

By the Committee on Regulated Industries; and Senator Bogdanoff

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1 A bill to be entitled
2 An act relating to residential properties; amending s.
3 399.02, F.S.; exempting certain elevators from
4 specific code update requirements; amending s.
5 468.433, F.S.; prohibiting the Department of Business
6 and Professional Regulation from publishing a
7 community association manager's personal home address
8 unless it is for the purpose of satisfying a public
9 records request; amending s. 718.112, F.S.; revising
10 the terms of membership for board members of a
11 condominium unit owner association; revising
12 condominium unit owner meeting notice requirements;
13 providing that certain election requirements do not
14 apply to an association governing a timeshare
15 condominium; revising recordkeeping requirements of a
16 condominium association board; requiring challenges to
17 an election to commence within a certain time period;
18 providing requirements for challenging the failure of
19 a board to duly notice and hold the required board
20 meeting or to file the required petition for a recall;
21 providing requirements for recalled board members to
22 challenge the recall; providing duties of the Division
23 of Florida Condominiums, Timeshares, and Mobile Homes
24 regarding recall petitions; amending s. 718.113, F.S.;
25 providing requirements for a condominium association
26 board relating to the installation of hurricane
27 shutters, impact glass, code-compliant windows or
28 doors, and other types of code-compliant hurricane
29 protection under certain circumstances; amending s.

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30 718.115, F.S.; conforming provisions to changes made
31 by the act; amending s. 718.116, F.S.; revising
32 liability of certain condominium unit owners acquiring
33 title; amending s. 718.303, F.S.; revising provisions
34 relating to imposing remedies against a noncompliant
35 or delinquent condominium unit owner or member;
36 revising voting requirements under certain conditions;
37 amending s. 718.403, F.S.; providing requirements for
38 the completion of phase condominiums; creating s.
39 718.406, F.S.; providing definitions; providing
40 requirements for condominiums created within
41 condominium parcels; providing for the establishment
42 of primary condominium and secondary condominium
43 units; providing requirements for association
44 declarations; providing requirements for creating a
45 secondary condominium on a primary condominium parcel;
46 providing that an owner of a secondary unit is subject
47 to both the primary condominium declaration and the
48 secondary condominium declaration; authorizing a
49 primary condominium association to provide insurance
50 and adopt hurricane shutter or hurricane protection
51 specifications under certain conditions; authorizing a
52 unit owner or holder of a first mortgage on a
53 secondary unit to register the unit owner's or
54 mortgagee's interest in the secondary unit with the
55 primary condominium association by delivery of written
56 notice; providing other requirements for the written
57 notice; providing requirements relating to
58 assessments; providing for resolution of conflicts

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59 between primary condominium declarations and secondary
60 condominium declarations; providing requirements
61 relating to common expenses due the primary
62 condominium association; amending s. 718.5011, F.S.;
63 revising the restriction on officers and full-time
64 employees of the ombudsman from engaging in other
65 businesses or professions; amending s. 718.707, F.S.;
66 revising the time limitation for classification as a
67 bulk assignee or bulk buyer; amending s. 719.104,
68 F.S.; specifying additional records that are not
69 accessible to unit owners; amending s. 719.1055, F.S.;
70 revising provisions relating to the amendment of
71 cooperative documents; providing legislative findings
72 and a finding of compelling state interest; providing
73 criteria for consent or joinder to an amendment;
74 requiring notice regarding proposed amendments to
75 mortgagees; providing criteria for notification;
76 providing for voiding certain amendments; amending s.
77 719.106, F.S.; requiring challenges to an election to
78 commence within a certain time period; specifying
79 certification or educational requirements for a newly
80 elected or appointed cooperative board director;
81 providing requirements for challenging the failure of
82 a board to duly notice and hold the required board
83 meeting or to file the required petition for a recall;
84 providing requirements for recalled board members to
85 challenge the recall; providing duties of the division
86 regarding recall petitions; amending s. 719.108, F.S.;
87 revising provisions governing assessments and liens;

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88 revising liability of unit owners; providing
89 requirements for persons acquiring title; amending s.
90 719.303, F.S.; revising provisions relating to
91 imposing remedies against a noncompliant or delinquent
92 cooperative unit owner or member; revising voting
93 requirements under certain conditions; amending s.
94 720.303, F.S.; revising the types of records that are
95 not accessible to homeowners' association members and
96 parcel owners; providing requirements for challenging
97 the failure of a board to duly notice and hold the
98 required board meeting or to file the required
99 petition for a recall; providing requirements for
100 recalled board members to challenge the recall;
101 providing duties of the division regarding recall
102 petitions; amending s. 720.305, F.S.; revising
103 provisions relating to imposing remedies against a
104 noncompliant or delinquent homeowners' association
105 member and parcel owner; revising voting requirements
106 under certain conditions; amending s. 720.306, F.S.;
107 revising provisions relating to the amendment of
108 homeowners' association declarations; providing
109 legislative findings and a finding of compelling state
110 interest; providing criteria for consent or joinder to
111 an amendment; requiring notice to mortgagees regarding
112 proposed amendments; providing criteria for
113 notification; providing for voiding certain
114 amendments; requiring challenges to an election to
115 commence within a certain time period; specifying
116 certification or educational requirements for a newly

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117 elected or appointed homeowners' association board
118 director; amending s. 720.3085, F.S.; revising
119 liability of certain parcel owners acquiring title;
120 providing an effective date.

121

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

123

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

126 399.02 General requirements.—

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

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

144 468.433 Licensure by examination.—

145 (5) The department may not publish a licensee's personal

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146 home address unless it is for the purpose of satisfying a public
147 records request.

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

150 718.112 Bylaws.—

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

154 (d) *Unit owner meetings.*—

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

161 2. Unless the bylaws provide otherwise, a vacancy on the
162 board caused by the expiration of a director's term shall be
163 filled by electing a new board member, and the election must be
164 by secret ballot. An election is not required if the number of
165 vacancies equals or exceeds the number of candidates. For
166 purposes of this paragraph, the term "candidate" means an
167 eligible person who has timely submitted the written notice, as
168 described in sub-subparagraph 4.a., of his or her intention to
169 become a candidate. Except in a timeshare condominium, or if the
170 staggered term of a board member does not expire until a later
171 annual meeting, or if all members' terms would otherwise expire
172 but there are no candidates, the terms of all board members
173 expire at the annual meeting, and such members may stand for
174 reelection unless prohibited by the bylaws. If the bylaws or the

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

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204 considered a felony if committed in this state, is not eligible
205 for board membership unless such felon's civil rights have been
206 restored for at least 5 years as of the date such person seeks
207 election to the board. The validity of an action by the board is
208 not affected if it is later determined that a board member is
209 ineligible for board membership due to having been convicted of
210 a felony.

211 3. The bylaws must provide the method of calling meetings
212 of unit owners, including annual meetings. Written notice must
213 include an agenda, must be mailed, hand delivered, or
214 electronically transmitted to each unit owner at least 14 days
215 before the annual meeting, and must be posted in a conspicuous
216 place on the condominium property at least 14 continuous days
217 before the annual meeting. Upon notice to the unit owners, the
218 board shall, by duly adopted rule, designate a specific location
219 on the condominium property or association property where all
220 notices of unit owner meetings shall be posted. This requirement
221 does not apply if there is no condominium property or
222 association property for posting notices. In lieu of, or in
223 addition to, the physical posting of meeting notices, the
224 association may, by reasonable rule, adopt a procedure for
225 conspicuously posting and repeatedly broadcasting the notice and
226 the agenda on a closed-circuit cable television system serving
227 the condominium association. However, if broadcast notice is
228 used in lieu of a notice posted physically on the condominium
229 property, the notice and agenda must be broadcast at least four
230 times every broadcast hour of each day that a posted notice is
231 otherwise required under this section. If broadcast notice is
232 provided, the notice and agenda must be broadcast in a manner

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233 and for a sufficient continuous length of time so as to allow an
234 average reader to observe the notice and read and comprehend the
235 entire content of the notice and the agenda. Unless a unit owner
236 waives in writing the right to receive notice of the annual
237 meeting, such notice must be hand delivered, mailed, or
238 electronically transmitted to each unit owner. Notice for
239 meetings and notice for all other purposes must be mailed to
240 each unit owner at the address last furnished to the association
241 by the unit owner, or hand delivered to each unit owner.
242 However, if a unit is owned by more than one person, the
243 association must provide notice to the address that the
244 developer identifies for that purpose and thereafter as one or
245 more of the owners of the unit advise the association in
246 writing, or if no address is given or the owners of the unit do
247 not agree, to the address provided on the deed of record. An
248 officer of the association, or the manager or other person
249 providing notice of the association meeting, must provide an
250 affidavit or United States Postal Service certificate of
251 mailing, to be included in the official records of the
252 association affirming that the notice was mailed or hand
253 delivered in accordance with this provision.

254 4. The members of the board shall be elected by written
255 ballot or voting machine. Proxies may not be used in electing
256 the board in general elections or elections to fill vacancies
257 caused by recall, resignation, or otherwise, unless otherwise
258 provided in this chapter. This subparagraph does not apply to an
259 association governing a timeshare condominium.

260 a. At least 60 days before a scheduled election, the
261 association shall mail, deliver, or electronically transmit, by

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262 separate association mailing or included in another association
263 mailing, delivery, or transmission, including regularly
264 published newsletters, to each unit owner entitled to a vote, a
265 first notice of the date of the election. Any unit owner or
266 other eligible person desiring to be a candidate for the board
267 must give written notice of his or her intent to be a candidate
268 to the association at least 40 days before a scheduled election.
269 Together with the written notice and agenda as set forth in
270 subparagraph 3., the association shall mail, deliver, or
271 electronically transmit a second notice of the election to all
272 unit owners entitled to vote, together with a ballot that lists
273 all candidates. Upon request of a candidate, an information
274 sheet, no larger than 8 1/2 inches by 11 inches, which must be
275 furnished by the candidate at least 35 days before the election,
276 must be included with the mailing, delivery, or transmission of
277 the ballot, with the costs of mailing, delivery, or electronic
278 transmission and copying to be borne by the association. The
279 association is not liable for the contents of the information
280 sheets prepared by the candidates. In order to reduce costs, the
281 association may print or duplicate the information sheets on
282 both sides of the paper. The division shall by rule establish
283 voting procedures consistent with this sub-subparagraph,
284 including rules establishing procedures for giving notice by
285 electronic transmission and rules providing for the secrecy of
286 ballots. Elections shall be decided by a plurality of ballots
287 cast. There is no quorum requirement; however, at least 20
288 percent of the eligible voters must cast a ballot in order to
289 have a valid election. A unit owner may not permit any other
290 person to vote his or her ballot, and any ballots improperly

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291 cast are invalid. A unit owner who violates this provision may
292 be fined by the association in accordance with s. 718.303. A
293 unit owner who needs assistance in casting the ballot for the
294 reasons stated in s. 101.051 may obtain such assistance. The
295 regular election must occur on the date of the annual meeting.
296 Notwithstanding this sub-subparagraph, an election is not
297 required unless more candidates file notices of intent to run or
298 are nominated than board vacancies exist.

299 b. Within 90 days after being elected or appointed to the
300 board, each newly elected or appointed director shall certify in
301 writing to the secretary of the association that he or she has
302 read the association's declaration of condominium, articles of
303 incorporation, bylaws, and current written policies; that he or
304 she will work to uphold such documents and policies to the best
305 of his or her ability; and that he or she will faithfully
306 discharge his or her fiduciary responsibility to the
307 association's members. In lieu of this written certification,
308 within 90 days after being elected or appointed to the board,
309 the newly elected or appointed director may submit a certificate
310 of having satisfactorily completed the educational curriculum
311 administered by a division-approved condominium education
312 provider within 1 year before or 90 days after the date of
313 election or appointment. The written certification or
314 educational certificate is valid and does not have to be
315 resubmitted as long as the director serves on the board without
316 interruption. A director who fails to timely file the written
317 certification or educational certificate is suspended from
318 service on the board until he or she complies with this sub-
319 subparagraph. The board may temporarily fill the vacancy during

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320 the period of suspension. The secretary shall cause the
321 association to retain a director's written certification or
322 educational certificate for inspection by the members for 5
323 years after a director's election or the duration of the
324 director's uninterrupted tenure, whichever is longer. Failure to
325 have such written certification or educational certificate on
326 file does not affect the validity of any board action.

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

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

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

347 7. Unit owners have the right to participate in meetings of
348 unit owners with reference to all designated agenda items.

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349 However, the association may adopt reasonable rules governing
350 the frequency, duration, and manner of unit owner participation.

351 8. A unit owner may tape record or videotape a meeting of
352 the unit owners subject to reasonable rules adopted by the
353 division.

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

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

373

374 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
375 association of 10 or fewer units may, by affirmative vote of a
376 majority of the total voting interests, provide for different
377 voting and election procedures in its bylaws, which may be by a

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378 proxy specifically delineating the different voting and election
379 procedures. The different voting and election procedures may
380 provide for elections to be conducted by limited or general
381 proxy.

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

393 1. If the recall is approved by a majority of all voting
394 interests by a vote at a meeting, the recall will be effective
395 as provided in this paragraph herein. The board shall duly
396 notice and hold a board meeting within 5 full business days
397 after ~~of~~ the adjournment of the unit owner meeting to recall one
398 or more board members. At the meeting, the board shall either
399 certify the recall, in which case such member or members shall
400 be recalled effective immediately and shall turn over to the
401 board within 5 full business days any and all records and
402 property of the association in their possession, or shall
403 proceed as set forth in subparagraph 3.

404 2. If the proposed recall is by an agreement in writing by
405 a majority of all voting interests, the agreement in writing or
406 a copy thereof shall be served on the association by certified

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407 mail or by personal service in the manner authorized by chapter
408 48 and the Florida Rules of Civil Procedure. The board of
409 administration shall duly notice and hold a meeting of the board
410 within 5 full business days after receipt of the agreement in
411 writing. At the meeting, the board shall either certify the
412 written agreement to recall a member or members of the board, in
413 which case such member or members shall be recalled effective
414 immediately and shall turn over to the board within 5 full
415 business days any and all records and property of the
416 association in their possession, or proceed as described in
417 subparagraph 3.

418 3. If the board determines not to certify the written
419 agreement to recall a member or members of the board, or does
420 not certify the recall by a vote at a meeting, the board shall,
421 within 5 full business days after the meeting, file with the
422 division a petition for arbitration pursuant to the procedures
423 in s. 718.1255. For the purposes of this section, the unit
424 owners who voted at the meeting or who executed the agreement in
425 writing shall constitute one party under the petition for
426 arbitration. If the arbitrator certifies the recall as to any
427 member or members of the board, the recall will be effective
428 upon mailing of the final order of arbitration to the
429 association. If the association fails to comply with the order
430 of the arbitrator, the division may take action pursuant to s.
431 718.501. Any member or members so recalled shall deliver to the
432 board any and all records of the association in their possession
433 within 5 full business days after ~~of~~ the effective date of the
434 recall.

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

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436 meeting within 5 full business days after ~~of~~ service of an
437 agreement in writing or within 5 full business days after ~~of~~ the
438 adjournment of the unit owner recall meeting, the recall shall
439 be deemed effective and the board members so recalled shall
440 immediately turn over to the board any and all records and
441 property of the association.

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

451 ~~6.5.~~ If a vacancy occurs on the board as a result of a
452 recall or removal and less than a majority of the board members
453 are removed, the vacancy may be filled by the affirmative vote
454 of a majority of the remaining directors, notwithstanding any
455 provision to the contrary contained in this subsection. If
456 vacancies occur on the board as a result of a recall and a
457 majority or more of the board members are removed, the vacancies
458 shall be filled in accordance with procedural rules to be
459 adopted by the division, which rules need not be consistent with
460 this subsection. The rules must provide procedures governing the
461 conduct of the recall election as well as the operation of the
462 association during the period after a recall but prior to the
463 recall election.

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

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465 pursuant to s. 718.1255 challenging the validity of a recall.
466 The petition must be filed within 60 days after the recall is
467 deemed certified. The association and the unit owner
468 representative shall be named as the respondents.

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

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

478 718.113 Maintenance; limitation upon improvement; display
479 of flag; hurricane shutters and protection; display of religious
480 decorations.—

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

487 (a) The board may, subject to ~~the provisions of s.~~
488 718.3026~~7~~ and the approval of a majority of voting interests of
489 the condominium, install hurricane shutters, impact glass, ~~or~~
490 ~~other~~ code-compliant windows or doors, or other types of code-
491 compliant hurricane protection that comply ~~complies~~ with or
492 exceed ~~exceeds~~ the applicable building code. However, a vote of
493 the owners is not required if the maintenance, repair, and

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494 replacement of hurricane shutters, impact glass, ~~or other code-~~
495 compliant windows or doors, or other types of code-compliant
496 hurricane protection are the responsibility of the association
497 pursuant to the declaration of condominium. If hurricane
498 protection or laminated glass or window film architecturally
499 designed to function as hurricane protection that ~~which~~ complies
500 with or exceeds the current applicable building code has been
501 previously installed, the board may not install hurricane
502 shutters, ~~hurricane protection, or impact glass, or other code-~~
503 compliant windows or doors, or other types of code-compliant
504 hurricane protection except upon approval by a majority vote of
505 the voting interests.

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

519 (c) The board may operate shutters, impact glass, code-
520 compliant windows or doors, or other types of code-compliant
521 hurricane protection installed pursuant to this subsection
522 without permission of the unit owners only if such operation is

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523 necessary to preserve and protect the condominium property and
524 association property. The installation, replacement, operation,
525 repair, and maintenance of such shutters, impact glass, code-
526 compliant windows or doors, or other types of code-compliant
527 hurricane protection in accordance with the procedures set forth
528 in this paragraph are not a material alteration to the common
529 elements or association property within the meaning of this
530 section.

531 (d) Notwithstanding any other provision in the condominium
532 documents, if approval is required by the documents, a board may
533 not refuse to approve the installation or replacement of
534 hurricane shutters, impact glass, code-compliant windows or
535 doors, or other types of code-compliant hurricane protection by
536 a unit owner conforming to the specifications adopted by the
537 board.

538 Section 5. Paragraph (e) of subsection (1) of section
539 718.115, Florida Statutes, is amended to read:

540 718.115 Common expenses and common surplus.-

541 (1)

542 (e) The expense of installation, replacement, operation,
543 repair, and maintenance of hurricane shutters, impact glass,
544 code-compliant windows or doors, or other types of code-
545 compliant hurricane protection by the board pursuant to s.
546 718.113(5) constitutes ~~shall constitute~~ a common expense ~~as~~
547 ~~defined herein~~ and shall be collected as provided in this
548 section if the association is responsible for the maintenance,
549 repair, and replacement of the hurricane shutters, impact glass,
550 code-compliant windows or doors, or other types of code-
551 compliant hurricane protection pursuant to the declaration of

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552 condominium. However, if the maintenance, repair, and
553 replacement of the hurricane shutters, impact glass, code-
554 compliant windows or doors, or other types of code-compliant
555 hurricane protection are ~~is~~ the responsibility of the unit
556 owners pursuant to the declaration of condominium, the cost of
557 the installation of the hurricane shutters, impact glass, code-
558 compliant windows or doors, or other types of code-compliant
559 hurricane protection is ~~shall~~ not be a common expense and, ~~but~~
560 shall be charged individually to the unit owners based on the
561 cost of installation of the hurricane shutters, impact glass,
562 code-compliant windows or doors, or other types of code-
563 compliant hurricane protection appurtenant to the unit.
564 Notwithstanding ~~the provisions of~~ s. 718.116(9), and regardless
565 of whether or not the declaration requires the association or
566 unit owners to maintain, repair, or replace hurricane shutters,
567 impact glass, code-compliant windows or doors, or other types of
568 code-compliant hurricane protection, a unit owner who has
569 previously installed hurricane shutters in accordance with s.
570 718.113(5) which comply with the current applicable building
571 code shall receive a credit when the shutters are installed; a
572 unit owner who has previously installed impact glass or code-
573 compliant windows or doors that comply with the current
574 applicable building code shall receive a credit when the impact
575 glass or code-compliant windows or doors are installed; and a
576 unit owner who has installed, other types of code-compliant
577 hurricane protection that comply with the current applicable
578 building code shall receive a credit when the same type of other
579 code-compliant hurricane protection is installed, and the ~~or~~
580 ~~laminated glass architecturally designed to function as~~

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581 ~~hurricane protection, which hurricane shutters or other~~
582 ~~hurricane protection or laminated glass comply with the current~~
583 ~~applicable building code, shall receive a credit shall be equal~~
584 to the pro rata portion of the assessed installation cost
585 assigned to each unit. However, such unit owner remains ~~shall~~
586 ~~remain~~ responsible for the pro rata share of expenses for
587 hurricane shutters, impact glass, code-compliant windows or
588 doors, or other types of code-compliant hurricane protection
589 installed on common elements and association property by the
590 board pursuant to s. 718.113(5)~~7~~ and remains ~~shall remain~~
591 responsible for a pro rata share of the expense of the
592 replacement, operation, repair, and maintenance of such
593 shutters, impact glass, code-compliant windows or doors, or
594 other types of code-compliant hurricane protection.

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

597 718.116 Assessments; liability; lien and priority;
598 interest; collection.-

599 (1) (a) A unit owner, regardless of how the unit owner has
600 acquired his or her title has been acquired, including, but not
601 limited to, by purchase at a foreclosure sale ~~or by deed in lieu~~
602 ~~of foreclosure,~~ is liable for all assessments that which come
603 due while he or she is the unit owner. Additionally, a unit
604 owner is jointly and severally liable with the previous owner
605 for all unpaid assessments, late fees, interest, costs, and
606 reasonable attorney fees incurred by the association in an
607 attempt to collect all such amounts ~~is jointly and severally~~
608 ~~liable with the previous owner for all unpaid assessments~~ that
609 came due up to the time of transfer of title. This liability is

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610 without prejudice to any right the owner may have to recover
611 from the previous owner the amounts paid by the owner.

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

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

621 b. One percent of the original mortgage debt.

622
623 The limitations on first mortgagee liability provided by
624 ~~provisions of this subparagraph paragraph~~ apply only if the
625 first mortgagee joined the association as a defendant in the
626 foreclosure action. Joinder of the association is not required
627 if, on the date the complaint is filed, the association was
628 dissolved or did not maintain an office or agent for service of
629 process at a location that ~~which~~ was known to or reasonably
630 discoverable by the mortgagee.

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

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

641 718.303 Obligations of owners and occupants; remedies.—

642 (3) The association may levy reasonable fines for the
643 failure of the owner of the unit or its occupant, licensee, or
644 invitee to comply with any provision of the declaration, the
645 association bylaws, or reasonable rules of the association. A
646 fine may not become a lien against a unit. A fine may be levied
647 on the basis of each day of a continuing violation, with a
648 single notice and opportunity for hearing. However, the fine may
649 not exceed \$100 per violation, or \$1,000 in the aggregate.

650 (a) An association may suspend, for a reasonable period of
651 time, the right of a unit owner, or a unit owner's tenant,
652 guest, or invitee, to use the common elements, common
653 facilities, or any other association property for failure to
654 comply with any provision of the declaration, the association
655 bylaws, or reasonable rules of the association. This paragraph
656 does not apply to limited common elements intended to be used
657 only by that unit, common elements needed to access the unit,
658 utility services provided to the unit, parking spaces, or
659 elevators.

660 (5) An association may suspend the voting rights of a unit
661 or member due to nonpayment of any monetary obligation due to
662 the association which is more than 90 days delinquent.
663 Notwithstanding an association's declaration, articles of
664 incorporation, or bylaws, the requirements to establish a
665 quorum, conduct an election, or obtain membership approval on
666 actions under this chapter or pursuant to the declaration,
667 articles of incorporation, or bylaws shall be reduced by the

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668 number of suspended voting interests or consent rights. ~~A voting~~
669 ~~interest or consent right allocated to a unit or member which~~
670 ~~has been suspended by the association may not be counted towards~~
671 ~~the total number of voting interests necessary to constitute a~~
672 ~~quorum, the number of voting interests required to conduct an~~
673 ~~election, or the number of voting interests required to approve~~
674 ~~an action under this chapter or pursuant to the declaration,~~
675 ~~articles of incorporation, or bylaws.~~ The suspension ends upon
676 full payment of all obligations currently due or overdue the
677 association. The notice and hearing requirements under
678 subsection (3) do not apply to a suspension imposed under this
679 subsection.

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

682 718.403 Phase condominiums.—

683 (1) Notwithstanding ~~the provisions of~~ s. 718.110, a
684 developer may develop a condominium in phases, if the original
685 declaration of condominium submitting the initial phase to
686 condominium ownership or an amendment to the declaration which
687 has been approved by all of the unit owners and unit mortgagees
688 provides for and describes in detail all anticipated phases; the
689 impact, if any, which the completion of subsequent phases would
690 have upon the initial phase; and the time period (which may not
691 exceed 7 years from the date of recording the declaration of
692 condominium, unless extended as provided in this subsection)
693 within which all phases must be added to the condominium and
694 comply with the requirements of this section and at the end of
695 which the right to add additional phases expires.

696 (a) All phases must be added to the condominium within 7

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697 years after the date of recording the original declaration of
698 condominium submitting the initial phase to condominium
699 ownership unless an amendment extending the 7-year period is
700 approved by the unit owners.

701 (b) An amendment to extend the 7-year period requires the
702 approval of the owners necessary to amend the declaration of
703 condominium consistent with s. 718.110(1) (a). An extension of
704 the 7-year period may be submitted for approval only during the
705 last 3 years of the 7-year period.

706 (c) An amendment must describe the time period within which
707 all phases must be added to the condominium and such time period
708 may not exceed 10 years after the date of recording the original
709 declaration of condominium submitting the initial phase to
710 condominium ownership.

711 (d) Notwithstanding s. 718.110, an amendment extending the
712 7-year period is not an amendment subject to s. 718.110(4).

713 Section 9. Section 718.406, Florida Statutes, is created to
714 read:

715 718.406 Condominiums created within condominium parcels.-

716 (1) Unless otherwise expressed in the declaration of
717 condominium, if a condominium is created within a condominium
718 parcel, the term:

719 (a) "Primary condominium" means any condominium that is not
720 a secondary condominium and contains one or more subdivided
721 parcels.

722 (b) "Primary condominium association" means any entity that
723 operates a primary condominium.

724 (c) "Primary condominium declaration" means the instrument
725 or instruments by which a primary condominium is created, as

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726 they are from time to time amended.

727 (d) "Secondary condominium" means one or more condominium
728 parcels that have been submitted to condominium ownership
729 pursuant to a secondary condominium declaration.

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

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

735 (g) "Secondary unit" means a unit that is part of a
736 secondary condominium.

737 (h) "Subdivided parcel" means a condominium parcel in a
738 primary condominium that has been submitted to condominium
739 ownership pursuant to a secondary condominium declaration.

740 (2) Unless otherwise provided in the primary condominium
741 declaration, if a condominium parcel is a subdivided parcel, the
742 secondary condominium association responsible for operating the
743 secondary condominium upon the subdivided parcel shall act on
744 behalf of all of the unit owners of secondary units in the
745 secondary condominium and shall exercise all rights of the
746 secondary unit owners in the primary condominium association,
747 other than the right of possession of the secondary unit. The
748 secondary condominium association shall designate a
749 representative who shall cast the vote of the subdivided parcel
750 in the primary condominium association and, if no person is
751 designated by the secondary condominium association to cast such
752 vote, the vote shall be cast by the president of the secondary
753 condominium association or the designee of the president.

754 (3) Unless otherwise provided in the primary condominium

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755 declaration as originally recorded, no secondary condominium may
756 be created upon any condominium parcel in the primary
757 condominium, and no amendment to the primary condominium
758 declaration may permit secondary condominiums to be created upon
759 parcels in the primary condominium, unless the record owners of
760 a majority of the condominium parcels join in the execution of
761 the amendment.

762 (4) If the primary condominium declaration permits the
763 creation of a secondary condominium and a condominium parcel in
764 the primary condominium is being submitted for condominium
765 ownership to create a secondary condominium upon the primary
766 condominium parcel, the approval of the board of administration
767 of the primary condominium association is required in order to
768 create the secondary condominium on the primary condominium
769 parcel. Unless otherwise provided in the primary condominium
770 declaration, the owners of condominium parcels in the primary
771 condominium that will not be part of the proposed secondary
772 condominium and the holders of liens upon such primary
773 condominium parcels shall not have approval rights regarding the
774 creation of the secondary condominium or the contents of the
775 secondary condominium declaration being submitted. Only the
776 primary condominium association, the owner of the subdivided
777 parcel, and the holders of liens upon the subdivided parcel
778 shall have approval rights regarding the creation of the
779 secondary condominium and the contents of the secondary
780 condominium declaration. In order for the recording of the
781 secondary condominium declaration to be effective to create the
782 secondary condominium, the board of administration of the
783 primary condominium association, the owner of the subdivided

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784 parcel, and all holders of liens on the subdivided parcel must
785 execute the secondary condominium declaration for the purpose of
786 evidencing their approval.

787 (5) An owner of a secondary unit is subject to both the
788 primary condominium declaration and the secondary condominium
789 declaration.

790 (6) The primary condominium association may provide
791 insurance required by s. 718.111(11) for common elements and
792 other improvements within the secondary condominium if the
793 primary condominium declaration permits the primary condominium
794 association to provide such insurance for the benefit of the
795 condominium property included in the subdivided parcel, in lieu
796 of such insurance being provided by the secondary condominium
797 association.

798 (7) Unless otherwise provided in the primary condominium
799 declaration, the board of administration of the primary
800 condominium association may adopt hurricane shutter or hurricane
801 protection specifications for each building within which
802 subdivided parcels are located and govern any subdivided parcels
803 in the primary condominium.

804 (8) Any unit owner of, or holder of a first mortgage on, a
805 secondary unit may register such unit owner's or mortgagee's
806 interest in the secondary unit with the primary condominium
807 association by delivering written notice to the primary
808 condominium association. Once registered, the primary
809 condominium association must provide written notice to such
810 secondary unit owner and his, her, or its first mortgagee at
811 least 30 days before instituting any foreclosure action against
812 the subdivided parcel in which the secondary unit owner and his,

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813 her, or its first mortgagee hold an interest for failure of the
814 subdivided parcel owner to pay any assessments or other amounts
815 due to the primary condominium association. A foreclosure action
816 against a subdivided parcel is not effective without an
817 affidavit indicating that written notice of the foreclosure was
818 timely sent to the names and addresses of secondary unit owners
819 and first mortgagees registered with the primary condominium
820 association pursuant to this subsection. The registered
821 secondary unit owner or mortgagee has a right to pay the
822 proportionate amount of the delinquent assessment attributable
823 to the secondary unit in which the registered unit owner or
824 mortgagee holds an interest. Upon such payment, the primary
825 condominium association shall be obligated to promptly modify or
826 partially release the record of lien on the primary condominium
827 association so that the lien no longer encumbers such secondary
828 unit. Alternatively, a registered secondary unit owner or
829 mortgagee may pay the amount of all delinquent assessments
830 attributed to the subdivided parcel and seek reimbursement for
831 all such amounts paid and all costs incurred from the secondary
832 condominium association, including, without limitation, the
833 costs of collection other than the share allocable to the
834 secondary unit on behalf of which such payment was made.

835 (9) In the event of a conflict between the primary
836 condominium declaration and the secondary condominium
837 declaration, the primary condominium declaration controls.

838 (10) All common expenses due to the primary condominium
839 association with respect to a subdivided parcel are a common
840 expense of the secondary condominium association and shall be
841 collected by the secondary condominium association from its

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842 members and paid to the primary condominium association.

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

845 718.5011 Ombudsman; appointment; administration.—

846 (2) The Governor shall appoint the ombudsman. The ombudsman
847 must be an attorney admitted to practice before the Florida
848 Supreme Court and shall serve at the pleasure of the Governor. A
849 vacancy in the office shall be filled in the same manner as the
850 original appointment. An officer or full-time employee of the
851 ombudsman's office may not actively engage in any other business
852 or profession that directly or indirectly relates to or
853 conflicts with his or her work in the ombudsman's office; serve
854 as the representative of any political party, executive
855 committee, or other governing body of a political party; serve
856 as an executive, officer, or employee of a political party;
857 receive remuneration for activities on behalf of any candidate
858 for public office; or engage in soliciting votes or other
859 activities on behalf of a candidate for public office. The
860 ombudsman or any employee of his or her office may not become a
861 candidate for election to public office unless he or she first
862 resigns from his or her office or employment.

863 Section 11. Section 718.707, Florida Statutes, is amended
864 to read:

865 718.707 Time limitation for classification as bulk assignee
866 or bulk buyer.—A person acquiring condominium parcels may not be
867 classified as a bulk assignee or bulk buyer unless the
868 condominium parcels were acquired on or after July 1, 2010, but
869 before July 1, 2015 ~~2012~~. The date of such acquisition shall be
870 determined by the date of recording a deed or other instrument

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871 of conveyance for such parcels in the public records of the
872 county in which the condominium is located, or by the date of
873 issuing a certificate of title in a foreclosure proceeding with
874 respect to such condominium parcels.

875 Section 12. Paragraph (c) of subsection (2) of section
876 719.104, Florida Statutes, is amended to read:

877 719.104 Cooperatives; access to units; records; financial
878 reports; assessments; purchase of leases.-

879 (2) OFFICIAL RECORDS.-

880 (c) The official records of the association shall be open
881 to inspection by any association member or the authorized
882 representative of such member at all reasonable times. Failure
883 to permit inspection of the association records as provided in
884 this subsection ~~herein~~ entitles any person prevailing in an
885 enforcement action to recover reasonable attorney ~~attorney's~~
886 fees from the person in control of the records who, directly or
887 indirectly, knowingly denies access to the records for
888 inspection. The right to inspect the records includes the right
889 to make or obtain copies, at the reasonable expense, if any, of
890 the association member. The association may adopt reasonable
891 rules regarding the frequency, time, location, notice, and
892 manner of record inspections and copying. The failure of an
893 association to provide the records within 10 working days after
894 receipt of a written request creates a rebuttable presumption
895 that the association willfully failed to comply with this
896 paragraph. A unit owner who is denied access to official records
897 is entitled to the actual damages or minimum damages for the
898 association's willful failure to comply with this paragraph. The
899 minimum damages shall be \$50 per calendar day up to 10 days, the

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900 calculation to begin on the 11th day after receipt of the
901 written request. The association shall maintain an adequate
902 number of copies of the declaration, articles of incorporation,
903 bylaws, and rules, and all amendments to each of the foregoing,
904 as well as the question and answer sheet provided for in s.
905 719.504, on the cooperative property to ensure their
906 availability to unit owners and prospective purchasers, and may
907 charge its actual costs for preparing and furnishing these
908 documents to those requesting the same. Notwithstanding ~~the~~
909 ~~provisions of~~ this paragraph, the following records shall not be
910 accessible to unit owners:

911 1. Any record protected by the lawyer-client privilege as
912 provided in s. 90.502; protected by the work-product privilege,
913 including any record ~~A record that was~~ prepared by an
914 association attorney or prepared at the attorney's express
915 direction; reflecting ~~that reflects~~ a mental impression,
916 conclusion, litigation strategy, or legal theory of the attorney
917 or the association; or ~~that was~~ prepared exclusively for civil
918 or criminal litigation or for adversarial administrative
919 proceedings or in anticipation of imminent civil or criminal
920 litigation or imminent adversarial administrative proceedings,
921 until the conclusion of the litigation or adversarial
922 administrative proceedings.

923 2. Information obtained by an association in connection
924 with the approval of the lease, sale, or other transfer of a
925 unit.

926 3. Medical records of unit owners.

927 4. Personnel records of association employees, including,
928 but not limited to, disciplinary, payroll, health, and insurance

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929 records. For purposes of this subparagraph, the term "personnel
930 records" does not include written employment agreements with an
931 association employee or budgetary or financial records that
932 indicate the compensation paid to an association employee.

933 5. Social security numbers, driver license numbers, credit
934 card numbers, e-mail addresses, telephone numbers, emergency
935 contact information, any addresses of a unit owner other than
936 addresses provided to fulfill the association's notice
937 requirements, and other personal identifying information of any
938 person, excluding the person's name, unit designation, mailing
939 address, and property address.

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

942 7. The software and operating system used by the
943 association which allows manipulation of data, even if the owner
944 owns a copy of the same software used by the association. The
945 data is part of the official records of the association.

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

948 719.1055 Amendment of cooperative documents; alteration and
949 acquisition of property.—

950 (7) The Legislature finds that the procurement of mortgagee
951 consent to amendments that do not affect the rights or interests
952 of mortgagees is an unreasonable and substantial logistical and
953 financial burden on the unit owners and that there is a
954 compelling state interest in enabling the members of an
955 association to approve amendments to the association's
956 cooperative documents through legal means. Accordingly, and
957 notwithstanding any provision to the contrary contained in this

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958 subsection:

959 (a) As to any mortgage recorded on or after July 1, 2012,
960 any provision in the association's cooperative documents that
961 requires the consent or joinder of some or all mortgagees of
962 units or any other portion of the association's common areas to
963 amend the association's cooperative documents or for any other
964 matter is enforceable only as to amendments to the association's
965 cooperative documents that adversely affect the priority of the
966 mortgagee's lien or the mortgagee's rights to foreclose its lien
967 or that otherwise materially affect the rights and interests of
968 the mortgagees.

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

972 (c) In securing consent or joinder, the association is
973 entitled to rely upon the public records to identify the holders
974 of outstanding mortgages. The association may use the address
975 provided in the original recorded mortgage document, unless
976 there is a different address for the holder of the mortgage in a
977 recorded assignment or modification of the mortgage, which
978 recorded assignment or modification must reference the official
979 records book and page on which the original mortgage was
980 recorded. Once the association has identified the recorded
981 mortgages of record, the association shall, in writing, request
982 of each unit owner whose unit is encumbered by a mortgage of
983 record any information the owner has in his or her possession
984 regarding the name and address of the person to whom mortgage
985 payments are currently being made. Notice shall be sent to such
986 person if the address provided in the original recorded mortgage

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987 document is different from the name and address of the mortgagee
988 or assignee of the mortgage as shown by the public record. The
989 association is deemed to have complied with this requirement by
990 making the written request of the unit owners required under
991 this paragraph. Any notices required to be sent to the
992 mortgagees under this paragraph shall be sent to all available
993 addresses provided to the association.

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

998 (e) For those amendments requiring mortgagee consent on or
999 after July 1, 2012, in the event mortgagee consent is provided
1000 other than by properly recorded joinder, such consent shall be
1001 evidenced by affidavit of the association recorded in the public
1002 records of the county in which the declaration is recorded.

1003 (f) Any amendment adopted without the required consent of a
1004 mortgagee is voidable only by a mortgagee who was entitled to
1005 notice and an opportunity to consent. An action to void an
1006 amendment is subject to the statute of limitations beginning 5
1007 years after the date of discovery as to the amendments described
1008 in paragraph (a) and 5 years after the date of recordation of
1009 the certificate of amendment for all other amendments. This
1010 paragraph applies to all mortgages, regardless of the date of
1011 recordation of the mortgage.

1012 Section 14. Paragraphs (c), (d), and (f) of subsection (1)
1013 of section 719.106, Florida Statutes, are amended to read:

1014 719.106 Bylaws; cooperative ownership.—

1015 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative

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1016 documents shall provide for the following, and if they do not,
1017 they shall be deemed to include the following:

1018 (c) *Board of administration meetings.*—Meetings of the board
1019 of administration at which a quorum of the members is present
1020 shall be open to all unit owners. Any unit owner may tape record
1021 or videotape meetings of the board of administration. The right
1022 to attend such meetings includes the right to speak at such
1023 meetings with reference to all designated agenda items. The
1024 division shall adopt reasonable rules governing the tape
1025 recording and videotaping of the meeting. The association may
1026 adopt reasonable written rules governing the frequency,
1027 duration, and manner of unit owner statements. Adequate notice
1028 of all meetings shall be posted in a conspicuous place upon the
1029 cooperative property at least 48 continuous hours preceding the
1030 meeting, except in an emergency. Any item not included on the
1031 notice may be taken up on an emergency basis by at least a
1032 majority plus one of the members of the board. Such emergency
1033 action shall be noticed and ratified at the next regular meeting
1034 of the board. However, written notice of any meeting at which
1035 nonemergency special assessments, or at which amendment to rules
1036 regarding unit use, will be considered shall be mailed,
1037 delivered, or electronically transmitted to the unit owners and
1038 posted conspicuously on the cooperative property not less than
1039 14 days prior to the meeting. Evidence of compliance with this
1040 14-day notice shall be made by an affidavit executed by the
1041 person providing the notice and filed among the official records
1042 of the association. Upon notice to the unit owners, the board
1043 shall by duly adopted rule designate a specific location on the
1044 cooperative property upon which all notices of board meetings

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1045 shall be posted. In lieu of or in addition to the physical
1046 posting of notice of any meeting of the board of administration
1047 on the cooperative property, the association may, by reasonable
1048 rule, adopt a procedure for conspicuously posting and repeatedly
1049 broadcasting the notice and the agenda on a closed-circuit cable
1050 television system serving the cooperative association. However,
1051 if broadcast notice is used in lieu of a notice posted
1052 physically on the cooperative property, the notice and agenda
1053 must be broadcast at least four times every broadcast hour of
1054 each day that a posted notice is otherwise required under this
1055 section. When broadcast notice is provided, the notice and
1056 agenda must be broadcast in a manner and for a sufficient
1057 continuous length of time so as to allow an average reader to
1058 observe the notice and read and comprehend the entire content of
1059 the notice and the agenda. Notice of any meeting in which
1060 regular assessments against unit owners are to be considered for
1061 any reason shall specifically contain a statement that
1062 assessments will be considered and the nature of any such
1063 assessments. Meetings of a committee to take final action on
1064 behalf of the board or to make recommendations to the board
1065 regarding the association budget are subject to the provisions
1066 of this paragraph. Meetings of a committee that does not take
1067 final action on behalf of the board or make recommendations to
1068 the board regarding the association budget are subject to the
1069 provisions of this section, unless those meetings are exempted
1070 from this section by the bylaws of the association.
1071 Notwithstanding any other law to the contrary, the requirement
1072 that board meetings and committee meetings be open to the unit
1073 owners does not apply ~~is inapplicable~~ to board or committee

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1074 meetings held for the purpose of discussing personnel matters or
1075 meetings between the board or a committee and the association's
1076 attorney, with respect to proposed or pending litigation, if
1077 ~~when~~ the meeting is held for the purpose of seeking or rendering
1078 legal advice.

1079 (d) *Shareholder meetings.*—There shall be an annual meeting
1080 of the shareholders. All members of the board of administration
1081 shall be elected at the annual meeting unless the bylaws provide
1082 for staggered election terms or for their election at another
1083 meeting. Any unit owner desiring to be a candidate for board
1084 membership must comply with subparagraph 1. The bylaws must
1085 provide the method for calling meetings, including annual
1086 meetings. Written notice, which must incorporate an
1087 identification of agenda items, shall be given to each unit
1088 owner at least 14 days before the annual meeting and posted in a
1089 conspicuous place on the cooperative property at least 14
1090 continuous days preceding the annual meeting. Upon notice to the
1091 unit owners, the board must by duly adopted rule designate a
1092 specific location on the cooperative property upon which all
1093 notice of unit owner meetings are posted. In lieu of or in
1094 addition to the physical posting of the meeting notice, the
1095 association may, by reasonable rule, adopt a procedure for
1096 conspicuously posting and repeatedly broadcasting the notice and
1097 the agenda on a closed-circuit cable television system serving
1098 the cooperative association. However, if broadcast notice is
1099 used in lieu of a posted notice, the notice and agenda must be
1100 broadcast at least four times every broadcast hour of each day
1101 that a posted notice is otherwise required under this section.
1102 If broadcast notice is provided, the notice and agenda must be

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1103 broadcast in a manner and for a sufficient continuous length of
1104 time to allow an average reader to observe the notice and read
1105 and comprehend the entire content of the notice and the agenda.
1106 Unless a unit owner waives in writing the right to receive
1107 notice of the annual meeting, the notice of the annual meeting
1108 must be sent by mail, hand delivered, or electronically
1109 transmitted to each unit owner. An officer of the association
1110 must provide an affidavit or United States Postal Service
1111 certificate of mailing, to be included in the official records
1112 of the association, affirming that notices of the association
1113 meeting were mailed, hand delivered, or electronically
1114 transmitted, in accordance with this provision, to each unit
1115 owner at the address last furnished to the association.

1116 1. The board of administration shall be elected by written
1117 ballot or voting machine. A proxy may not be used in electing
1118 the board of administration in general elections or elections to
1119 fill vacancies caused by recall, resignation, or otherwise
1120 unless otherwise provided in this chapter.

1121 a. At least 60 days before a scheduled election, the
1122 association shall mail, deliver, or transmit, whether by
1123 separate association mailing, delivery, or electronic
1124 transmission or included in another association mailing,
1125 delivery, or electronic transmission, including regularly
1126 published newsletters, to each unit owner entitled to vote, a
1127 first notice of the date of the election. Any unit owner or
1128 other eligible person desiring to be a candidate for the board
1129 of administration must give written notice to the association at
1130 least 40 days before a scheduled election. Together with the
1131 written notice and agenda as set forth in this section, the

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1132 association shall mail, deliver, or electronically transmit a
1133 second notice of election to all unit owners entitled to vote,
1134 together with a ballot that ~~which~~ lists all candidates. Upon
1135 request of a candidate, the association shall include an
1136 information sheet, no larger than 8 1/2 inches by 11 inches,
1137 which must be furnished by the candidate at least 35 days before
1138 the election, to be included with the mailing, delivery, or
1139 electronic transmission of the ballot, with the costs of
1140 mailing, delivery, or transmission and copying to be borne by
1141 the association. The association is not liable for the contents
1142 of the information sheets provided by the candidates. In order
1143 to reduce costs, the association may print or duplicate the
1144 information sheets on both sides of the paper. The division
1145 shall by rule establish voting procedures consistent with this
1146 subparagraph, including rules establishing procedures for giving
1147 notice by electronic transmission and rules providing for the
1148 secrecy of ballots. Elections shall be decided by a plurality of
1149 those ballots cast. There is no quorum requirement. However, at
1150 least 20 percent of the eligible voters must cast a ballot in
1151 order to have a valid election. A unit owner may not permit any
1152 other person to vote his or her ballot, and any such ballots
1153 improperly cast are invalid. A unit owner who needs assistance
1154 in casting the ballot for the reasons stated in s. 101.051 may
1155 obtain assistance in casting the ballot. Any unit owner
1156 violating this provision may be fined by the association in
1157 accordance with s. 719.303. The regular election must occur on
1158 the date of the annual meeting. This subparagraph does not apply
1159 to timeshare cooperatives. Notwithstanding this subparagraph, an
1160 election and balloting are not required unless more candidates

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1161 file a notice of intent to run or are nominated than vacancies
1162 exist on the board. Any challenge to the election process must
1163 be commenced within 60 days after the election results are
1164 announced.

1165 b. Within 90 days after being elected or appointed to the
1166 board, each new director shall certify in writing to the
1167 secretary of the association that he or she has read the
1168 association's bylaws, articles of incorporation, proprietary
1169 lease, and current written policies; that he or she will work to
1170 uphold such documents and policies to the best of his or her
1171 ability; and that he or she will faithfully discharge his or her
1172 fiduciary responsibility to the association's members. Within 90
1173 days after being elected or appointed to the board, in lieu of
1174 this written certification, the newly elected or appointed
1175 director may submit a certificate of having satisfactorily
1176 completed the educational curriculum administered by an
1177 education provider as approved by the division pursuant to the
1178 requirements established in chapter 718 within 1 year before or
1179 90 days after the date of election or appointment. The
1180 educational certificate is valid and does not have to be
1181 resubmitted as long as the director serves on the board without
1182 interruption. A director who fails to timely file the written
1183 certification or educational certificate is suspended from
1184 service on the board until he or she complies with this sub-
1185 subparagraph. The board may temporarily fill the vacancy during
1186 the period of suspension. The secretary shall cause the
1187 association to retain a director's written certification or
1188 educational certificate for inspection by the members for 5
1189 years after a director's election or the duration of the

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1190 director's uninterrupted tenure, whichever is longer. Failure to
1191 have such written certification or educational certificate on
1192 file does not affect the validity of any board action.

1193 2. Any approval by unit owners called for by this chapter,
1194 or the applicable cooperative documents, must be made at a duly
1195 noticed meeting of unit owners and is subject to this chapter or
1196 the applicable cooperative documents relating to unit owner
1197 decisionmaking, except that unit owners may take action by
1198 written agreement, without meetings, on matters for which action
1199 by written agreement without meetings is expressly allowed by
1200 the applicable cooperative documents or law which provides for
1201 the unit owner action.

1202 3. Unit owners may waive notice of specific meetings if
1203 allowed by the applicable cooperative documents or law. If
1204 authorized by the bylaws, notice of meetings of the board of
1205 administration, shareholder meetings, except shareholder
1206 meetings called to recall board members under paragraph (f), and
1207 committee meetings may be given by electronic transmission to
1208 unit owners who consent to receive notice by electronic
1209 transmission.

1210 4. Unit owners have the right to participate in meetings of
1211 unit owners with reference to all designated agenda items.
1212 However, the association may adopt reasonable rules governing
1213 the frequency, duration, and manner of unit owner participation.

1214 5. Any unit owner may tape record or videotape meetings of
1215 the unit owners subject to reasonable rules adopted by the
1216 division.

1217 6. Unless otherwise provided in the bylaws, a vacancy
1218 occurring on the board before the expiration of a term may be

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1219 filled by the affirmative vote of the majority of the remaining
1220 directors, even if the remaining directors constitute less than
1221 a quorum, or by the sole remaining director. In the alternative,
1222 a board may hold an election to fill the vacancy, in which case
1223 the election procedures must conform to the requirements of
1224 subparagraph 1. unless the association has opted out of the
1225 statutory election process, in which case the bylaws of the
1226 association control. Unless otherwise provided in the bylaws, a
1227 board member appointed or elected under this subparagraph shall
1228 fill the vacancy for the unexpired term of the seat being
1229 filled. Filling vacancies created by recall is governed by
1230 paragraph (f) and rules adopted by the division.

1231
1232 Notwithstanding subparagraphs (b)2. and (d)1., an association
1233 may, by the affirmative vote of a majority of the total voting
1234 interests, provide for a different voting and election procedure
1235 in its bylaws, which vote may be by a proxy specifically
1236 delineating the different voting and election procedures. The
1237 different voting and election procedures may provide for
1238 elections to be conducted by limited or general proxy.

1239 (f) *Recall of board members.*—Subject to ~~the provisions of~~
1240 s. 719.301, any member of the board of administration may be
1241 recalled and removed from office with or without cause by the
1242 vote or agreement in writing by a majority of all the voting
1243 interests. A special meeting of the voting interests to recall
1244 any member of the board of administration may be called by 10
1245 percent of the unit owners giving notice of the meeting as
1246 required for a meeting of unit owners, and the notice shall
1247 state the purpose of the meeting. Electronic transmission may

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1248 not be used as a method of giving notice of a meeting called in
1249 whole or in part for this purpose.

1250 1. If the recall is approved by a majority of all voting
1251 interests by a vote at a meeting, the recall shall be effective
1252 as provided in this paragraph ~~herein~~. The board shall duly
1253 notice and hold a board meeting within 5 full business days
1254 after ~~of~~ the adjournment of the unit owner meeting to recall one
1255 or more board members. At the meeting, the board shall either
1256 certify the recall, in which case such member or members shall
1257 be recalled effective immediately and shall turn over to the
1258 board within 5 full business days any and all records and
1259 property of the association in their possession, or shall
1260 proceed as set forth in subparagraph 3.

1261 2. If the proposed recall is by an agreement in writing by
1262 a majority of all voting interests, the agreement in writing or
1263 a copy thereof shall be served on the association by certified
1264 mail or by personal service in the manner authorized by chapter
1265 48 and the Florida Rules of Civil Procedure. The board of
1266 administration shall duly notice and hold a meeting of the board
1267 within 5 full business days after receipt of the agreement in
1268 writing. At the meeting, the board shall either certify the
1269 written agreement to recall members of the board, in which case
1270 such members shall be recalled effective immediately and shall
1271 turn over to the board, within 5 full business days, any and all
1272 records and property of the association in their possession, or
1273 proceed as described in subparagraph 3.

1274 3. If the board determines not to certify the written
1275 agreement to recall members of the board, or does not certify
1276 the recall by a vote at a meeting, the board shall, within 5

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1277 full business days after the board meeting, file with the
1278 division a petition for binding arbitration pursuant to the
1279 procedures of s. 719.1255. For purposes of this paragraph, the
1280 unit owners who voted at the meeting or who executed the
1281 agreement in writing shall constitute one party under the
1282 petition for arbitration. If the arbitrator certifies the recall
1283 as to any member of the board, the recall shall be effective
1284 upon mailing of the final order of arbitration to the
1285 association. If the association fails to comply with the order
1286 of the arbitrator, the division may take action pursuant to s.
1287 719.501. Any member so recalled shall deliver to the board any
1288 and all records and property of the association in the member's
1289 possession within 5 full business days after ~~of~~ the effective
1290 date of the recall.

1291 4. If the board fails to duly notice and hold a board
1292 meeting within 5 full business days after ~~of~~ service of an
1293 agreement in writing or within 5 full business days after ~~of~~ the
1294 adjournment of the unit owner recall meeting, the recall shall
1295 be deemed effective and the board members so recalled shall
1296 immediately turn over to the board any and all records and
1297 property of the association.

1298 5. If the board fails to duly notice and hold the required
1299 meeting or fails to file the required petition, the unit owner
1300 representative may file a petition pursuant to s. 719.1255
1301 challenging the board's failure to act. The petition must be
1302 filed within 60 days after the expiration of the applicable 5-
1303 full-business-day period. The review of a petition under this
1304 subparagraph is limited to the sufficiency of service on the
1305 board and the facial validity of the written agreement or

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1306 ballots filed.

1307 ~~6.5.~~ If a vacancy occurs on the board as a result of a
1308 recall and less than a majority of the board members are
1309 removed, the vacancy may be filled by the affirmative vote of a
1310 majority of the remaining directors, notwithstanding any
1311 provision to the contrary contained in this chapter. If
1312 vacancies occur on the board as a result of a recall and a
1313 majority or more of the board members are removed, the vacancies
1314 shall be filled in accordance with procedural rules to be
1315 adopted by the division, which rules need not be consistent with
1316 this chapter. The rules must provide procedures governing the
1317 conduct of the recall election as well as the operation of the
1318 association during the period after a recall but prior to the
1319 recall election.

1320 7. A board member who has been recalled may file a petition
1321 pursuant to s. 719.1255 challenging the validity of a recall.
1322 The petition must be filed within 60 days after the recall is
1323 deemed certified. The association and the unit owner
1324 representative shall be named as the respondents.

1325 8. The division may not accept for filing a recall
1326 petition, whether filed pursuant to subparagraph 1.,
1327 subparagraph 2., subparagraph 5., or subparagraph 7. and
1328 regardless of whether the recall was certified, if there are 60
1329 days or less until the scheduled reelection of the board member
1330 sought to be recalled or if 60 days or less have not elapsed
1331 since the election of the board member sought to be recalled.

1332 Section 15. Subsections (1), (3), (4), and (9) of section
1333 719.108, Florida Statutes, are amended to read:

1334 719.108 Rents and assessments; liability; lien and

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1335 priority; interest; collection; cooperative ownership.-

1336 (1) A unit owner, regardless of how title is acquired,
1337 including, without limitation, a purchaser at a judicial sale,
1338 ~~is shall be~~ liable for all rents and assessments coming due
1339 while the unit owner owns the unit ~~is in exclusive possession of~~
1340 ~~a unit. Additionally, a~~ ~~In a voluntary transfer,~~ the unit owner
1341 ~~is in exclusive possession shall be~~ jointly and severally liable
1342 with the previous unit owner for all unpaid rents and
1343 assessments, late fees, interest costs, and reasonable attorney
1344 fees incurred in an attempt to collect all such amounts that
1345 came due against the previous unit owner for his or her share of
1346 the common expenses up to the time of the transfer of title.
1347 This liability is, without prejudice to the rights of the
1348 present unit owner ~~in exclusive possession~~ to recover from the
1349 previous unit owner any the amounts paid by the present unit
1350 owner ~~in exclusive possession therefor.~~

1351 (3) Rents and assessments, and installments on them, not
1352 paid when due bear interest at the rate provided in the
1353 cooperative documents from the date due until paid. This rate
1354 may not exceed the rate allowed by law and, if a rate is not
1355 provided in the cooperative documents, accrues at 18 percent per
1356 annum. If the cooperative documents or bylaws so provide, the
1357 association may charge an administrative late fee in addition to
1358 such interest, not to exceed the greater of \$25 or 5 percent of
1359 each installment of the assessment for each delinquent
1360 installment that the payment is late. Any payment received by an
1361 association must be applied first to any interest accrued by the
1362 association, then to any administrative late fee, then to any
1363 costs and reasonable attorney ~~attorney's~~ fees incurred in

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1364 collection, and then to the delinquent assessment. The foregoing
1365 applies notwithstanding any restrictive endorsement,
1366 designation, or instruction placed on or accompanying a payment.
1367 A late fee is not subject to chapter 687 or s. 719.303(4).

1368 (4) The association has a lien on each cooperative parcel
1369 for any unpaid rents and assessments, plus interest, and any
1370 authorized administrative late fees. If authorized by the
1371 cooperative documents, the lien also secures reasonable attorney
1372 ~~attorney's~~ fees incurred by the association incident to the
1373 collection of the rents and assessments or enforcement of such
1374 lien. The lien is effective from and after recording a claim of
1375 lien in the public records in the county in which the
1376 cooperative parcel is located which states the description of
1377 the cooperative parcel, the name of the unit owner, the amount
1378 due, and the due dates. The lien expires if a claim of lien is
1379 not filed within 1 year after the date the assessment was due,
1380 and the lien does not continue for longer than 1 year after the
1381 claim of lien has been recorded unless, within that time, an
1382 action to enforce the lien is commenced. Except as otherwise
1383 provided in this chapter, a lien may not be filed by the
1384 association against a cooperative parcel until 30 days after the
1385 date on which a notice of intent to file a lien has been
1386 delivered to the owner.

1387 (a) The notice must be sent to the unit owner at the
1388 address of the unit by first-class United States mail and:

1389 1. If the most recent address of the unit owner on the
1390 records of the association is the address of the unit, the
1391 notice must be sent by registered or certified mail, return
1392 receipt requested, to the unit owner at the address of the unit.

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1393 2. If the most recent address of the unit owner on the
1394 records of the association is in the United States, but is not
1395 the address of the unit, the notice must be sent by registered
1396 or certified mail, return receipt requested, to the unit owner
1397 at his or her most recent address.

1398 3. If the most recent address of the unit owner on the
1399 records of the association is not in the United States, the
1400 notice must be sent by first-class United States mail to the
1401 unit owner at his or her most recent address.

1402 (b) A notice that is sent pursuant to this subsection is
1403 deemed delivered upon mailing.

1404 (9) The specific purposes of any special assessment,
1405 including any contingent special assessment levied in
1406 conjunction with the purchase of an insurance policy authorized
1407 by s. 719.104(3), approved in accordance with the cooperative
1408 documents shall be set forth in a written notice of such
1409 assessment sent or delivered to each unit owner. The funds
1410 collected pursuant to a special assessment may ~~shall~~ be used
1411 only for the specific purpose or purposes set forth in such
1412 notice or returned to the unit owners. However, upon completion
1413 of such specific purposes, any excess funds shall be considered
1414 common surplus and may, at the discretion of the board, either
1415 be returned to the unit owners or applied as a credit toward
1416 future assessments.

1417 Section 16. Paragraph (a) of subsection (3) and subsection
1418 (5) of section 719.303, Florida Statutes, are amended to read:

1419 719.303 Obligations of owners.—

1420 (3) The association may levy reasonable fines for failure
1421 of the unit owner or the unit's occupant, licensee, or invitee

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1422 to comply with any provision of the cooperative documents or
1423 reasonable rules of the association. A fine may not become a
1424 lien against a unit. A fine may be levied on the basis of each
1425 day of a continuing violation, with a single notice and
1426 opportunity for hearing. However, the fine may not exceed \$100
1427 per violation, or \$1,000 in the aggregate.

1428 (a) An association may suspend, for a reasonable period of
1429 time, the right of a unit owner, or a unit owner's tenant,
1430 guest, or invitee, to use the common elements, common
1431 facilities, or any other association property for failure to
1432 comply with any provision of the cooperative documents or
1433 reasonable rules of the association. This paragraph does not
1434 apply to limited common elements intended to be used only by
1435 that unit, common elements needed to access the unit, utility
1436 services provided to the unit, parking spaces, or elevators.

1437 (5) An association may suspend the voting rights of a unit
1438 or member due to nonpayment of any monetary obligation due to
1439 the association which is more than 90 days delinquent.
1440 Notwithstanding an association's cooperative documents, the
1441 requirements to establish a quorum, conduct an election, or
1442 obtain membership approval on actions under this chapter or
1443 pursuant to the association's cooperative documents shall be
1444 reduced by the number of suspended voting interests or consent
1445 rights. A voting interest or consent right allocated to a unit
1446 or member which has been suspended by the association may not be
1447 counted towards the total number of voting interests for any
1448 purpose, including, but not limited to, the number of voting
1449 interests necessary to constitute a quorum, the number of voting
1450 interests required to conduct an election, or the number of

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1451 ~~voting interests required to approve an action under this~~
1452 ~~chapter or pursuant to the cooperative documents, articles of~~
1453 ~~incorporation, or bylaws.~~ The suspension ends upon full payment
1454 of all obligations currently due or overdue the association. The
1455 notice and hearing requirements under subsection (3) do not
1456 apply to a suspension imposed under this subsection.

1457 Section 17. Paragraph (c) of subsection (5) and subsection
1458 (10) of section 720.303, Florida Statutes, are amended to read:

1459 720.303 Association powers and duties; meetings of board;
1460 official records; budgets; financial reporting; association
1461 funds; recalls.—

1462 (5) INSPECTION AND COPYING OF RECORDS.—The official records
1463 shall be maintained within the state and must be open to
1464 inspection and available for photocopying by members or their
1465 authorized agents at reasonable times and places within 10
1466 business days after receipt of a written request for access.
1467 This subsection may be complied with by having a copy of the
1468 official records available for inspection or copying in the
1469 community. If the association has a photocopy machine available
1470 where the records are maintained, it must provide parcel owners
1471 with copies on request during the inspection if the entire
1472 request is limited to no more than 25 pages.

1473 (c) The association may adopt reasonable written rules
1474 governing the frequency, time, location, notice, records to be
1475 inspected, and manner of inspections, but may not require a
1476 parcel owner to demonstrate any proper purpose for the
1477 inspection, state any reason for the inspection, or limit a
1478 parcel owner's right to inspect records to less than one 8-hour
1479 business day per month. The association may impose fees to cover

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1480 the costs of providing copies of the official records,
1481 including, without limitation, the costs of copying. The
1482 association may charge up to 50 cents per page for copies made
1483 on the association's photocopier. If the association does not
1484 have a photocopy machine available where the records are kept,
1485 or if the records requested to be copied exceed 25 pages in
1486 length, the association may have copies made by an outside
1487 vendor or association management company personnel and may
1488 charge the actual cost of copying, including any reasonable
1489 costs involving personnel fees and charges at an hourly rate for
1490 vendor or employee time to cover administrative costs to the
1491 vendor or association. The association shall maintain an
1492 adequate number of copies of the recorded governing documents,
1493 to ensure their availability to members and prospective members.
1494 Notwithstanding this paragraph, the following records are not
1495 accessible to members or parcel owners:

1496 1. Any record protected by the lawyer-client privilege as
1497 described in s. 90.502 and any record protected by the work-
1498 product privilege, including, but not limited to, a record
1499 prepared by an association attorney or prepared at the
1500 attorney's express direction which reflects a mental impression,
1501 conclusion, litigation strategy, or legal theory of the attorney
1502 or the association and which was prepared exclusively for civil
1503 or criminal litigation or for adversarial administrative
1504 proceedings or which was prepared in anticipation of such
1505 litigation or proceedings until the conclusion of the litigation
1506 or proceedings.

1507 2. Information obtained by an association in connection
1508 with the approval of the lease, sale, or other transfer of a

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1509 parcel.

1510 3. Personnel records of association or management company
1511 ~~the association's~~ employees, including, but not limited to,
1512 disciplinary, payroll, health, and insurance records. For
1513 purposes of this subparagraph, the term "personnel records" does
1514 not include written employment agreements with an association or
1515 management company employee or budgetary or financial records
1516 that indicate the compensation paid to an association or
1517 management company employee.

1518 4. Medical records of parcel owners or community residents.

1519 5. Social security numbers, driver ~~driver's~~ license
1520 numbers, credit card numbers, electronic mailing addresses,
1521 telephone numbers, facsimile numbers, emergency contact
1522 information, any addresses for a parcel owner other than as
1523 provided for association notice requirements, and other personal
1524 identifying information of any person, excluding the person's
1525 name, parcel designation, mailing address, and property address.
1526 However, an owner may consent in writing to the disclosure of
1527 protected information described in this subparagraph. The
1528 association is not liable for the disclosure of information that
1529 is protected under this subparagraph if the information is
1530 included in an official record of the association and is
1531 voluntarily provided by an owner and not requested by the
1532 association.

1533 6. Any electronic security measure that is used by the
1534 association to safeguard data, including passwords.

1535 7. The software and operating system used by the
1536 association which allows the manipulation of data, even if the
1537 owner owns a copy of the same software used by the association.

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1538 The data is part of the official records of the association.

1539 (10) RECALL OF DIRECTORS.—

1540 (a)1. Regardless of any provision to the contrary contained
1541 in the governing documents, subject to the provisions of s.
1542 720.307 regarding transition of association control, any member
1543 of the board of directors may be recalled and removed from
1544 office with or without cause by a majority of the total voting
1545 interests.

1546 2. When the governing documents, including the declaration,
1547 articles of incorporation, or bylaws, provide that only a
1548 specific class of members is entitled to elect a board director
1549 or directors, only that class of members may vote to recall
1550 those board directors so elected.

1551 (b)1. Board directors may be recalled by an agreement in
1552 writing or by written ballot without a membership meeting. The
1553 agreement in writing or the written ballots, or a copy thereof,
1554 shall be served on the association by certified mail or by
1555 personal service in the manner authorized by chapter 48 and the
1556 Florida Rules of Civil Procedure.

1557 2. The board shall duly notice and hold a meeting of the
1558 board within 5 full business days after receipt of the agreement
1559 in writing or written ballots. At the meeting, the board shall
1560 either certify the written ballots or written agreement to
1561 recall a director or directors of the board, in which case such
1562 director or directors shall be recalled effective immediately
1563 and shall turn over to the board within 5 full business days any
1564 and all records and property of the association in their
1565 possession, or proceed as described in paragraph (d).

1566 3. When it is determined by the department pursuant to

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1567 binding arbitration proceedings that an initial recall effort
1568 was defective, written recall agreements or written ballots used
1569 in the first recall effort and not found to be defective may be
1570 reused in one subsequent recall effort. However, in no event is
1571 a written agreement or written ballot valid for more than 120
1572 days after it has been signed by the member.

1573 4. Any rescission or revocation of a member's written
1574 recall ballot or agreement must be in writing and, in order to
1575 be effective, must be delivered to the association before the
1576 association is served with the written recall agreements or
1577 ballots.

1578 5. The agreement in writing or ballot shall list at least
1579 as many possible replacement directors as there are directors
1580 subject to the recall, when at least a majority of the board is
1581 sought to be recalled; the person executing the recall
1582 instrument may vote for as many replacement candidates as there
1583 are directors subject to the recall.

1584 (c)1. If the declaration, articles of incorporation, or
1585 bylaws specifically provide, the members may also recall and
1586 remove a board director or directors by a vote taken at a
1587 meeting. If so provided in the governing documents, a special
1588 meeting of the members to recall a director or directors of the
1589 board of administration may be called by 10 percent of the
1590 voting interests giving notice of the meeting as required for a
1591 meeting of members, and the notice shall state the purpose of
1592 the meeting. Electronic transmission may not be used as a method
1593 of giving notice of a meeting called in whole or in part for
1594 this purpose.

1595 2. The board shall duly notice and hold a board meeting

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1596 within 5 full business days after the adjournment of the member
1597 meeting to recall one or more directors. At the meeting, the
1598 board shall certify the recall, in which case such member or
1599 members shall be recalled effective immediately and shall turn
1600 over to the board within 5 full business days any and all
1601 records and property of the association in their possession, or
1602 shall proceed as set forth in subparagraph (d).

1603 (d) If the board determines not to certify the written
1604 agreement or written ballots to recall a director or directors
1605 of the board or does not certify the recall by a vote at a
1606 meeting, the board shall, within 5 full business days after the
1607 meeting, file with the department a petition for binding
1608 arbitration pursuant to the applicable procedures in ss.
1609 718.112(2)(j) and 718.1255 and the rules adopted thereunder. For
1610 the purposes of this section, the members who voted at the
1611 meeting or who executed the agreement in writing shall
1612 constitute one party under the petition for arbitration. If the
1613 arbitrator certifies the recall as to any director or directors
1614 of the board, the recall will be effective upon mailing of the
1615 final order of arbitration to the association. The director or
1616 directors so recalled shall deliver to the board any and all
1617 records of the association in their possession within 5 full
1618 business days after the effective date of the recall.

1619 (e) If a vacancy occurs on the board as a result of a
1620 recall and less than a majority of the board directors are
1621 removed, the vacancy may be filled by the affirmative vote of a
1622 majority of the remaining directors, notwithstanding any
1623 provision to the contrary contained in this subsection or in the
1624 association documents. If vacancies occur on the board as a

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1625 result of a recall and a majority or more of the board directors
1626 are removed, the vacancies shall be filled by members voting in
1627 favor of the recall; if removal is at a meeting, any vacancies
1628 shall be filled by the members at the meeting. If the recall
1629 occurred by agreement in writing or by written ballot, members
1630 may vote for replacement directors in the same instrument in
1631 accordance with procedural rules adopted by the division, which
1632 rules need not be consistent with this subsection.

1633 (f) If the board fails to duly notice and hold a board
1634 meeting within 5 full business days after service of an
1635 agreement in writing or within 5 full business days after the
1636 adjournment of the member recall meeting, the recall shall be
1637 deemed effective and the board directors so recalled shall
1638 immediately turn over to the board all records and property of
1639 the association.

1640 (g) If the board fails to duly notice and hold the required
1641 meeting or fails to file the required petition, the unit owner
1642 representative may file a petition pursuant to s. 718.1255
1643 challenging the board's failure to act. The petition must be
1644 filed within 60 days after the expiration of the applicable 5-
1645 full-business-day period. The review of a petition under this
1646 paragraph is limited to the sufficiency of service on the board
1647 and the facial validity of the written agreement or ballots
1648 filed.

1649 (h)~~(g)~~ If a director who is removed fails to relinquish his
1650 or her office or turn over records as required under this
1651 section, the circuit court in the county where the association
1652 maintains its principal office may, upon the petition of the
1653 association, summarily order the director to relinquish his or

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1654 her office and turn over all association records upon
1655 application of the association.

1656 (i)~~(h)~~ The minutes of the board meeting at which the board
1657 decides whether to certify the recall are an official
1658 association record. The minutes must record the date and time of
1659 the meeting, the decision of the board, and the vote count taken
1660 on each board member subject to the recall. In addition, when
1661 the board decides not to certify the recall, as to each vote
1662 rejected, the minutes must identify the parcel number and the
1663 specific reason for each such rejection.

1664 (j)~~(i)~~ When the recall of more than one board director is
1665 sought, the written agreement, ballot, or vote at a meeting
1666 shall provide for a separate vote for each board director sought
1667 to be recalled.

1668 (k) A board member who has been recalled may file a
1669 petition pursuant to ss. 718.112(2)(j) and 718.1255 and the
1670 rules adopted challenging the validity of the recall. The
1671 petition must be filed within 60 days after the recall is deemed
1672 certified. The association and the unit owner representative
1673 shall be named as respondents.

1674 (l) The division may not accept for filing a recall
1675 petition, whether filed pursuant to paragraph (b), paragraph
1676 (c), paragraph (g), or paragraph (k) and regardless of whether
1677 the recall was certified, if there are 60 days or less until the
1678 scheduled reelection of the board member sought to be recalled
1679 or if 60 days or less have not elapsed since the election of the
1680 board member sought to be recalled.

1681 Section 18. Subsections (2) and (4) of section 720.305,
1682 Florida Statutes, are amended to read:

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1683 720.305 Obligations of members; remedies at law or in
1684 equity; levy of fines and suspension of use rights.-

1685 (2) The association may levy reasonable fines of up to \$100
1686 per violation against any member or any member's tenant, guest,
1687 or invitee for the failure of the owner of the parcel or its
1688 occupant, licensee, or invitee to comply with any provision of
1689 the declaration, the association bylaws, or reasonable rules of
1690 the association. A fine may be levied for each day of a
1691 continuing violation, with a single notice and opportunity for
1692 hearing, except that the fine may not exceed \$1,000 in the
1693 aggregate unless otherwise provided in the governing documents.
1694 A fine of less than \$1,000 may not become a lien against a
1695 parcel. In any action to recover a fine, the prevailing party is
1696 entitled to reasonable attorney ~~attorney's~~ fees and costs from
1697 the nonprevailing party as determined by the court.

1698 (a) An association may suspend, for a reasonable period of
1699 time, the right of a member, or a member's tenant, guest, or
1700 invitee, to use common areas and facilities for the failure of
1701 the owner of the parcel or its occupant, licensee, or invitee to
1702 comply with any provision of the declaration, the association
1703 bylaws, or reasonable rules of the association. This paragraph
1704 does not apply to that portion of common areas used to provide
1705 access or utility services to the parcel. A suspension may not
1706 impair the right of an owner or tenant of a parcel to have
1707 vehicular and pedestrian ingress to and egress from the parcel,
1708 including, but not limited to, the right to park.

1709 (b) A fine or suspension may not be imposed without at
1710 least 14 days' notice to the person sought to be fined or
1711 suspended and an opportunity for a hearing before a committee of

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1712 at least three members appointed by the board who are not
1713 officers, directors, or employees of the association, or the
1714 spouse, parent, child, brother, or sister of an officer,
1715 director, or employee. If the committee, by majority vote, does
1716 not approve a proposed fine or suspension, it may not be
1717 imposed. If the association imposes a fine or suspension, the
1718 association must provide written notice of such fine or
1719 suspension by mail or hand delivery to the parcel owner and, if
1720 applicable, to any tenant, licensee, or invitee of the parcel
1721 owner.

1722 (4) An association may suspend the voting rights of a
1723 parcel or member for the nonpayment of any monetary obligation
1724 due ~~to~~ the association that is more than 90 days delinquent.
1725 Notwithstanding an association's governing documents, the
1726 requirements to establish a quorum, conduct an election, or
1727 obtain membership approval on actions under this chapter or
1728 pursuant to the association's governing documents shall be
1729 reduced by the number of suspended voting interests or consent
1730 rights. ~~A voting interest or consent right allocated to a parcel~~
1731 ~~or member which has been suspended by the association may not be~~
1732 ~~counted towards the total number of voting interests for any~~
1733 ~~purpose, including, but not limited to, the number of voting~~
1734 ~~interests necessary to constitute a quorum, the number of voting~~
1735 ~~interests required to conduct an election, or the number of~~
1736 ~~voting interests required to approve an action under this~~
1737 ~~chapter or pursuant to the governing documents.~~ The notice and
1738 hearing requirements under subsection (2) do not apply to a
1739 suspension imposed under this subsection. The suspension ends
1740 upon full payment of all obligations currently due or overdue to

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1741 the association.

1742 Section 19. Paragraph (d) is added to subsection (1) of
1743 section 720.306, Florida Statutes, and subsection (9) of that
1744 section is amended, to read:

1745 720.306 Meetings of members; voting and election
1746 procedures; amendments.—

1747 (1) QUORUM; AMENDMENTS.—

1748 (d) The Legislature finds that the procurement of mortgagee
1749 consent to amendments that do not affect the rights or interests
1750 of mortgagees is an unreasonable and substantial logistical and
1751 financial burden on the parcel owners and that there is a
1752 compelling state interest in enabling the members of an
1753 association to approve amendments to the association's governing
1754 documents through legal means. Accordingly, and notwithstanding
1755 any provision to the contrary contained in this paragraph:

1756 1. As to any mortgage recorded on or after July 1, 2012,
1757 any provision in the association's governing documents that
1758 requires the consent or joinder of some or all mortgagees of
1759 parcels or any other portion of the association's common areas
1760 to amend the association's governing documents or for any other
1761 matter is enforceable only as to amendments to the association's
1762 governing documents that adversely affect the priority of the
1763 mortgagee's lien or the mortgagee's rights to foreclose its lien
1764 or that otherwise materially affect the rights and interests of
1765 the mortgagees.

1766 2. As to mortgages recorded before July 1, 2012, any
1767 existing provisions in the association's governing documents
1768 requiring mortgagee consent are enforceable.

1769 3. In securing consent or joinder, the association is

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1770 entitled to rely upon the public records to identify the holders
1771 of outstanding mortgages. The association may use the address
1772 provided in the original recorded mortgage document, unless
1773 there is a different address for the holder of the mortgage in a
1774 recorded assignment or modification of the mortgage, which
1775 recorded assignment or modification must reference the official
1776 records book and page on which the original mortgage was
1777 recorded. Once the association has identified the recorded
1778 mortgages of record, the association shall, in writing, request
1779 of each parcel owner whose parcel is encumbered by a mortgage of
1780 record any information the owner has in his or her possession
1781 regarding the name and address of the person to whom mortgage
1782 payments are currently being made. Notice shall be sent to such
1783 person if the address provided in the original recorded mortgage
1784 document is different from the name and address of the mortgagee
1785 or assignee of the mortgage as shown by the public record. The
1786 association is deemed to have complied with this requirement by
1787 making the written request of the parcel owners required under
1788 this subparagraph. Any notices required to be sent to the
1789 mortgagees under this subparagraph shall be sent to all
1790 available addresses provided to the association.

1791 4. Any notice to the mortgagees required under subparagraph
1792 3. may be sent by a method that establishes proof of delivery,
1793 and any mortgagee who fails to respond within 60 days after the
1794 date of mailing is deemed to have consented to the amendment.

1795 5. For those amendments requiring mortgagee consent on or
1796 after July 1, 2012, in the event mortgagee consent is provided
1797 other than by properly recorded joinder, such consent shall be
1798 evidenced by affidavit of the association recorded in the public

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1799 records of the county in which the declaration is recorded.

1800 6. Any amendment adopted without the required consent of a
1801 mortgagee is voidable only by a mortgagee who was entitled to
1802 notice and an opportunity to consent. An action to void an
1803 amendment is subject to the statute of limitations beginning 5
1804 years after the date of discovery as to the amendments described
1805 in subparagraph 1. and 5 years after the date of recordation of
1806 the certificate of amendment for all other amendments. This
1807 subparagraph applies to all mortgages, regardless of the date of
1808 recordation of the mortgage.

1809 (9) ~~(a)~~ ELECTIONS AND BOARD VACANCIES.—

1810 (a) Elections of directors must be conducted in accordance
1811 with the procedures set forth in the governing documents of the
1812 association. All members of the association are eligible to
1813 serve on the board of directors, and a member may nominate
1814 himself or herself as a candidate for the board at a meeting
1815 where the election is to be held or, if the election process
1816 allows voting by absentee ballot, in advance of the balloting.
1817 Except as otherwise provided in the governing documents, boards
1818 of directors must be elected by a plurality of the votes cast by
1819 eligible voters. Any challenge to the election process must be
1820 commenced within 60 days after the election results are
1821 announced.

1822 (b) A person who is delinquent in the payment of any fee,
1823 fine, or other monetary obligation to the association for more
1824 than 90 days is not eligible for board membership. A person who
1825 has been convicted of any felony in this state or in a United
1826 States District or Territorial Court, or has been convicted of
1827 any offense in another jurisdiction which would be considered a

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1828 felony if committed in this state, is not eligible for board
1829 membership unless such felon's civil rights have been restored
1830 for at least 5 years as of the date on which such person seeks
1831 election to the board. The validity of any action by the board
1832 is not affected if it is later determined that a member of the
1833 board is ineligible for board membership.

1834 (c) Any election dispute between a member and an
1835 association must be submitted to mandatory binding arbitration
1836 with the division. Such proceedings must be conducted in the
1837 manner provided by s. 718.1255 and the procedural rules adopted
1838 by the division. Unless otherwise provided in the bylaws, any
1839 vacancy occurring on the board before the expiration of a term
1840 may be filled by an affirmative vote of the majority of the
1841 remaining directors, even if the remaining directors constitute
1842 less than a quorum, or by the sole remaining director. In the
1843 alternative, a board may hold an election to fill the vacancy,
1844 in which case the election procedures must conform to the
1845 requirements of the governing documents. Unless otherwise
1846 provided in the bylaws, a board member appointed or elected
1847 under this section is appointed for the unexpired term of the
1848 seat being filled. Filling vacancies created by recall is
1849 governed by s. 720.303(10) and rules adopted by the division.

1850 Section 20. Paragraphs (b) and (d) of subsection (2) of
1851 section 720.3085, Florida Statutes, are amended to read:

1852 720.3085 Payment for assessments; lien claims.—

1853 (2)

1854 (b) A parcel owner, regardless of how the parcel owner has
1855 acquired title, including, but not limited to, by purchase at a
1856 foreclosure sale, is jointly and severally liable with the

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1857 previous parcel owner for all unpaid assessments, late fees,
1858 interest, costs, and reasonable attorney fees incurred by the
1859 association in an attempt to collect all such amounts that came
1860 due up to the time of transfer of title. This liability is
1861 without prejudice to any right the present parcel owner may have
1862 to recover any amounts paid by the present owner from the
1863 previous owner.

1864 (d) An association, or its successor or assignee, that
1865 acquires title to a parcel through the foreclosure of its lien
1866 for assessments is not liable for any unpaid assessments, late
1867 fees, interest, or reasonable attorney ~~attorney's~~ fees and costs
1868 that came due before the association's acquisition of title in
1869 favor of any other association, as defined in s. 718.103(2) or
1870 s. 720.301(9), which holds a ~~superior~~ lien interest on the
1871 parcel. This paragraph is intended to clarify existing law.

1872 Section 21. This act shall take effect July 1, 2012.