more board members. At the meeting, the board shall either
1137 certify the recall, in which case such member or members shall
1138 be recalled effective immediately and shall turn over to the
1139 board within 5 full business days any and all records and
1140 property of the association in their possession, or shall
1141 proceed as set forth in subparagraph 3.

1142 2. If the proposed recall is by an agreement in writing by
1143 a majority of all voting interests, the agreement in writing or



1144 a copy thereof shall be served on the association by certified
1145 mail or by personal service in the manner authorized by chapter
1146 48 and the Florida Rules of Civil Procedure. The board of
1147 administration shall duly notice and hold a meeting of the board
1148 within 5 full business days after receipt of the agreement in
1149 writing. At the meeting, the board shall either certify the
1150 written agreement to recall members of the board, in which case
1151 such members shall be recalled effective immediately and shall
1152 turn over to the board, within 5 full business days, any and all
1153 records and property of the association in their possession, or
1154 proceed as described in subparagraph 3.

1155 3. If the board determines not to certify the written
1156 agreement to recall members of the board, or does not certify
1157 the recall by a vote at a meeting, the board shall, within 5
1158 full business days after the board meeting, file with the
1159 division a petition for binding arbitration pursuant to the
1160 procedures of s. 719.1255. For purposes of this paragraph, the
1161 unit owners who voted at the meeting or who executed the
1162 agreement in writing shall constitute one party under the
1163 petition for arbitration. If the arbitrator certifies the recall
1164 as to any member of the board, the recall shall be effective
1165 upon mailing of the final order of arbitration to the
1166 association. If the association fails to comply with the order
1167 of the arbitrator, the division may take action pursuant to s.
1168 719.501. Any member so recalled shall deliver to the board any
1169 and all records and property of the association in the member's
1170 possession within 5 full business days after ~~of~~ the effective
1171 date of the recall.

1172 4. If the board fails to duly notice and hold a board



955374

1173 meeting within 5 full business days after ~~of~~ service of an
1174 agreement in writing or within 5 full business days after ~~of~~ the
1175 adjournment of the unit owner recall meeting, the recall shall
1176 be deemed effective and the board members so recalled shall
1177 immediately turn over to the board any and all records and
1178 property of the association.

1179 5. If the board fails to duly notice and hold the required
1180 meeting or fails to file the required petition, the unit owner
1181 representative may file a petition pursuant to s. 719.1255
1182 challenging the board's failure to act. The petition must be
1183 filed within 60 days after the expiration of the applicable 5-
1184 full-business-day period. The review of a petition under this
1185 subparagraph is limited to the sufficiency of service on the
1186 board and the facial validity of the written agreement or
1187 ballots filed.

1188 ~~6.5.~~ If a vacancy occurs on the board as a result of a
1189 recall and less than a majority of the board members are
1190 removed, the vacancy may be filled by the affirmative vote of a
1191 majority of the remaining directors, notwithstanding any
1192 provision to the contrary contained in this chapter. If
1193 vacancies occur on the board as a result of a recall and a
1194 majority or more of the board members are removed, the vacancies
1195 shall be filled in accordance with procedural rules to be
1196 adopted by the division, which rules need not be consistent with
1197 this chapter. The rules must provide procedures governing the
1198 conduct of the recall election as well as the operation of the
1199 association during the period after a recall but prior to the
1200 recall election.

1201 7. A board member who has been recalled may file a petition



955374

1202 pursuant to s. 719.1255 challenging the validity of a recall.
1203 The petition must be filed within 60 days after the recall is
1204 deemed certified. The association and the unit owner
1205 representative shall be named as the respondents.

1206 8. The division may not accept for filing a recall
1207 petition, whether filed pursuant to subparagraph 1.,
1208 subparagraph 2., subparagraph 5., or subparagraph 7. and
1209 regardless of whether the recall was certified, if there are 60
1210 days or less until the scheduled reelection of the board member
1211 sought to be recalled or if 60 days or less have not elapsed
1212 since the election of the board member sought to be recalled.

1213 Section 15. Subsections (1), (3), (4), and (9) of section
1214 719.108, Florida Statutes, are amended to read:

1215 719.108 Rents and assessments; liability; lien and
1216 priority; interest; collection; cooperative ownership.—

1217 (1) A unit owner, regardless of how title is acquired,
1218 including, without limitation, a purchaser at a judicial sale,
1219 is shall be liable for all rents and assessments coming due
1220 while the unit owner owns the unit is in exclusive possession of
1221 a unit. Additionally, a In a voluntary transfer, the unit owner
1222 is in exclusive possession shall be jointly and severally liable
1223 with the previous unit owner for all unpaid rents and
1224 assessments, late fees, interest costs, and reasonable attorney
1225 fees incurred in an attempt to collect all such amounts that
1226 came due against the previous unit owner for his or her share of
1227 the common expenses up to the time of the transfer of title.
1228 This liability is, without prejudice to the rights of the
1229 present unit owner in exclusive possession to recover from the
1230 previous unit owner any the amounts paid by the present unit



955374

1231 owner ~~in exclusive possession therefor.~~

1232 (3) Rents and assessments, and installments on them, not
1233 paid when due bear interest at the rate provided in the
1234 cooperative documents from the date due until paid. This rate
1235 may not exceed the rate allowed by law and, if a rate is not
1236 provided in the cooperative documents, accrues at 18 percent per
1237 annum. If the cooperative documents or bylaws so provide, the
1238 association may charge an administrative late fee in addition to
1239 such interest, not to exceed the greater of \$25 or 5 percent of
1240 each installment of the assessment for each delinquent
1241 installment that the payment is late. Any payment received by an
1242 association must be applied first to any interest accrued by the
1243 association, then to any administrative late fee, then to any
1244 costs and reasonable attorney ~~attorney's~~ fees incurred in
1245 collection, and then to the delinquent assessment. The foregoing
1246 applies notwithstanding any restrictive endorsement,
1247 designation, or instruction placed on or accompanying a payment.
1248 A late fee is not subject to chapter 687 or s. 719.303(4).

1249 (4) The association has a lien on each cooperative parcel
1250 for any unpaid rents and assessments, plus interest, and any
1251 authorized administrative late fees. If authorized by the
1252 cooperative documents, the lien also secures reasonable attorney
1253 ~~attorney's~~ fees incurred by the association incident to the
1254 collection of the rents and assessments or enforcement of such
1255 lien. The lien is effective from and after recording a claim of
1256 lien in the public records in the county in which the
1257 cooperative parcel is located which states the description of
1258 the cooperative parcel, the name of the unit owner, the amount
1259 due, and the due dates. The lien expires if a claim of lien is



955374

1260 not filed within 1 year after the date the assessment was due,
1261 and the lien does not continue for longer than 1 year after the
1262 claim of lien has been recorded unless, within that time, an
1263 action to enforce the lien is commenced. Except as otherwise
1264 provided in this chapter, a lien may not be filed by the
1265 association against a cooperative parcel until 30 days after the
1266 date on which a notice of intent to file a lien has been
1267 delivered to the owner.

1268 (a) The notice must be sent to the unit owner at the
1269 address of the unit by first-class United States mail and:

1270 1. If the most recent address of the unit owner on the
1271 records of the association is the address of the unit, the
1272 notice must be sent by registered or certified mail, return
1273 receipt requested, to the unit owner at the address of the unit.

1274 2. If the most recent address of the unit owner on the
1275 records of the association is in the United States, but is not
1276 the address of the unit, the notice must be sent by registered
1277 or certified mail, return receipt requested, to the unit owner
1278 at his or her most recent address.

1279 3. If the most recent address of the unit owner on the
1280 records of the association is not in the United States, the
1281 notice must be sent by first-class United States mail to the
1282 unit owner at his or her most recent address.

1283 (b) A notice that is sent pursuant to this subsection is
1284 deemed delivered upon mailing.

1285 (9) The specific purposes of any special assessment,
1286 including any contingent special assessment levied in
1287 conjunction with the purchase of an insurance policy authorized
1288 by s. 719.104(3), approved in accordance with the cooperative



955374

1289 documents shall be set forth in a written notice of such
1290 assessment sent or delivered to each unit owner. The funds
1291 collected pursuant to a special assessment may ~~shall~~ be used
1292 only for the specific purpose or purposes set forth in such
1293 notice or returned to the unit owners. However, upon completion
1294 of such specific purposes, any excess funds shall be considered
1295 common surplus and may, at the discretion of the board, either
1296 be returned to the unit owners or applied as a credit toward
1297 future assessments.

1298 Section 16. Paragraph (a) of subsection (3) and subsection
1299 (5) of section 719.303, Florida Statutes, are amended to read:

1300 719.303 Obligations of owners.—

1301 (3) The association may levy reasonable fines for failure
1302 of the unit owner or the unit's occupant, licensee, or invitee
1303 to comply with any provision of the cooperative documents or
1304 reasonable rules of the association. A fine may not become a
1305 lien against a unit. A fine may be levied on the basis of each
1306 day of a continuing violation, with a single notice and
1307 opportunity for hearing. However, the fine may not exceed \$100
1308 per violation, or \$1,000 in the aggregate.

1309 (a) An association may suspend, for a reasonable period of
1310 time, the right of a unit owner, or a unit owner's tenant,
1311 guest, or invitee, to use the common elements, common
1312 facilities, or any other association property for failure to
1313 comply with any provision of the cooperative documents or
1314 reasonable rules of the association. This paragraph does not
1315 apply to limited common elements intended to be used only by
1316 that unit, common elements needed to access the unit, utility
1317 services provided to the unit, parking spaces, or elevators.



955374

1318 (5) An association may suspend the voting rights of a unit
1319 or member due to nonpayment of any monetary obligation due to
1320 the association which is more than 90 days delinquent.
1321 Notwithstanding an association's cooperative documents, the
1322 requirements to establish a quorum, conduct an election, or
1323 obtain membership approval on actions under this chapter or
1324 pursuant to the association's cooperative documents shall be
1325 reduced by the number of suspended voting interests or consent
1326 rights. A voting interest or consent right allocated to a unit
1327 or member which has been suspended by the association may not be
1328 counted towards the total number of voting interests for any
1329 purpose, including, but not limited to, the number of voting
1330 interests necessary to constitute a quorum, the number of voting
1331 interests required to conduct an election, or the number of
1332 voting interests required to approve an action under this
1333 chapter or pursuant to the cooperative documents, articles of
1334 incorporation, or bylaws. The suspension ends upon full payment
1335 of all obligations currently due or overdue the association. The
1336 notice and hearing requirements under subsection (3) do not
1337 apply to a suspension imposed under this subsection.

1338 Section 17. Paragraph (c) of subsection (5) and subsection
1339 (10) of section 720.303, Florida Statutes, are amended to read:

1340 720.303 Association powers and duties; meetings of board;
1341 official records; budgets; financial reporting; association
1342 funds; recalls.-

1343 (5) INSPECTION AND COPYING OF RECORDS.—The official records
1344 shall be maintained within the state and must be open to
1345 inspection and available for photocopying by members or their
1346 authorized agents at reasonable times and places within 10



955374

1347 business days after receipt of a written request for access.
1348 This subsection may be complied with by having a copy of the
1349 official records available for inspection or copying in the
1350 community. If the association has a photocopy machine available
1351 where the records are maintained, it must provide parcel owners
1352 with copies on request during the inspection if the entire
1353 request is limited to no more than 25 pages.

1354 (c) The association may adopt reasonable written rules
1355 governing the frequency, time, location, notice, records to be
1356 inspected, and manner of inspections, but may not require a
1357 parcel owner to demonstrate any proper purpose for the
1358 inspection, state any reason for the inspection, or limit a
1359 parcel owner's right to inspect records to less than one 8-hour
1360 business day per month. The association may impose fees to cover
1361 the costs of providing copies of the official records,
1362 including, without limitation, the costs of copying. The
1363 association may charge up to 50 cents per page for copies made
1364 on the association's photocopier. If the association does not
1365 have a photocopy machine available where the records are kept,
1366 or if the records requested to be copied exceed 25 pages in
1367 length, the association may have copies made by an outside
1368 vendor or association management company personnel and may
1369 charge the actual cost of copying, including any reasonable
1370 costs involving personnel fees and charges at an hourly rate for
1371 vendor or employee time to cover administrative costs to the
1372 vendor or association. The association shall maintain an
1373 adequate number of copies of the recorded governing documents,
1374 to ensure their availability to members and prospective members.
1375 Notwithstanding this paragraph, the following records are not



955374

1376 accessible to members or parcel owners:

1377 1. Any record protected by the lawyer-client privilege as
1378 described in s. 90.502 and any record protected by the work-
1379 product privilege, including, but not limited to, a record
1380 prepared by an association attorney or prepared at the
1381 attorney's express direction which reflects a mental impression,
1382 conclusion, litigation strategy, or legal theory of the attorney
1383 or the association and which was prepared exclusively for civil
1384 or criminal litigation or for adversarial administrative
1385 proceedings or which was prepared in anticipation of such
1386 litigation or proceedings until the conclusion of the litigation
1387 or proceedings.

1388 2. Information obtained by an association in connection
1389 with the approval of the lease, sale, or other transfer of a
1390 parcel.

1391 3. Personnel records of association or management company
1392 ~~the association's~~ employees, including, but not limited to,
1393 disciplinary, payroll, health, and insurance records. For
1394 purposes of this subparagraph, the term "personnel records" does
1395 not include written employment agreements with an association or
1396 management company employee or budgetary or financial records
1397 that indicate the compensation paid to an association or
1398 management company employee.

1399 4. Medical records of parcel owners or community residents.

1400 5. Social security numbers, driver ~~driver's~~ license
1401 numbers, credit card numbers, electronic mailing addresses,
1402 telephone numbers, facsimile numbers, emergency contact
1403 information, any addresses for a parcel owner other than as
1404 provided for association notice requirements, and other personal



955374

1405 identifying information of any person, excluding the person's
1406 name, parcel designation, mailing address, and property address.
1407 However, an owner may consent in writing to the disclosure of
1408 protected information described in this subparagraph. The
1409 association is not liable for the disclosure of information that
1410 is protected under this subparagraph if the information is
1411 included in an official record of the association and is
1412 voluntarily provided by an owner and not requested by the
1413 association.

1414 6. Any electronic security measure that is used by the
1415 association to safeguard data, including passwords.

1416 7. The software and operating system used by the
1417 association which allows the manipulation of data, even if the
1418 owner owns a copy of the same software used by the association.
1419 The data is part of the official records of the association.

1420 (10) RECALL OF DIRECTORS.—

1421 (a)1. Regardless of any provision to the contrary contained
1422 in the governing documents, subject to the provisions of s.
1423 720.307 regarding transition of association control, any member
1424 of the board of directors may be recalled and removed from
1425 office with or without cause by a majority of the total voting
1426 interests.

1427 2. When the governing documents, including the declaration,
1428 articles of incorporation, or bylaws, provide that only a
1429 specific class of members is entitled to elect a board director
1430 or directors, only that class of members may vote to recall
1431 those board directors so elected.

1432 (b)1. Board directors may be recalled by an agreement in
1433 writing or by written ballot without a membership meeting. The



955374

1434 agreement in writing or the written ballots, or a copy thereof,
1435 shall be served on the association by certified mail or by
1436 personal service in the manner authorized by chapter 48 and the
1437 Florida Rules of Civil Procedure.

1438 2. The board shall duly notice and hold a meeting of the
1439 board within 5 full business days after receipt of the agreement
1440 in writing or written ballots. At the meeting, the board shall
1441 either certify the written ballots or written agreement to
1442 recall a director or directors of the board, in which case such
1443 director or directors shall be recalled effective immediately
1444 and shall turn over to the board within 5 full business days any
1445 and all records and property of the association in their
1446 possession, or proceed as described in paragraph (d).

1447 3. When it is determined by the department pursuant to
1448 binding arbitration proceedings that an initial recall effort
1449 was defective, written recall agreements or written ballots used
1450 in the first recall effort and not found to be defective may be
1451 reused in one subsequent recall effort. However, in no event is
1452 a written agreement or written ballot valid for more than 120
1453 days after it has been signed by the member.

1454 4. Any rescission or revocation of a member's written
1455 recall ballot or agreement must be in writing and, in order to
1456 be effective, must be delivered to the association before the
1457 association is served with the written recall agreements or
1458 ballots.

1459 5. The agreement in writing or ballot shall list at least
1460 as many possible replacement directors as there are directors
1461 subject to the recall, when at least a majority of the board is
1462 sought to be recalled; the person executing the recall



955374

1463 instrument may vote for as many replacement candidates as there
1464 are directors subject to the recall.

1465 (c)1. If the declaration, articles of incorporation, or
1466 bylaws specifically provide, the members may also recall and
1467 remove a board director or directors by a vote taken at a
1468 meeting. If so provided in the governing documents, a special
1469 meeting of the members to recall a director or directors of the
1470 board of administration may be called by 10 percent of the
1471 voting interests giving notice of the meeting as required for a
1472 meeting of members, and the notice shall state the purpose of
1473 the meeting. Electronic transmission may not be used as a method
1474 of giving notice of a meeting called in whole or in part for
1475 this purpose.

1476 2. The board shall duly notice and hold a board meeting
1477 within 5 full business days after the adjournment of the member
1478 meeting to recall one or more directors. At the meeting, the
1479 board shall certify the recall, in which case such member or
1480 members shall be recalled effective immediately and shall turn
1481 over to the board within 5 full business days any and all
1482 records and property of the association in their possession, or
1483 shall proceed as set forth in subparagraph (d).

1484 (d) If the board determines not to certify the written
1485 agreement or written ballots to recall a director or directors
1486 of the board or does not certify the recall by a vote at a
1487 meeting, the board shall, within 5 full business days after the
1488 meeting, file with the department a petition for binding
1489 arbitration pursuant to the applicable procedures in ss.
1490 718.112(2)(j) and 718.1255 and the rules adopted thereunder. For
1491 the purposes of this section, the members who voted at the



955374

1492 meeting or who executed the agreement in writing shall
1493 constitute one party under the petition for arbitration. If the
1494 arbitrator certifies the recall as to any director or directors
1495 of the board, the recall will be effective upon mailing of the
1496 final order of arbitration to the association. The director or
1497 directors so recalled shall deliver to the board any and all
1498 records of the association in their possession within 5 full
1499 business days after the effective date of the recall.

1500 (e) If a vacancy occurs on the board as a result of a
1501 recall and less than a majority of the board directors are
1502 removed, the vacancy may be filled by the affirmative vote of a
1503 majority of the remaining directors, notwithstanding any
1504 provision to the contrary contained in this subsection or in the
1505 association documents. If vacancies occur on the board as a
1506 result of a recall and a majority or more of the board directors
1507 are removed, the vacancies shall be filled by members voting in
1508 favor of the recall; if removal is at a meeting, any vacancies
1509 shall be filled by the members at the meeting. If the recall
1510 occurred by agreement in writing or by written ballot, members
1511 may vote for replacement directors in the same instrument in
1512 accordance with procedural rules adopted by the division, which
1513 rules need not be consistent with this subsection.

1514 (f) If the board fails to duly notice and hold a board
1515 meeting within 5 full business days after service of an
1516 agreement in writing or within 5 full business days after the
1517 adjournment of the member recall meeting, the recall shall be
1518 deemed effective and the board directors so recalled shall
1519 immediately turn over to the board all records and property of
1520 the association.



955374

1521 (g) If the board fails to duly notice and hold the required
1522 meeting or fails to file the required petition, the unit owner
1523 representative may file a petition pursuant to s. 718.1255
1524 challenging the board's failure to act. The petition must be
1525 filed within 60 days after the expiration of the applicable 5-
1526 full-business-day period. The review of a petition under this
1527 paragraph is limited to the sufficiency of service on the board
1528 and the facial validity of the written agreement or ballots
1529 filed.

1530 (h)~~(g)~~ If a director who is removed fails to relinquish his
1531 or her office or turn over records as required under this
1532 section, the circuit court in the county where the association
1533 maintains its principal office may, upon the petition of the
1534 association, summarily order the director to relinquish his or
1535 her office and turn over all association records upon
1536 application of the association.

1537 (i)~~(h)~~ The minutes of the board meeting at which the board
1538 decides whether to certify the recall are an official
1539 association record. The minutes must record the date and time of
1540 the meeting, the decision of the board, and the vote count taken
1541 on each board member subject to the recall. In addition, when
1542 the board decides not to certify the recall, as to each vote
1543 rejected, the minutes must identify the parcel number and the
1544 specific reason for each such rejection.

1545 (j)~~(i)~~ When the recall of more than one board director is
1546 sought, the written agreement, ballot, or vote at a meeting
1547 shall provide for a separate vote for each board director sought
1548 to be recalled.

1549 (k) A board member who has been recalled may file a



955374

1550 petition pursuant to ss. 718.112(2)(j) and 718.1255 and the
1551 rules adopted challenging the validity of the recall. The
1552 petition must be filed within 60 days after the recall is deemed
1553 certified. The association and the unit owner representative
1554 shall be named as respondents.

1555 (1) The division may not accept for filing a recall
1556 petition, whether filed pursuant to paragraph (b), paragraph
1557 (c), paragraph (g), or paragraph (k) and regardless of whether
1558 the recall was certified, if there are 60 days or less until the
1559 scheduled reelection of the board member sought to be recalled
1560 or if 60 days or less have not elapsed since the election of the
1561 board member sought to be recalled.

1562 Section 18. Subsections (2) and (4) of section 720.305,
1563 Florida Statutes, are amended to read:

1564 720.305 Obligations of members; remedies at law or in
1565 equity; levy of fines and suspension of use rights.—

1566 (2) The association may levy reasonable fines of up to \$100
1567 per violation against any member or any member's tenant, guest,
1568 or invitee for the failure of the owner of the parcel or its
1569 occupant, licensee, or invitee to comply with any provision of
1570 the declaration, the association bylaws, or reasonable rules of
1571 the association. A fine may be levied for each day of a
1572 continuing violation, with a single notice and opportunity for
1573 hearing, except that the fine may not exceed \$1,000 in the
1574 aggregate unless otherwise provided in the governing documents.
1575 A fine of less than \$1,000 may not become a lien against a
1576 parcel. In any action to recover a fine, the prevailing party is
1577 entitled to reasonable attorney ~~attorney's~~ fees and costs from
1578 the nonprevailing party as determined by the court.



955374

1579 (a) An association may suspend, for a reasonable period of
1580 time, the right of a member, or a member's tenant, guest, or
1581 invitee, to use common areas and facilities for the failure of
1582 the owner of the parcel or its occupant, licensee, or invitee to
1583 comply with any provision of the declaration, the association
1584 bylaws, or reasonable rules of the association. This paragraph
1585 does not apply to that portion of common areas used to provide
1586 access or utility services to the parcel. A suspension may not
1587 impair the right of an owner or tenant of a parcel to have
1588 vehicular and pedestrian ingress to and egress from the parcel,
1589 including, but not limited to, the right to park.

1590 (b) A fine or suspension may not be imposed without at
1591 least 14 days' notice to the person sought to be fined or
1592 suspended and an opportunity for a hearing before a committee of
1593 at least three members appointed by the board who are not
1594 officers, directors, or employees of the association, or the
1595 spouse, parent, child, brother, or sister of an officer,
1596 director, or employee. If the committee, by majority vote, does
1597 not approve a proposed fine or suspension, it may not be
1598 imposed. If the association imposes a fine or suspension, the
1599 association must provide written notice of such fine or
1600 suspension by mail or hand delivery to the parcel owner and, if
1601 applicable, to any tenant, licensee, or invitee of the parcel
1602 owner.

1603 (4) An association may suspend the voting rights of a
1604 parcel or member for the nonpayment of any monetary obligation
1605 due ~~to~~ the association that is more than 90 days delinquent.
1606 Notwithstanding an association's governing documents, the
1607 requirements to establish a quorum, conduct an election, or



955374

1608 obtain membership approval on actions under this chapter or
1609 pursuant to the association's governing documents shall be
1610 reduced by the number of suspended voting interests or consent
1611 rights. A voting interest or consent right allocated to a parcel
1612 or member which has been suspended by the association may not be
1613 counted towards the total number of voting interests for any
1614 purpose, including, but not limited to, the number of voting
1615 interests necessary to constitute a quorum, the number of voting
1616 interests required to conduct an election, or the number of
1617 voting interests required to approve an action under this
1618 chapter or pursuant to the governing documents. The notice and
1619 hearing requirements under subsection (2) do not apply to a
1620 suspension imposed under this subsection. The suspension ends
1621 upon full payment of all obligations currently due or overdue to
1622 the association.

1623 Section 19. Paragraph (d) is added to subsection (1) of
1624 section 720.306, Florida Statutes, and subsection (9) of that
1625 section is amended, to read:

1626 720.306 Meetings of members; voting and election
1627 procedures; amendments.—

1628 (1) QUORUM; AMENDMENTS.—

1629 (d) The Legislature finds that the procurement of mortgagee
1630 consent to amendments that do not affect the rights or interests
1631 of mortgagees is an unreasonable and substantial logistical and
1632 financial burden on the parcel owners and that there is a
1633 compelling state interest in enabling the members of an
1634 association to approve amendments to the association's governing
1635 documents through legal means. Accordingly, and notwithstanding
1636 any provision to the contrary contained in this paragraph:



955374

1637 1. As to any mortgage recorded on or after July 1, 2012,
1638 any provision in the association's governing documents that
1639 requires the consent or joinder of some or all mortgagees of
1640 parcels or any other portion of the association's common areas
1641 to amend the association's governing documents or for any other
1642 matter is enforceable only as to amendments to the association's
1643 governing documents that adversely affect the priority of the
1644 mortgagee's lien or the mortgagee's rights to foreclose its lien
1645 or that otherwise materially affect the rights and interests of
1646 the mortgagees.

1647 2. As to mortgages recorded before July 1, 2012, any
1648 existing provisions in the association's governing documents
1649 requiring mortgagee consent are enforceable.

1650 3. In securing consent or joinder, the association is
1651 entitled to rely upon the public records to identify the holders
1652 of outstanding mortgages. The association may use the address
1653 provided in the original recorded mortgage document, unless
1654 there is a different address for the holder of the mortgage in a
1655 recorded assignment or modification of the mortgage, which
1656 recorded assignment or modification must reference the official
1657 records book and page on which the original mortgage was
1658 recorded. Once the association has identified the recorded
1659 mortgages of record, the association shall, in writing, request
1660 of each parcel owner whose parcel is encumbered by a mortgage of
1661 record any information the owner has in his or her possession
1662 regarding the name and address of the person to whom mortgage
1663 payments are currently being made. Notice shall be sent to such
1664 person if the address provided in the original recorded mortgage
1665 document is different from the name and address of the mortgagee



955374

1666 or assignee of the mortgage as shown by the public record. The
1667 association is deemed to have complied with this requirement by
1668 making the written request of the parcel owners required under
1669 this subparagraph. Any notices required to be sent to the
1670 mortgagees under this subparagraph shall be sent to all
1671 available addresses provided to the association.

1672 4. Any notice to the mortgagees required under subparagraph
1673 3. may be sent by a method that establishes proof of delivery,
1674 and any mortgagee who fails to respond within 60 days after the
1675 date of mailing is deemed to have consented to the amendment.

1676 5. For those amendments requiring mortgagee consent on or
1677 after July 1, 2012, in the event mortgagee consent is provided
1678 other than by properly recorded joinder, such consent shall be
1679 evidenced by affidavit of the association recorded in the public
1680 records of the county in which the declaration is recorded.

1681 6. Any amendment adopted without the required consent of a
1682 mortgagee is voidable only by a mortgagee who was entitled to
1683 notice and an opportunity to consent. An action to void an
1684 amendment is subject to the statute of limitations beginning 5
1685 years after the date of discovery as to the amendments described
1686 in subparagraph 1. and 5 years after the date of recordation of
1687 the certificate of amendment for all other amendments. This
1688 subparagraph applies to all mortgages, regardless of the date of
1689 recordation of the mortgage.

1690 (9) ~~(a)~~ ELECTIONS AND BOARD VACANCIES.-

1691 (a) Elections of directors must be conducted in accordance
1692 with the procedures set forth in the governing documents of the
1693 association. All members of the association are eligible to
1694 serve on the board of directors, and a member may nominate



955374

1695 himself or herself as a candidate for the board at a meeting
1696 where the election is to be held or, if the election process
1697 allows voting by absentee ballot, in advance of the balloting.
1698 Except as otherwise provided in the governing documents, boards
1699 of directors must be elected by a plurality of the votes cast by
1700 eligible voters. Any challenge to the election process must be
1701 commenced within 60 days after the election results are
1702 announced.

1703 (b) A person who is delinquent in the payment of any fee,
1704 fine, or other monetary obligation to the association for more
1705 than 90 days is not eligible for board membership. A person who
1706 has been convicted of any felony in this state or in a United
1707 States District or Territorial Court, or has been convicted of
1708 any offense in another jurisdiction which would be considered a
1709 felony if committed in this state, is not eligible for board
1710 membership unless such felon's civil rights have been restored
1711 for at least 5 years as of the date on which such person seeks
1712 election to the board. The validity of any action by the board
1713 is not affected if it is later determined that a member of the
1714 board is ineligible for board membership.

1715 (c) Any election dispute between a member and an
1716 association must be submitted to mandatory binding arbitration
1717 with the division. Such proceedings must be conducted in the
1718 manner provided by s. 718.1255 and the procedural rules adopted
1719 by the division. Unless otherwise provided in the bylaws, any
1720 vacancy occurring on the board before the expiration of a term
1721 may be filled by an affirmative vote of the majority of the
1722 remaining directors, even if the remaining directors constitute
1723 less than a quorum, or by the sole remaining director. In the



955374

1724 alternative, a board may hold an election to fill the vacancy,
1725 in which case the election procedures must conform to the
1726 requirements of the governing documents. Unless otherwise
1727 provided in the bylaws, a board member appointed or elected
1728 under this section is appointed for the unexpired term of the
1729 seat being filled. Filling vacancies created by recall is
1730 governed by s. 720.303(10) and rules adopted by the division.

1731 Section 20. Paragraphs (b) and (d) of subsection (2) of
1732 section 720.3085, Florida Statutes, are amended to read:

1733 720.3085 Payment for assessments; lien claims.—

1734 (2)

1735 (b) A parcel owner, regardless of how the parcel owner has
1736 acquired title, including, but not limited to, by purchase at a
1737 foreclosure sale, is jointly and severally liable with the
1738 previous parcel owner for all unpaid assessments, late fees,
1739 interest, costs, and reasonable attorney fees incurred by the
1740 association in an attempt to collect all such amounts that came
1741 due up to the time of transfer of title. This liability is
1742 without prejudice to any right the present parcel owner may have
1743 to recover any amounts paid by the present owner from the
1744 previous owner.

1745 (d) An association, or its successor or assignee, that
1746 acquires title to a parcel through the foreclosure of its lien
1747 for assessments is not liable for any unpaid assessments, late
1748 fees, interest, or reasonable attorney ~~attorney's~~ fees and costs
1749 that came due before the association's acquisition of title in
1750 favor of any other association, as defined in s. 718.103(2) or
1751 s. 720.301(9), which holds a ~~superior~~ lien interest on the
1752 parcel. This paragraph is intended to clarify existing law.



955374

1753 Section 21. This act shall take effect July 1, 2012.

1754

1755 ===== T I T L E A M E N D M E N T =====

1756 And the title is amended as follows:

1757 Delete everything before the enacting clause
1758 and insert:

1759 A bill to be entitled
1760 An act relating to residential properties; amending s.
1761 399.02, F.S.; exempting certain elevators from
1762 specific code update requirements; amending s.
1763 468.433, F.S.; prohibiting the Department of Business
1764 and Professional Regulation from publishing a
1765 community association manager's personal home address
1766 unless it is for the purpose of satisfying a public
1767 records request; amending s. 718.112, F.S.; revising
1768 the terms of membership for board members of a
1769 condominium unit owner association; revising
1770 condominium unit owner meeting notice requirements;
1771 providing that certain election requirements do not
1772 apply to an association governing a timeshare
1773 condominium; revising recordkeeping requirements of a
1774 condominium association board; requiring challenges to
1775 an election to commence within a certain time period;
1776 providing requirements for challenging the failure of
1777 a board to duly notice and hold the required board
1778 meeting or to file the required petition for a recall;
1779 providing requirements for recalled board members to
1780 challenge the recall; providing duties of the division
1781 regarding recall petitions; amending s. 718.113, F.S.;



955374

1782 providing requirements for a condominium association
1783 board relating to the installation of hurricane
1784 shutters, impact glass, code-compliant windows or
1785 doors, and other types of code-compliant hurricane
1786 protection under certain circumstances; amending s.
1787 718.115, F.S.; conforming provisions to changes made
1788 by the act; amending s. 718.116, F.S.; revising
1789 liability of certain condominium unit owners acquiring
1790 title; amending s. 718.303, F.S.; revising provisions
1791 relating to imposing remedies against a noncompliant
1792 or delinquent condominium unit owner or member;
1793 revising voting requirements under certain conditions;
1794 amending s. 718.403, F.S.; providing requirements for
1795 the completion of phase condominiums; creating s.
1796 718.406, F.S.; providing definitions; providing
1797 requirements for condominiums created within
1798 condominium parcels; providing for the establishment
1799 of primary condominium and secondary condominium
1800 units; providing requirements for association
1801 declarations; providing requirements for creating a
1802 secondary condominium on a primary condominium parcel;
1803 providing that an owner of a secondary unit is subject
1804 to both the primary condominium declaration and the
1805 secondary condominium declaration; authorizing a
1806 primary condominium association to provide insurance
1807 and adopt hurricane shutter or hurricane protection
1808 specifications under certain conditions; authorizing a
1809 unit owner or holder of a first mortgage on a
1810 secondary unit to register the unit owner's or



955374

1811 mortgagee's interest in the secondary unit with the
1812 primary condominium association by delivery of written
1813 notice; providing other requirements for the written
1814 notice; providing requirements relating to
1815 assessments; providing for resolution of conflicts
1816 between primary condominium declarations and secondary
1817 condominium declarations; providing requirements
1818 relating to common expenses due the primary
1819 condominium association; amending s. 718.5011, F.S.;
1820 revising the restriction on officers and full-time
1821 employees of the ombudsman from engaging in other
1822 businesses or professions; amending s. 718.707, F.S.;
1823 revising the time limitation for classification as a
1824 bulk assignee or bulk buyer; amending s. 719.104,
1825 F.S.; specifying additional records that are not
1826 accessible to unit owners; amending s. 719.1055, F.S.;
1827 revising provisions relating to the amendment of
1828 cooperative documents; providing legislative findings
1829 and a finding of compelling state interest; providing
1830 criteria for consent or joinder to an amendment;
1831 requiring notice regarding proposed amendments to
1832 mortgagees; providing criteria for notification;
1833 providing for voiding certain amendments; amending s.
1834 719.106, F.S.; requiring challenges to an election to
1835 commence within a certain time period; specifying
1836 certification or educational requirements for a newly
1837 elected or appointed cooperative board director;
1838 providing requirements for challenging the failure of
1839 a board to duly notice and hold the required board



955374

1840 meeting or to file the required petition for a recall;
1841 providing requirements for recalled board members to
1842 challenge the recall; providing duties of the division
1843 regarding recall petitions; amending s. 719.108, F.S.;
1844 revising provisions governing assessments and liens;
1845 revising liability of unit owners; providing
1846 requirements for persons acquiring title; amending s.
1847 719.303, F.S.; revising provisions relating to
1848 imposing remedies against a noncompliant or delinquent
1849 cooperative unit owner or member; revising voting
1850 requirements under certain conditions; amending s.
1851 720.303, F.S.; revising the types of records that are
1852 not accessible to homeowners' association members and
1853 parcel owners; providing requirements for challenging
1854 the failure of a board to duly notice and hold the
1855 required board meeting or to file the required
1856 petition for a recall; providing requirements for
1857 recalled board members to challenge the recall;
1858 providing duties of the division regarding recall
1859 petitions; amending s. 720.305, F.S.; revising
1860 provisions relating to imposing remedies against a
1861 noncompliant or delinquent homeowners' association
1862 member and parcel owner; revising voting requirements
1863 under certain conditions; amending s. 720.306, F.S.;
1864 revising provisions relating to the amendment of
1865 homeowners' association declarations; providing
1866 legislative findings and a finding of compelling state
1867 interest; providing criteria for consent or joinder to
1868 an amendment; requiring notice to mortgagees regarding



955374

1869 proposed amendments; providing criteria for
1870 notification; providing for voiding certain
1871 amendments; requiring challenges to an election to
1872 commence within a certain time period; specifying
1873 certification or educational requirements for a newly
1874 elected or appointed homeowners' association board
1875 director; amending s. 720.3085, F.S.; revising
1876 liability of certain parcel owners acquiring title;
1877 providing an effective date.