

By Senator Altman

16-00491-13

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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       718.112, F.S.; revising provisions relating to the  
6       terms of condominium board of administration members;  
7       revising condominium unit owner meeting notice  
8       requirements; providing for nonapplicability to  
9       associations governing timeshare condominiums of  
10      certain provisions relating to elections of board  
11      members; revising recordkeeping requirements of a  
12      condominium association board; requiring commencement  
13      of challenges to an election within a specified  
14      period; providing requirements for challenging the  
15      failure of a board to duly notice and hold the  
16      required board meeting or to file the required  
17      petition for a recall; providing requirements for  
18      recalled board members to challenge the recall;  
19      prohibiting the Division of Florida Condominiums,  
20      Timeshares, and Mobile Homes of the Department of  
21      Business and Professional Regulation from accepting  
22      recall petitions for filing under certain  
23      circumstances; amending s. 718.113, F.S.; providing  
24      requirements for a condominium association board  
25      relating to the installation of hurricane shutters,  
26      impact glass, code-compliant windows or doors, and  
27      other types of code-compliant hurricane protection  
28      under certain circumstances; amending s. 718.115,  
29      F.S.; conforming provisions to changes made by the

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30 act; amending s. 718.303, F.S.; revising provisions  
31 relating to imposing remedies against a noncompliant  
32 or delinquent condominium unit owner or member;  
33 revising voting requirements under certain conditions;  
34 amending s. 718.403, F.S.; providing requirements for  
35 the completion of phase condominiums; creating s.  
36 718.406, F.S.; providing definitions; providing  
37 requirements for condominiums created within  
38 condominium parcels; providing for the establishment  
39 of primary condominium and secondary condominium  
40 units; providing requirements for association  
41 declarations; authorizing a primary condominium  
42 association to provide insurance and adopt hurricane  
43 shutter or hurricane protection specifications under  
44 certain conditions; providing requirements relating to  
45 assessments; providing for resolution of conflicts  
46 between primary condominium declarations and secondary  
47 condominium declarations; providing requirements  
48 relating to common expenses due the primary  
49 condominium association; amending s. 718.5011, F.S.;  
50 revising the restriction on officers and full-time  
51 employees of the ombudsman from engaging in other  
52 businesses or professions; amending s. 719.104, F.S.;  
53 specifying additional records that are not accessible  
54 to unit owners; amending s. 719.1055, F.S.; revising  
55 provisions relating to the amendment of cooperative  
56 documents; providing legislative findings and a  
57 finding of compelling state interest; providing  
58 criteria for consent or joinder to an amendment;

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59 requiring notice regarding proposed amendments to  
60 mortgagees; providing criteria for notification;  
61 providing for voiding certain amendments; amending s.  
62 719.106, F.S.; revising applicability of certain board  
63 of administration meeting requirements; requiring  
64 commencement of challenges to an election within a  
65 specified period; providing requirements for  
66 challenging the failure of a board to duly notice and  
67 hold the required board meeting or to file the  
68 required petition for a recall; providing requirements  
69 for recalled board members to challenge the recall;  
70 prohibiting the division from accepting recall  
71 petitions for filing under certain circumstances;  
72 amending s. 719.303, F.S.; revising provisions  
73 relating to imposing remedies against a noncompliant  
74 or delinquent cooperative unit owner or member;  
75 revising voting requirements under certain conditions;  
76 amending s. 720.303, F.S.; revising the types of  
77 records that are not accessible to homeowners'  
78 association members and parcel owners; providing  
79 requirements for challenging the failure of a board to  
80 duly notice and hold the required board meeting or to  
81 file the required petition for a recall; providing  
82 requirements for recalled board members to challenge  
83 the recall; prohibiting the division from accepting  
84 recall petitions for filing under certain  
85 circumstances; amending s. 720.305, F.S.; revising  
86 provisions relating to imposing remedies against a  
87 noncompliant or delinquent homeowners' association

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88 member and parcel owner; revising voting requirements  
89 under certain conditions; amending s. 720.306, F.S.;  
90 revising provisions relating to the amendment of  
91 homeowners' association declarations; providing  
92 legislative findings and a finding of compelling state  
93 interest; providing criteria for consent or joinder to  
94 an amendment; requiring notice to mortgagees regarding  
95 proposed amendments; providing criteria for  
96 notification; providing for voiding certain  
97 amendments; revising provisions relating to right to  
98 speak at a homeowners' association meeting; requiring  
99 commencement of challenges to an election within a  
100 specified period; providing an effective date.

101  
102 Be It Enacted by the Legislature of the State of Florida:

103  
104 Section 1. Subsection (9) of section 399.02, Florida  
105 Statutes, is amended to read:

106 399.02 General requirements.—

107 (9) Updates to the Safety Code for Existing Elevators and  
108 Escalators, ASME A17.1 and A17.3, which require Phase II  
109 Firefighters' Service on elevators may not be enforced ~~until~~  
110 ~~July 1, 2015, or~~ until the elevator is replaced or requires  
111 major modification, ~~whichever occurs first,~~ on elevators in  
112 condominiums or multifamily residential buildings, including  
113 those that are part of a continuing care facility licensed under  
114 chapter 651, or similar retirement community with apartments,  
115 having a certificate of occupancy by the local building  
116 authority that was issued before July 1, 2008. This exception

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117 does not prevent an elevator owner from requesting a variance  
118 from the applicable codes ~~before or after July 1, 2015~~. This  
119 subsection does not prohibit the division from granting  
120 variances pursuant to s. 120.542 and subsection (8). The  
121 division shall adopt rules to administer this subsection.

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

124 718.112 Bylaws.—

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

128 (d) *Unit owner meetings*.—

129 1. An annual meeting of the unit owners shall be held at  
130 the location provided in the association bylaws and, if the  
131 bylaws are silent as to the location, the meeting shall be held  
132 within 45 miles of the condominium property. However, such  
133 distance requirement does not apply to an association governing  
134 a timeshare condominium.

135 2. Unless the bylaws provide otherwise, a vacancy on the  
136 board caused by the expiration of a director's term shall be  
137 filled by electing a new board member, and the election must be  
138 by secret ballot. An election is not required if the number of  
139 vacancies equals or exceeds the number of candidates. For  
140 purposes of this paragraph, the term "candidate" means an  
141 eligible person who has timely submitted the written notice, as  
142 described in sub-subparagraph 4.a., of his or her intention to  
143 become a candidate. Except in a timeshare condominium, or if the  
144 staggered term of a board member does not expire until a later  
145 annual meeting, or if all members' terms would otherwise expire

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146 but there are no candidates, the terms of all board members  
147 expire at the annual meeting, and such members may stand for  
148 reelection unless prohibited by the bylaws. If the bylaws or  
149 articles of incorporation permit ~~staggered~~ terms of no more than  
150 2 years ~~and upon approval of a majority of the total voting~~  
151 ~~interests~~, the association board members may serve 2-year  
152 ~~staggered~~ terms. If the number of board members whose terms  
153 expire at the annual meeting equals or exceeds the number of  
154 candidates, the candidates become members of the board effective  
155 upon the adjournment of the annual meeting. Unless the bylaws  
156 provide otherwise, any remaining vacancies shall be filled by  
157 the affirmative vote of the majority of the directors making up  
158 the newly constituted board even if the directors constitute  
159 less than a quorum or there is only one director. In a  
160 condominium association of more than 10 units or in a  
161 condominium association that does not include timeshare units or  
162 timeshare interests, coowners of a unit may not serve as members  
163 of the board of directors at the same time unless they own more  
164 than one unit or unless there are not enough eligible candidates  
165 to fill the vacancies on the board at the time of the vacancy.  
166 Any unit owner desiring to be a candidate for board membership  
167 must comply with sub-subparagraph 4.a. and must be eligible to  
168 serve on the board of directors at the time of the deadline for  
169 submitting a notice of intent to run in order to have his or her  
170 name listed as a proper candidate on the ballot or to serve on  
171 the board. A person who has been suspended or removed by the  
172 division under this chapter, or who is delinquent in the payment  
173 of any fee, fine, or special or regular assessment as provided  
174 in paragraph (n), is not eligible for board membership. A person

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175 who has been convicted of any felony in this state or in a  
176 United States District or Territorial Court, or who has been  
177 convicted of any offense in another jurisdiction which would be  
178 considered a felony if committed in this state, is not eligible  
179 for board membership unless such felon's civil rights have been  
180 restored for at least 5 years as of the date such person seeks  
181 election to the board. The validity of an action by the board is  
182 not affected if it is later determined that a board member is  
183 ineligible for board membership due to having been convicted of  
184 a felony.

185       3. The bylaws must provide the method of calling meetings  
186 of unit owners, including annual meetings. Written notice must  
187 include an agenda, must be mailed, hand delivered, or  
188 electronically transmitted to each unit owner at least 14 days  
189 before the annual meeting, and must be posted in a conspicuous  
190 place on the condominium property at least 14 continuous days  
191 before the annual meeting. Upon notice to the unit owners, the  
192 board shall, by duly adopted rule, designate a specific location  
193 on the condominium property or association property where all  
194 notices of unit owner meetings shall be posted. This requirement  
195 does not apply if there is no condominium property or  
196 association property for posting notices. In lieu of, or in  
197 addition to, the physical posting of meeting notices, the  
198 association may, by reasonable rule, adopt a procedure for  
199 conspicuously posting and repeatedly broadcasting the notice and  
200 the agenda on a closed-circuit cable television system serving  
201 the condominium association. However, if broadcast notice is  
202 used in lieu of a notice posted physically on the condominium  
203 property, the notice and agenda must be broadcast at least four

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204 times every broadcast hour of each day that a posted notice is  
205 otherwise required under this section. If broadcast notice is  
206 provided, the notice and agenda must be broadcast in a manner  
207 and for a sufficient continuous length of time so as to allow an  
208 average reader to observe the notice and read and comprehend the  
209 entire content of the notice and the agenda. Unless a unit owner  
210 waives in writing the right to receive notice of the annual  
211 meeting, such notice must be hand delivered, mailed, or  
212 electronically transmitted to each unit owner. Notice for  
213 meetings and notice for all other purposes must be mailed to  
214 each unit owner at the address last furnished to the association  
215 by the unit owner, or hand delivered to each unit owner.  
216 However, if a unit is owned by more than one person, the  
217 association must provide notice to the address that the  
218 developer identifies for that purpose and thereafter as one or  
219 more of the owners of the unit advise the association in  
220 writing, or if no address is given or the owners of the unit do  
221 not agree, to the address provided on the deed of record. An  
222 officer of the association, or the manager or other person  
223 providing notice of the association meeting, must provide an  
224 affidavit or United States Postal Service certificate of  
225 mailing, to be included in the official records of the  
226 association affirming that the notice was mailed or hand  
227 delivered in accordance with this provision.

228 4. The members of the board shall be elected by written  
229 ballot or voting machine. Proxies may not be used in electing  
230 the board in general elections or elections to fill vacancies  
231 caused by recall, resignation, or otherwise, unless otherwise  
232 provided in this chapter. This subparagraph does not apply to an



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233 association governing a timeshare condominium.

234 a. At least 60 days before a scheduled election, the  
235 association shall mail, deliver, or electronically transmit, by  
236 separate association mailing or included in another association  
237 mailing, delivery, or transmission, including regularly  
238 published newsletters, to each unit owner entitled to a vote, a  
239 first notice of the date of the election. Any unit owner or  
240 other eligible person desiring to be a candidate for the board  
241 must give written notice of his or her intent to be a candidate  
242 to the association at least 40 days before a scheduled election.  
243 Together with the written notice and agenda as set forth in  
244 subparagraph 3., the association shall mail, deliver, or  
245 electronically transmit a second notice of the election to all  
246 unit owners entitled to vote, together with a ballot that lists  
247 all candidates. Upon request of a candidate, an information  
248 sheet, no larger than 8 1/2 inches by 11 inches, which must be  
249 furnished by the candidate at least 35 days before the election,  
250 must be included with the mailing, delivery, or transmission of  
251 the ballot, with the costs of mailing, delivery, or electronic  
252 transmission and copying to be borne by the association. The  
253 association is not liable for the contents of the information  
254 sheets prepared by the candidates. In order to reduce costs, the  
255 association may print or duplicate the information sheets on  
256 both sides of the paper. The division shall by rule establish  
257 voting procedures consistent with this sub-subparagraph,  
258 including rules establishing procedures for giving notice by  
259 electronic transmission and rules providing for the secrecy of  
260 ballots. Elections shall be decided by a plurality of ballots  
261 cast. There is no quorum requirement; however, at least 20

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262 percent of the eligible voters must cast a ballot in order to  
263 have a valid election. A unit owner may not permit any other  
264 person to vote his or her ballot, and any ballots improperly  
265 cast are invalid. A unit owner who violates this provision may  
266 be fined by the association in accordance with s. 718.303. A  
267 unit owner who needs assistance in casting the ballot for the  
268 reasons stated in s. 101.051 may obtain such assistance. The  
269 regular election must occur on the date of the annual meeting.  
270 Notwithstanding this sub-subparagraph, an election is not  
271 required unless more candidates file notices of intent to run or  
272 are nominated than board vacancies exist.

273       b. Within 90 days after being elected or appointed to the  
274 board, each newly elected or appointed director shall certify in  
275 writing to the secretary of the association that he or she has  
276 read the association's declaration of condominium, articles of  
277 incorporation, bylaws, and current written policies; that he or  
278 she will work to uphold such documents and policies to the best  
279 of his or her ability; and that he or she will faithfully  
280 discharge his or her fiduciary responsibility to the  
281 association's members. In lieu of this written certification,  
282 within 90 days after being elected or appointed to the board,  
283 the newly elected or appointed director may submit a certificate  
284 of having satisfactorily completed the educational curriculum  
285 administered by a division-approved condominium education  
286 provider within 1 year before or 90 days after the date of  
287 election or appointment. The written certification or  
288 educational certificate is valid and does not have to be  
289 resubmitted as long as the director serves on the board without  
290 interruption. A director who fails to timely file the written

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291 certification or educational certificate is suspended from  
292 service on the board until he or she complies with this sub-  
293 subparagraph. The board may temporarily fill the vacancy during  
294 the period of suspension. The secretary shall cause the  
295 association to retain a director's written certification or  
296 educational certificate for inspection by the members for 5  
297 years after a director's election or the duration of the  
298 director's uninterrupted tenure, whichever is longer. Failure to  
299 have such written certification or educational certificate on  
300 file does not affect the validity of any board action.

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

303 5. Any approval by unit owners called for by this chapter  
304 or the applicable declaration or bylaws, including, but not  
305 limited to, the approval requirement in s. 718.111(8), must be  
306 made at a duly noticed meeting of unit owners and is subject to  
307 all requirements of this chapter or the applicable condominium  
308 documents relating to unit owner decisionmaking, except that  
309 unit owners may take action by written agreement, without  
310 meetings, on matters for which action by written agreement  
311 without meetings is expressly allowed by the applicable bylaws  
312 or declaration or any law that provides for such action.

313 6. Unit owners may waive notice of specific meetings if  
314 allowed by the applicable bylaws or declaration or any law. If  
315 authorized by the bylaws, notice of meetings of the board of  
316 administration, unit owner meetings, except unit owner meetings  
317 called to recall board members under paragraph (j), and  
318 committee meetings may be given by electronic transmission to  
319 unit owners who consent to receive notice by electronic

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320 transmission.

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

325 8. A unit owner may tape record or videotape a meeting of  
326 the unit owners subject to reasonable rules adopted by the  
327 division.

328 9. Unless otherwise provided in the bylaws, any vacancy  
329 occurring on the board before the expiration of a term may be  
330 filled by the affirmative vote of the majority of the remaining  
331 directors, even if the remaining directors constitute less than  
332 a quorum, or by the sole remaining director. In the alternative,  
333 a board may hold an election to fill the vacancy, in which case  
334 the election procedures must conform to sub-subparagraph 4.a.  
335 unless the association governs 10 units or fewer and has opted  
336 out of the statutory election process, in which case the bylaws  
337 of the association control. Unless otherwise provided in the  
338 bylaws, a board member appointed or elected under this section  
339 shall fill the vacancy for the unexpired term of the seat being  
340 filled. Filling vacancies created by recall is governed by  
341 paragraph (j) and rules adopted by the division.

342 10. This chapter does not limit the use of general or  
343 limited proxies, require the use of general or limited proxies,  
344 or require the use of a written ballot or voting machine for any  
345 agenda item or election at any meeting of a timeshare  
346 condominium association.

347  
348 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an

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349 association of 10 or fewer units may, by affirmative vote of a  
350 majority of the total voting interests, provide for different  
351 voting and election procedures in its bylaws, which may be by a  
352 proxy specifically delineating the different voting and election  
353 procedures. The different voting and election procedures may  
354 provide for elections to be conducted by limited or general  
355 proxy.

356 (j) *Recall of board members.*—Subject to ~~the provisions of~~  
357 s. 718.301, any member of the board of administration may be  
358 recalled and removed from office with or without cause by the  
359 vote or agreement in writing by a majority of all the voting  
360 interests. A special meeting of the unit owners to recall a  
361 member or members of the board of administration may be called  
362 by 10 percent of the voting interests giving notice of the  
363 meeting as required for a meeting of unit owners, and the notice  
364 shall state the purpose of the meeting. Electronic transmission  
365 may not be used as a method of giving notice of a meeting called  
366 in whole or in part for this purpose.

367 1. If the recall is approved by a majority of all voting  
368 interests by a vote at a meeting, the recall will be effective  
369 as provided in this paragraph herein. The board shall duly  
370 notice and hold a board meeting within 5 full business days  
371 after ~~of~~ the adjournment of the unit owner meeting to recall one  
372 or more board members. At the meeting, the board shall either  
373 certify the recall, in which case such member or members shall  
374 be recalled effective immediately and shall turn over to the  
375 board within 5 full business days any and all records and  
376 property of the association in their possession, or shall  
377 proceed as set forth in subparagraph 3.

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378           2. If the proposed recall is by an agreement in writing by  
379 a majority of all voting interests, the agreement in writing or  
380 a copy thereof shall be served on the association by certified  
381 mail or by personal service in the manner authorized by chapter  
382 48 and the Florida Rules of Civil Procedure. The board of  
383 administration shall duly notice and hold a meeting of the board  
384 within 5 full business days after receipt of the agreement in  
385 writing. At the meeting, the board shall either certify the  
386 written agreement to recall a member or members of the board, in  
387 which case such member or members shall be recalled effective  
388 immediately and shall turn over to the board within 5 full  
389 business days any and all records and property of the  
390 association in their possession, or proceed as described in  
391 subparagraph 3.

392           3. If the board determines not to certify the written  
393 agreement to recall a member or members of the board, or does  
394 not certify the recall by a vote at a meeting, the board shall,  
395 within 5 full business days after the meeting, file with the  
396 division a petition for arbitration pursuant to the procedures  
397 in s. 718.1255. For the purposes of this section, the unit  
398 owners who voted at the meeting or who executed the agreement in  
399 writing shall constitute one party under the petition for  
400 arbitration. If the arbitrator certifies the recall as to any  
401 member or members of the board, the recall will be effective  
402 upon mailing of the final order of arbitration to the  
403 association. If the association fails to comply with the order  
404 of the arbitrator, the division may take action pursuant to s.  
405 718.501. Any member or members so recalled shall deliver to the  
406 board any and all records of the association in their possession

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407 within 5 full business days after ~~of~~ the effective date of the  
408 recall.

409 4. If the board fails to duly notice and hold a board  
410 meeting within 5 full business days after ~~of~~ service of an  
411 agreement in writing or within 5 full business days after ~~of~~ the  
412 adjournment of the unit owner recall meeting, the recall shall  
413 be deemed effective and the board members so recalled shall  
414 immediately turn over to the board any and all records and  
415 property of the association.

416 5. If the board fails to duly notice and hold the required  
417 meeting or fails to file the required petition, the unit owner  
418 representative may file a petition pursuant to s. 718.1255  
419 challenging the board's failure to act. The petition must be  
420 filed within 60 days after the expiration of the applicable 5-  
421 full-business-day period. The review of a petition under this  
422 subparagraph is limited to the sufficiency of service on the  
423 board and the facial validity of the written agreement or  
424 ballots filed.

425 6.5. If a vacancy occurs on the board as a result of a  
426 recall or removal and less than a majority of the board members  
427 are removed, the vacancy may be filled by the affirmative vote  
428 of a majority of the remaining directors, notwithstanding any  
429 provision to the contrary contained in this subsection. If  
430 vacancies occur on the board as a result of a recall and a  
431 majority or more of the board members are removed, the vacancies  
432 shall be filled in accordance with procedural rules to be  
433 adopted by the division, which rules need not be consistent with  
434 this subsection. The rules must provide procedures governing the  
435 conduct of the recall election as well as the operation of the

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436 association during the period after a recall but before ~~prior to~~  
437 the recall election.

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

443 8. The division may not accept for filing a recall  
444 petition, whether filed pursuant to subparagraph 1.,  
445 subparagraph 2., subparagraph 5., or subparagraph 7. and  
446 regardless of whether the recall was certified, when there are  
447 60 or fewer days until the scheduled reelection of the board  
448 member sought to be recalled or when 60 or fewer days have  
449 elapsed since the election of the board member sought to be  
450 recalled.

451 Section 3. Subsection (5) of section 718.113, Florida  
452 Statutes, is amended to read:

453 718.113 Maintenance; limitation upon improvement; display  
454 of flag; hurricane shutters and protection; display of religious  
455 decorations.-

456 (5) Each board of administration shall adopt hurricane  
457 shutter specifications for each building within each condominium  
458 operated by the association which shall include color, style,  
459 and other factors deemed relevant by the board. All  
460 specifications adopted by the board must comply with the  
461 applicable building code.

462 (a) The board may, subject to ~~the provisions of~~ s.  
463 718.3026~~7~~ and the approval of a majority of voting interests of  
464 the condominium, install hurricane shutters, impact glass, or



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465 ~~either~~ code-compliant windows or doors, or other types of code-  
466 compliant hurricane protection that comply ~~complies~~ with or  
467 exceed ~~exceeds~~ the applicable building code. However, a vote of  
468 the owners is not required if the maintenance, repair, and  
469 replacement of hurricane shutters, impact glass, ~~or other~~ code-  
470 compliant windows or doors, or other types of code-compliant  
471 hurricane protection are the responsibility of the association  
472 pursuant to the declaration of condominium. If hurricane  
473 protection or laminated glass or window film architecturally  
474 designed to function as hurricane protection that ~~which~~ complies  
475 with or exceeds the current applicable building code has been  
476 previously installed, the board may not install hurricane  
477 shutters, ~~hurricane protection, or~~ impact glass, ~~or other~~ code-  
478 compliant windows or doors, or other types of code-compliant  
479 hurricane protection except upon approval by a majority vote of  
480 the voting interests.

481 (b) The association is responsible for the maintenance,  
482 repair, and replacement of the hurricane shutters, impact glass,  
483 code-compliant windows or doors, or other types of code-  
484 compliant hurricane protection authorized by this subsection if  
485 such property ~~hurricane shutters or other hurricane protection~~  
486 is the responsibility of the association pursuant to the  
487 declaration of condominium. If the hurricane shutters, impact  
488 glass, code-compliant windows or doors, or other types of code-  
489 compliant hurricane protection ~~authorized by this subsection~~ are  
490 the responsibility of the unit owners pursuant to the  
491 declaration of condominium, the maintenance, repair, and  
492 replacement of such items are the responsibility of the unit  
493 owner.

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494 (c) The board may operate shutters, impact glass, code-  
495 compliant windows or doors, or other types of code-compliant  
496 hurricane protection installed pursuant to this subsection  
497 without permission of the unit owners only if such operation is  
498 necessary to preserve and protect the condominium property and  
499 association property. The installation, replacement, operation,  
500 repair, and maintenance of such shutters, impact glass, code-  
501 compliant windows or doors, or other types of code-compliant  
502 hurricane protection in accordance with the procedures set forth  
503 in this paragraph are not a material alteration to the common  
504 elements or association property within the meaning of this  
505 section.

506 (d) Notwithstanding any other provision in the condominium  
507 documents, if approval is required by the documents, a board may  
508 not refuse to approve the installation or replacement of  
509 hurricane shutters, impact glass, code-compliant windows or  
510 doors, or other types of code-compliant hurricane protection by  
511 a unit owner conforming to the specifications adopted by the  
512 board.

513 Section 4. Paragraph (e) of subsection (1) of section  
514 718.115, Florida Statutes, is amended to read:

515 718.115 Common expenses and common surplus.—

516 (1)

517 (e) The expense of installation, replacement, operation,  
518 repair, and maintenance of hurricane shutters, impact glass,  
519 code-compliant windows or doors, or other types of code-  
520 compliant hurricane protection by the board pursuant to s.  
521 718.113(5) constitutes ~~shall constitute~~ a common expense ~~as~~  
522 ~~defined herein~~ and shall be collected as provided in this

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523 section if the association is responsible for the maintenance,  
524 repair, and replacement of the hurricane shutters, impact glass,  
525 code-compliant windows or doors, or other types of code-  
526 compliant hurricane protection pursuant to the declaration of  
527 condominium. However, if the maintenance, repair, and  
528 replacement of the hurricane shutters, impact glass, code-  
529 compliant windows or doors, or other types of code-compliant  
530 hurricane protection are ~~is~~ the responsibility of the unit  
531 owners pursuant to the declaration of condominium, the cost of  
532 the installation of the hurricane shutters, impact glass, code-  
533 compliant windows or doors, or other types of code-compliant  
534 hurricane protection is ~~shall~~ not ~~be~~ a common expense and, ~~but~~  
535 shall be charged individually to the unit owners based on the  
536 cost of installation of the hurricane shutters, impact glass,  
537 code-compliant windows or doors, or other types of code-  
538 compliant hurricane protection appurtenant to the unit.  
539 Notwithstanding ~~the provisions of~~ s. 718.116(9), and regardless  
540 of whether or not the declaration requires the association or  
541 unit owners to maintain, repair, or replace hurricane shutters,  
542 impact glass, code-compliant windows or doors, or other types of  
543 code-compliant hurricane protection, a unit owner who has  
544 previously installed hurricane shutters in accordance with s.  
545 718.113(5) that comply with the current applicable building code  
546 shall receive a credit when the shutters are installed; a unit  
547 owner who has previously installed impact glass or code-  
548 compliant windows or doors that comply with the current  
549 applicable building code shall receive a credit when the impact  
550 glass or code-compliant windows or doors are installed; and a  
551 unit owner who has installed, other types of code-compliant

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552 hurricane protection that comply with the current applicable  
553 building code shall receive a credit when the same type of other  
554 code-compliant hurricane protection is installed, and the ~~or~~  
555 ~~laminated glass architecturally designed to function as~~  
556 ~~hurricane protection, which hurricane shutters or other~~  
557 ~~hurricane protection or laminated glass comply with the current~~  
558 ~~applicable building code, shall receive a credit shall be equal~~  
559 to the pro rata portion of the assessed installation cost  
560 assigned to each unit. However, such unit owner remains ~~shall~~  
561 ~~remain~~ responsible for the pro rata share of expenses for  
562 hurricane shutters, impact glass, code-compliant windows or  
563 doors, or other types of code-compliant hurricane protection  
564 installed on common elements and association property by the  
565 board pursuant to s. 718.113(5),<sup>7</sup> and remains ~~shall remain~~  
566 responsible for a pro rata share of the expense of the  
567 replacement, operation, repair, and maintenance of such  
568 shutters, impact glass, code-compliant windows or doors, or  
569 other types of code-compliant hurricane protection.

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

572 718.303 Obligations of owners and occupants; remedies.—

573 (3) The association may levy reasonable fines for the  
574 failure of the owner of the unit or its occupant, licensee, or  
575 invitee to comply with any provision of the declaration, the  
576 association bylaws, or reasonable rules of the association. A  
577 fine may not become a lien against a unit. A fine may be levied  
578 on the basis of each day of a continuing violation, with a  
579 single notice and opportunity for hearing. However, the fine may  
580 not exceed \$100 per violation, or \$1,000 in the aggregate.

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581 (a) An association may suspend, for a reasonable period of  
582 time, the right of a unit owner, or a unit owner's tenant,  
583 guest, or invitee, to use the common elements, common  
584 facilities, or any other association property for failure to  
585 comply with any provision of the declaration, the association  
586 bylaws, or reasonable rules of the association. This paragraph  
587 does not apply to limited common elements intended to be used  
588 only by that unit, common elements needed to access the unit,  
589 utility services provided to the unit, parking spaces, or  
590 elevators.

591 (5) An association may suspend the voting rights of a unit  
592 or member due to nonpayment of any monetary obligation due to  
593 the association which is more than 90 days delinquent. ~~A voting~~  
594 ~~interest or consent right allocated to a unit or member which~~  
595 ~~has been suspended by the association may not be counted towards~~  
596 ~~the total number of voting interests necessary to constitute a~~  
597 ~~quorum, the number of voting interests required to conduct an~~  
598 ~~election, or the number of voting interests required to approve~~  
599 ~~an action under this chapter or pursuant to the declaration,~~  
600 ~~articles of incorporation, or bylaws.~~ The suspension ends upon  
601 full payment of all obligations currently due or overdue the  
602 association. The notice and hearing requirements under  
603 subsection (3) do not apply to a suspension imposed under this  
604 subsection.

605 Section 6. Subsection (1) of section 718.403, Florida  
606 Statutes, is amended to read:

607 718.403 Phase condominiums.—

608 (1) Notwithstanding ~~the provisions of~~ s. 718.110, a  
609 developer may develop a condominium in phases, if the original

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610 declaration of condominium submitting the initial phase to  
611 condominium ownership or an amendment to the declaration which  
612 has been approved by all of the unit owners and unit mortgagees  
613 provides for and describes in detail all anticipated phases; the  
614 impact, if any, which the completion of subsequent phases would  
615 have upon the initial phase; and the time period (which may not  
616 exceed 7 years from the date of recording the declaration of  
617 condominium, unless extended as provided in this subsection)  
618 within which all phases must be added to the condominium and  
619 comply with the requirements of this section and at the end of  
620 which the right to add additional phases expires.

621 (a) All phases must be added to the condominium within 7  
622 years after the date of recording the original declaration of  
623 condominium submitting the initial phase to condominium  
624 ownership unless an amendment extending the 7-year period is  
625 approved by the unit owners.

626 (b) An amendment to extend the 7-year period requires the  
627 approval of the owners necessary to amend the declaration of  
628 condominium consistent with s. 718.110(1)(a). An extension of  
629 the 7-year period may be submitted for approval only during the  
630 last 3 years of the 7-year period.

631 (c) An amendment must describe the period within which all  
632 phases must be added to the condominium and such period may not  
633 exceed 10 years after the date of recording the original  
634 declaration of condominium submitting the initial phase to  
635 condominium ownership.

636 (d) Notwithstanding s. 718.110, an amendment extending the  
637 7-year period is not an amendment subject to s. 718.110(4).

638 Section 7. Section 718.406, Florida Statutes, is created to

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639 read:

640 718.406 Condominiums created within condominium parcels.-641 (1) Unless otherwise expressed in the declaration of  
642 condominium, if a condominium is created within a condominium  
643 parcel, the term:644 (a) "Primary condominium" means any condominium that is not  
645 a secondary condominium and contains one or more subdivided  
646 parcels.647 (b) "Primary condominium association" means any entity that  
648 operates a primary condominium.649 (c) "Primary condominium declaration" means the instrument  
650 or instruments by which a primary condominium is created, as  
651 they are from time to time amended.652 (d) "Secondary condominium" means one or more condominium  
653 parcels that have been submitted to condominium ownership  
654 pursuant to a secondary condominium declaration.655 (e) "Secondary condominium association" means any entity  
656 responsible for the operation of a secondary condominium.657 (f) "Secondary condominium declaration" means the  
658 instrument or instruments by which a secondary condominium is  
659 created, as they are from time to time amended.660 (g) "Secondary unit" means a unit that is part of a  
661 secondary condominium.662 (h) "Subdivided parcel" means a condominium parcel in a  
663 primary condominium that has been submitted to condominium  
664 ownership pursuant to a secondary condominium declaration.665 (2) Unless otherwise provided in the primary condominium  
666 declaration, if a condominium parcel is a subdivided parcel, the  
667 secondary condominium association responsible for operating the

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668 secondary condominium upon the subdivided parcel shall act on  
669 behalf of all of the unit owners of secondary units in the  
670 secondary condominium and shall exercise all rights of the  
671 secondary unit owners in the primary condominium association,  
672 other than the right of possession of the secondary unit. The  
673 secondary condominium association shall designate a  
674 representative who shall cast the vote of the subdivided parcel  
675 in the primary condominium association and, if no person is  
676 designated by the secondary condominium association to cast such  
677 vote, the vote shall be cast by the president of the secondary  
678 condominium association or the designee of the president.

679 (3) Unless otherwise provided in the primary condominium  
680 declaration as originally recorded, no secondary condominium may  
681 be created upon any condominium parcel in the primary  
682 condominium, and no amendment to the primary condominium  
683 declaration may permit secondary condominiums to be created upon  
684 parcels in the primary condominium, unless the record owners of  
685 a majority of the condominium parcels join in the execution of  
686 the amendment.

687 (4) If the primary condominium declaration permits the  
688 creation of a secondary condominium and a condominium parcel in  
689 the primary condominium is being submitted for condominium  
690 ownership to create a secondary condominium upon the primary  
691 condominium parcel, the approval of the board of administration  
692 of the primary condominium association is required in order to  
693 create the secondary condominium on the primary condominium  
694 parcel. Unless otherwise provided in the primary condominium  
695 declaration, the owners of condominium parcels in the primary  
696 condominium that will not be part of the proposed secondary



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697 condominium and the holders of liens upon such primary  
698 condominium parcels shall not have approval rights regarding the  
699 creation of the secondary condominium or the contents of the  
700 secondary condominium declaration being submitted. Only the  
701 board of administration of the primary condominium association,  
702 the owner of the subdivided parcel, and the holders of liens  
703 upon the subdivided parcel shall have approval rights regarding  
704 the creation of the secondary condominium and the contents of  
705 the secondary condominium declaration. In order for the  
706 recording of the secondary condominium declaration to be  
707 effective to create the secondary condominium, the board of  
708 administration of the primary condominium association, the owner  
709 of the subdivided parcel, and all holders of liens on the  
710 subdivided parcel must execute the secondary condominium  
711 declaration for the purpose of evidencing their approval.

712 (5) An owner of a secondary unit is subject to both the  
713 primary condominium declaration and the secondary condominium  
714 declaration.

715 (6) The primary condominium association may provide  
716 insurance required by s. 718.111(11) for common elements and  
717 other improvements within the secondary condominium if the  
718 primary condominium declaration permits the primary condominium  
719 association to provide such insurance for the benefit of the  
720 condominium property included in the subdivided parcel, in lieu  
721 of such insurance being provided by the secondary condominium  
722 association.

723 (7) Unless otherwise provided in the primary condominium  
724 declaration, the board of administration of the primary  
725 condominium association may adopt hurricane shutter or hurricane

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726 protection specifications for each building within which  
727 subdivided parcels are located and govern any subdivided parcels  
728 in the primary condominium.

729 (8) Any unit owner of, or holder of a first mortgage on, a  
730 secondary unit may register such unit owner's or mortgagee's  
731 interest in the secondary unit with the primary condominium  
732 association by delivering written notice to the primary  
733 condominium association. Once registered, the primary  
734 condominium association must provide written notice to such  
735 secondary unit owner and his, her, or its first mortgagee at  
736 least 30 days before instituting any foreclosure action against  
737 the subdivided parcel in which the secondary unit owner and his,  
738 her, or its first mortgagee hold an interest for failure of the  
739 subdivided parcel owner to pay any assessments or other amounts  
740 due to the primary condominium association. A foreclosure action  
741 against a subdivided parcel is not effective without an  
742 affidavit indicating that written notice of the foreclosure was  
743 timely sent to the names and addresses of secondary unit owners  
744 and first mortgagees registered with the primary condominium  
745 association pursuant to this subsection. The registered  
746 secondary unit owner or mortgagee has a right to pay the  
747 proportionate amount of the delinquent assessment attributable  
748 to the secondary unit in which the registered unit owner or  
749 mortgagee holds an interest. Upon such payment, the primary  
750 condominium association is obligated to promptly modify or  
751 partially release the record of lien on the primary condominium  
752 association so that the lien no longer encumbers such secondary  
753 unit. Alternatively, a registered secondary unit owner or  
754 mortgagee may pay the amount of all delinquent assessments

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755 attributed to the subdivided parcel and seek reimbursement for  
756 all such amounts paid and all costs incurred from the secondary  
757 condominium association, including, without limitation, the  
758 costs of collection other than the share allocable to the  
759 secondary unit on behalf of which such payment was made.

760 (9) In the event of a conflict between the primary  
761 condominium declaration and the secondary condominium  
762 declaration, the primary condominium declaration controls.

763 (10) All common expenses due to the primary condominium  
764 association with respect to a subdivided parcel are a common  
765 expense of the secondary condominium association and shall be  
766 collected by the secondary condominium association from its  
767 members and paid to the primary condominium association.

768 Section 8. Subsection (2) of section 718.5011, Florida  
769 Statutes, is amended to read:

770 718.5011 Ombudsman; appointment; administration.—

771 (2) The Governor shall appoint the ombudsman. The ombudsman  
772 must be an attorney admitted to practice before the Florida  
773 Supreme Court and shall serve at the pleasure of the Governor. A  
774 vacancy in the office shall be filled in the same manner as the  
775 original appointment. An officer or full-time employee of the  
776 ombudsman's office may not actively engage in any other business  
777 or profession that directly or indirectly relates to or  
778 conflicts with his or her work in the ombudsman's office; serve  
779 as the representative of any political party, executive  
780 committee, or other governing body of a political party; serve  
781 as an executive, officer, or employee of a political party;  
782 receive remuneration for activities on behalf of any candidate  
783 for public office; or engage in soliciting votes or other

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784 activities on behalf of a candidate for public office. The  
785 ombudsman or any employee of his or her office may not become a  
786 candidate for election to public office unless he or she first  
787 resigns from his or her office or employment.

788 Section 9. Paragraph (c) of subsection (2) of section  
789 719.104, Florida Statutes, is amended to read:

790 719.104 Cooperatives; access to units; records; financial  
791 reports; assessments; purchase of leases.-

792 (2) OFFICIAL RECORDS.-

793 (c) The official records of the association shall be open  
794 to inspection by any association member or the authorized  
795 representative of such member at all reasonable times. Failure  
796 to permit inspection of the association records as provided in  
797 this subsection ~~herein~~ entitles any person prevailing in an  
798 enforcement action to recover reasonable attorney ~~attorney's~~  
799 fees from the person in control of the records who, directly or  
800 indirectly, knowingly denies access to the records for  
801 inspection. The right to inspect the records includes the right  
802 to make or obtain copies, at the reasonable expense, if any, of  
803 the association member. The association may adopt reasonable  
804 rules regarding the frequency, time, location, notice, and  
805 manner of record inspections and copying. The failure of an  
806 association to provide the records within 10 working days after  
807 receipt of a written request creates a rebuttable presumption  
808 that the association willfully failed to comply with this  
809 paragraph. A unit owner who is denied access to official records  
810 is entitled to the actual damages or minimum damages for the  
811 association's willful failure to comply with this paragraph. The  
812 minimum damages shall be \$50 per calendar day up to 10 days, the

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813 calculation to begin on the 11th day after receipt of the  
814 written request. The association shall maintain an adequate  
815 number of copies of the declaration, articles of incorporation,  
816 bylaws, and rules, and all amendments to each of the foregoing,  
817 as well as the question and answer sheet provided for in s.  
818 719.504, on the cooperative property to ensure their  
819 availability to unit owners and prospective purchasers, and may  
820 charge its actual costs for preparing and furnishing these  
821 documents to those requesting the same. Notwithstanding ~~the~~  
822 ~~provisions of~~ this paragraph, the following records shall not be  
823 accessible to unit owners:

824 1. Any record protected by the lawyer-client privilege as  
825 provided in s. 90.502; protected by the work-product privilege,  
826 including any record ~~A record that was~~ prepared by an  
827 association attorney or prepared at the attorney's express  
828 direction; reflecting ~~that reflects~~ a mental impression,  
829 conclusion, litigation strategy, or legal theory of the attorney  
830 or the association; or ~~that was~~ prepared exclusively for civil  
831 or criminal litigation or for adversarial administrative  
832 proceedings or in anticipation of imminent civil or criminal  
833 litigation or imminent adversarial administrative proceedings,  
834 until the conclusion of the litigation or adversarial  
835 administrative proceedings.

836 2. Information obtained by an association in connection  
837 with the approval of the lease, sale, or other transfer of a  
838 unit.

839 3. Medical records of unit owners.

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

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842 records. For purposes of this subparagraph, the term "personnel  
843 records" does not include written employment agreements with an  
844 association employee or budgetary or financial records that  
845 indicate the compensation paid to an association employee.

846 5. Social security numbers, driver license numbers, credit  
847 card numbers, e-mail addresses, telephone numbers, emergency  
848 contact information, any addresses of a unit owner other than  
849 addresses provided to fulfill the association's notice  
850 requirements, and other personal identifying information of any  
851 person, excluding the person's name, unit designation, mailing  
852 address, and property address.

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

855 7. The software and operating system used by the  
856 association which allows manipulation of data, even if the owner  
857 owns a copy of the same software used by the association. The  
858 data is part of the official records of the association.

859 Section 10. Subsection (7) is added to section 719.1055,  
860 Florida Statutes, to read:

861 719.1055 Amendment of cooperative documents; alteration and  
862 acquisition of property.—

863 (7) The Legislature finds that the procurement of mortgagee  
864 consent to amendments that do not affect the rights or interests  
865 of mortgagees is an unreasonable and substantial logistical and  
866 financial burden on the unit owners and that there is a  
867 compelling state interest in enabling the members of an  
868 association to approve amendments to the association's  
869 cooperative documents through legal means. Accordingly, and  
870 notwithstanding any provision of this subsection to the

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871 contrary:

872 (a) As to any mortgage recorded on or after July 1, 2013,  
873 any provision in the association's cooperative documents that  
874 requires the consent or joinder of some or all mortgagees of  
875 units or any other portion of the association's common areas to  
876 amend the association's cooperative documents or for any other  
877 matter is enforceable only as to amendments to the association's  
878 cooperative documents that adversely affect the priority of the  
879 mortgagee's lien or the mortgagee's rights to foreclose its lien  
880 or that otherwise materially affect the rights and interests of  
881 the mortgagees.

882 (b) As to mortgages recorded before July 1, 2013, any  
883 existing provisions in the association's cooperative documents  
884 requiring mortgagee consent are enforceable.

885 (c) In securing consent or joinder, the association is  
886 entitled to rely upon the public records to identify the holders  
887 of outstanding mortgages. The association may use the address  
888 provided in the original recorded mortgage document, unless  
889 there is a different address for the holder of the mortgage in a  
890 recorded assignment or modification of the mortgage, which  
891 recorded assignment or modification must reference the official  
892 records book and page on which the original mortgage was  
893 recorded. Once the association has identified the recorded  
894 mortgages of record, the association shall, in writing, request  
895 of each unit owner whose unit is encumbered by a mortgage of  
896 record any information that the owner has in his or her  
897 possession regarding the name and address of the person to whom  
898 mortgage payments are currently being made. Notice shall be sent  
899 to such person if the address provided in the original recorded

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900 mortgage document is different from the name and address of the  
901 mortgagee or assignee of the mortgage as shown by the public  
902 record. The association is deemed to have complied with this  
903 requirement by making the written request of the unit owners  
904 required under this paragraph. Any notices required to be sent  
905 to the mortgagees under this paragraph shall be sent to all  
906 available addresses provided to the association.

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

911 (e) For those amendments requiring mortgagee consent on or  
912 after July 1, 2013, in the event mortgagee consent is provided  
913 other than by properly recorded joinder, such consent shall be  
914 evidenced by affidavit of the association recorded in the public  
915 records of the county in which the declaration is recorded.

916 (f) Any amendment adopted without the required consent of a  
917 mortgagee is voidable only by a mortgagee who was entitled to  
918 notice and an opportunity to consent. An action to void an  
919 amendment is subject to the statute of limitations beginning 5  
920 years after the date of discovery as to the amendments described  
921 in paragraph (a) and 5 years after the date of recordation of  
922 the certificate of amendment for all other amendments. This  
923 paragraph applies to all mortgages, regardless of the date of  
924 recordation of the mortgage.

925 Section 11. Paragraphs (c), (d), and (f) of subsection (1)  
926 of section 719.106, Florida Statutes, are amended to read:

927 719.106 Bylaws; cooperative ownership.—

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



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

931 (c) *Board of administration meetings.*—Meetings of the board  
932 of administration at which a quorum of the members is present  
933 shall be open to all unit owners. Any unit owner may tape record  
934 or videotape meetings of the board of administration. The right  
935 to attend such meetings includes the right to speak at such  
936 meetings with reference to all designated agenda items. The  
937 division shall adopt reasonable rules governing the tape  
938 recording and videotaping of the meeting. The association may  
939 adopt reasonable written rules governing the frequency,  
940 duration, and manner of unit owner statements. Adequate notice  
941 of all meetings shall be posted in a conspicuous place upon the  
942 cooperative property at least 48 continuous hours preceding the  
943 meeting, except in an emergency. Any item not included on the  
944 notice may be taken up on an emergency basis by at least a  
945 majority plus one of the members of the board. Such emergency  
946 action shall be noticed and ratified at the next regular meeting  
947 of the board. However, written notice of any meeting at which  
948 nonemergency special assessments, or at which amendment to rules  
949 regarding unit use, will be considered shall be mailed,  
950 delivered, or electronically transmitted to the unit owners and  
951 posted conspicuously on the cooperative property not less than  
952 14 days before ~~prior to~~ the meeting. Evidence of compliance with  
953 this 14-day notice shall be made by an affidavit executed by the  
954 person providing the notice and filed among the official records  
955 of the association. Upon notice to the unit owners, the board  
956 shall by duly adopted rule designate a specific location on the  
957 cooperative property upon which all notices of board meetings

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958 shall be posted. In lieu of or in addition to the physical  
959 posting of notice of any meeting of the board of administration  
960 on the cooperative property, the association may, by reasonable  
961 rule, adopt a procedure for conspicuously posting and repeatedly  
962 broadcasting the notice and the agenda on a closed-circuit cable  
963 television system serving the cooperative association. However,  
964 if broadcast notice is used in lieu of a notice posted  
965 physically on the cooperative property, the notice and agenda  
966 must be broadcast at least four times every broadcast hour of  
967 each day that a posted notice is otherwise required under this  
968 section. When broadcast notice is provided, the notice and  
969 agenda must be broadcast in a manner and for a sufficient  
970 continuous length of time so as to allow an average reader to  
971 observe the notice and read and comprehend the entire content of  
972 the notice and the agenda. Notice of any meeting in which  
973 regular assessments against unit owners are to be considered for  
974 any reason shall specifically contain a statement that  
975 assessments will be considered and the nature of any such  
976 assessments. Meetings of a committee to take final action on  
977 behalf of the board or to make recommendations to the board  
978 regarding the association budget are subject to ~~the provisions~~  
979 ~~of~~ this paragraph. Meetings of a committee that does not take  
980 final action on behalf of the board or make recommendations to  
981 the board regarding the association budget are subject to ~~the~~  
982 ~~provisions of~~ this section, unless those meetings are exempted  
983 from this section by the bylaws of the association.  
984 Notwithstanding any other law to the contrary, the requirement  
985 that board meetings and committee meetings be open to the unit  
986 owners does not apply ~~is inapplicable~~ to board or committee

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987 meetings held for the purpose of discussing personnel matters or  
988 meetings between the board or a committee and the association's  
989 attorney, with respect to proposed or pending litigation, if  
990 ~~when~~ the meeting is held for the purpose of seeking or rendering  
991 legal advice.

992 (d) *Shareholder meetings.*—There shall be an annual meeting  
993 of the shareholders. All members of the board of administration  
994 shall be elected at the annual meeting unless the bylaws provide  
995 for staggered election terms or for their election at another  
996 meeting. Any unit owner desiring to be a candidate for board  
997 membership must comply with subparagraph 1. The bylaws must  
998 provide the method for calling meetings, including annual  
999 meetings. Written notice, which must incorporate an  
1000 identification of agenda items, shall be given to each unit  
1001 owner at least 14 days before the annual meeting and posted in a  
1002 conspicuous place on the cooperative property at least 14  
1003 continuous days preceding the annual meeting. Upon notice to the  
1004 unit owners, the board must by duly adopted rule designate a  
1005 specific location on the cooperative property upon which all  
1006 notice of unit owner meetings are posted. In lieu of or in  
1007 addition to the physical posting of the meeting notice, the  
1008 association may, by reasonable rule, adopt a procedure for  
1009 conspicuously posting and repeatedly broadcasting the notice and  
1010 the agenda on a closed-circuit cable television system serving  
1011 the cooperative association. However, if broadcast notice is  
1012 used in lieu of a posted notice, the notice and agenda must be  
1013 broadcast at least four times every broadcast hour of each day  
1014 that a posted notice is otherwise required under this section.  
1015 If broadcast notice is provided, the notice and agenda must be

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1016 broadcast in a manner and for a sufficient continuous length of  
1017 time to allow an average reader to observe the notice and read  
1018 and comprehend the entire content of the notice and the agenda.  
1019 Unless a unit owner waives in writing the right to receive  
1020 notice of the annual meeting, the notice of the annual meeting  
1021 must be sent by mail, hand delivered, or electronically  
1022 transmitted to each unit owner. An officer of the association  
1023 must provide an affidavit or United States Postal Service  
1024 certificate of mailing, to be included in the official records  
1025 of the association, affirming that notices of the association  
1026 meeting were mailed, hand delivered, or electronically  
1027 transmitted, in accordance with this provision, to each unit  
1028 owner at the address last furnished to the association.

1029       1. The board of administration shall be elected by written  
1030 ballot or voting machine. A proxy may not be used in electing  
1031 the board of administration in general elections or elections to  
1032 fill vacancies caused by recall, resignation, or otherwise  
1033 unless otherwise provided in this chapter. At least 60 days  
1034 before a scheduled election, the association shall mail,  
1035 deliver, or transmit, whether by separate association mailing,  
1036 delivery, or electronic transmission or included in another  
1037 association mailing, delivery, or electronic transmission,  
1038 including regularly published newsletters, to each unit owner  
1039 entitled to vote, a first notice of the date of the election.  
1040 Any unit owner or other eligible person desiring to be a  
1041 candidate for the board of administration must give written  
1042 notice to the association at least 40 days before a scheduled  
1043 election. Together with the written notice and agenda as set  
1044 forth in this section, the association shall mail, deliver, or

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1045 electronically transmit a second notice of election to all unit  
1046 owners entitled to vote, together with a ballot that ~~which~~ lists  
1047 all candidates. Upon request of a candidate, the association  
1048 shall include an information sheet, no larger than 8 1/2 inches  
1049 by 11 inches, which must be furnished by the candidate at least  
1050 35 days before the election, to be included with the mailing,  
1051 delivery, or electronic transmission of the ballot, with the  
1052 costs of mailing, delivery, or transmission and copying to be  
1053 borne by the association. The association is not liable for the  
1054 contents of the information sheets provided by the candidates.  
1055 In order to reduce costs, the association may print or duplicate  
1056 the information sheets on both sides of the paper. The division  
1057 shall by rule establish voting procedures consistent with this  
1058 subparagraph, including rules establishing procedures for giving  
1059 notice by electronic transmission and rules providing for the  
1060 secrecy of ballots. Elections shall be decided by a plurality of  
1061 those ballots cast. There is no quorum requirement. However, at  
1062 least 20 percent of the eligible voters must cast a ballot in  
1063 order to have a valid election. A unit owner may not permit any  
1064 other person to vote his or her ballot, and any such ballots  
1065 improperly cast are invalid. A unit owner who needs assistance  
1066 in casting the ballot for the reasons stated in s. 101.051 may  
1067 obtain assistance in casting the ballot. Any unit owner  
1068 violating this provision may be fined by the association in  
1069 accordance with s. 719.303. The regular election must occur on  
1070 the date of the annual meeting. This subparagraph does not apply  
1071 to timeshare cooperatives. Notwithstanding this subparagraph, an  
1072 election and balloting are not required unless more candidates  
1073 file a notice of intent to run or are nominated than vacancies

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1074 exist on the board. Any challenge to the election process must  
1075 be commenced within 60 days after the election results are  
1076 announced.

1077 2. Any approval by unit owners called for by this chapter,  
1078 or the applicable cooperative documents, must be made at a duly  
1079 noticed meeting of unit owners and is subject to this chapter or  
1080 the applicable cooperative documents relating to unit owner  
1081 decisionmaking, except that unit owners may take action by  
1082 written agreement, without meetings, on matters for which action  
1083 by written agreement without meetings is expressly allowed by  
1084 the applicable cooperative documents or law which provides for  
1085 the unit owner action.

1086 3. Unit owners may waive notice of specific meetings if  
1087 allowed by the applicable cooperative documents or law. If  
1088 authorized by the bylaws, notice of meetings of the board of  
1089 administration, shareholder meetings, except shareholder  
1090 meetings called to recall board members under paragraph (f), and  
1091 committee meetings may be given by electronic transmission to  
1092 unit owners who consent to receive notice by electronic  
1093 transmission.

1094 4. Unit owners have the right to participate in meetings of  
1095 unit owners with reference to all designated agenda items.  
1096 However, the association may adopt reasonable rules governing  
1097 the frequency, duration, and manner of unit owner participation.

1098 5. Any unit owner may tape record or videotape meetings of  
1099 the unit owners subject to reasonable rules adopted by the  
1100 division.

1101 6. Unless otherwise provided in the bylaws, a vacancy  
1102 occurring on the board before the expiration of a term may be

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1103 filled by the affirmative vote of the majority of the remaining  
1104 directors, even if the remaining directors constitute less than  
1105 a quorum, or by the sole remaining director. In the alternative,  
1106 a board may hold an election to fill the vacancy, in which case  
1107 the election procedures must conform to the requirements of  
1108 subparagraph 1. unless the association has opted out of the  
1109 statutory election process, in which case the bylaws of the  
1110 association control. Unless otherwise provided in the bylaws, a  
1111 board member appointed or elected under this subparagraph shall  
1112 fill the vacancy for the unexpired term of the seat being  
1113 filled. Filling vacancies created by recall is governed by  
1114 paragraph (f) and rules adopted by the division.  
1115 Notwithstanding subparagraphs (b)2. and (d)1., an association  
1116 may, by the affirmative vote of a majority of the total voting  
1117 interests, provide for a different voting and election procedure  
1118 in its bylaws, which vote may be by a proxy specifically  
1119 delineating the different voting and election procedures. The  
1120 different voting and election procedures may provide for  
1121 elections to be conducted by limited or general proxy.

1122 (f) *Recall of board members.*—Subject to ~~the provisions of~~  
1123 s. 719.301, any member of the board of administration may be  
1124 recalled and removed from office with or without cause by the  
1125 vote or agreement in writing by a majority of all the voting  
1126 interests. A special meeting of the voting interests to recall  
1127 any member of the board of administration may be called by 10  
1128 percent of the unit owners giving notice of the meeting as  
1129 required for a meeting of unit owners, and the notice shall  
1130 state the purpose of the meeting. Electronic transmission may  
1131 not be used as a method of giving notice of a meeting called in

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1132 whole or in part for this purpose.

1133         1. If the recall is approved by a majority of all voting  
1134 interests by a vote at a meeting, the recall shall be effective  
1135 as provided in this paragraph ~~herein~~. The board shall duly  
1136 notice and hold a board meeting within 5 full business days  
1137 after ~~of~~ the adjournment of the unit owner meeting to recall one  
1138 or more board members. At the meeting, the board shall either  
1139 certify the recall, in which case such member or members shall  
1140 be recalled effective immediately and shall turn over to the  
1141 board within 5 full business days any and all records and  
1142 property of the association in their possession, or shall  
1143 proceed as set forth in subparagraph 3.

1144         2. If the proposed recall is by an agreement in writing by  
1145 a majority of all voting interests, the agreement in writing or  
1146 a copy thereof shall be served on the association by certified  
1147 mail or by personal service in the manner authorized by chapter  
1148 48 and the Florida Rules of Civil Procedure. The board of  
1149 administration shall duly notice and hold a meeting of the board  
1150 within 5 full business days after receipt of the agreement in  
1151 writing. At the meeting, the board shall either certify the  
1152 written agreement to recall members of the board, in which case  
1153 such members shall be recalled effective immediately and shall  
1154 turn over to the board, within 5 full business days, any and all  
1155 records and property of the association in their possession, or  
1156 proceed as described in subparagraph 3.

1157         3. If the board determines not to certify the written  
1158 agreement to recall members of the board, or does not certify  
1159 the recall by a vote at a meeting, the board shall, within 5  
1160 full business days after the board meeting, file with the



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1161 division a petition for binding arbitration pursuant to the  
1162 procedures of s. 719.1255. For purposes of this paragraph, the  
1163 unit owners who voted at the meeting or who executed the  
1164 agreement in writing shall constitute one party under the  
1165 petition for arbitration. If the arbitrator certifies the recall  
1166 as to any member of the board, the recall shall be effective  
1167 upon mailing of the final order of arbitration to the  
1168 association. If the association fails to comply with the order  
1169 of the arbitrator, the division may take action pursuant to s.  
1170 719.501. Any member so recalled shall deliver to the board any  
1171 and all records and property of the association in the member's  
1172 possession within 5 full business days after ~~of~~ the effective  
1173 date of the recall.

1174 4. If the board fails to duly notice and hold a board  
1175 meeting within 5 full business days after ~~of~~ service of an  
1176 agreement in writing or within 5 full business days after ~~of~~ the  
1177 adjournment of the unit owner recall meeting, the recall shall  
1178 be deemed effective and the board members so recalled shall  
1179 immediately turn over to the board any and all records and  
1180 property of the association.

1181 5. If the board fails to duly notice and hold the required  
1182 meeting or fails to file the required petition, the unit owner  
1183 representative may file a petition pursuant to s. 719.1255  
1184 challenging the board's failure to act. The petition must be  
1185 filed within 60 days after the expiration of the applicable 5-  
1186 full-business-day period. The review of a petition under this  
1187 subparagraph is limited to the sufficiency of service on the  
1188 board and the facial validity of the written agreement or  
1189 ballots filed.

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1190 ~~6.5.~~ If a vacancy occurs on the board as a result of a  
1191 recall and less than a majority of the board members are  
1192 removed, the vacancy may be filled by the affirmative vote of a  
1193 majority of the remaining directors, notwithstanding any  
1194 provision to the contrary contained in this chapter. If  
1195 vacancies occur on the board as a result of a recall and a  
1196 majority or more of the board members are removed, the vacancies  
1197 shall be filled in accordance with procedural rules to be  
1198 adopted by the division, which rules need not be consistent with  
1199 this chapter. The rules must provide procedures governing the  
1200 conduct of the recall election as well as the operation of the  
1201 association during the period after a recall but before ~~prior to~~  
1202 the recall election.

1203 7. A board member who has been recalled may file a petition  
1204 pursuant to s. 719.1255 challenging the validity of the recall.  
1205 The petition must be filed within 60 days after the recall is  
1206 deemed certified. The association and the unit owner  
1207 representative shall be named as the respondents.

1208 8. The division may not accept for filing a recall  
1209 petition, whether filed pursuant to subparagraph 1.,  
1210 subparagraph 2., subparagraph 5., or subparagraph 7. and  
1211 regardless of whether the recall was certified, when there are  
1212 60 or fewer days until the scheduled reelection of the board  
1213 member sought to be recalled or when 60 or fewer days have not  
1214 elapsed since the election of the board member sought to be  
1215 recalled.

1216 Section 12. Paragraph (a) of subsection (3) and subsection  
1217 (5) of section 719.303, Florida Statutes, are amended to read:  
1218 719.303 Obligations of owners.—

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1219 (3) The association may levy reasonable fines for failure  
1220 of the unit owner or the unit's occupant, licensee, or invitee  
1221 to comply with any provision of the cooperative documents or  
1222 reasonable rules of the association. A fine may not become a  
1223 lien against a unit. A fine may be levied on the basis of each  
1224 day of a continuing violation, with a single notice and  
1225 opportunity for hearing. However, the fine may not exceed \$100  
1226 per violation, or \$1,000 in the aggregate.

1227 (a) An association may suspend, for a reasonable period of  
1228 time, the right of a unit owner, or a unit owner's tenant,  
1229 guest, or invitee, to use the common elements, common  
1230 facilities, or any other association property for failure to  
1231 comply with any provision of the cooperative documents or  
1232 reasonable rules of the association. This paragraph does not  
1233 apply to limited common elements intended to be used only by  
1234 that unit, common elements needed to access the unit, utility  
1235 services provided to the unit, parking spaces, or elevators.

1236 (5) An association may suspend the voting rights of a unit  
1237 or member due to nonpayment of any monetary obligation due to  
1238 the association which is more than 90 days delinquent. ~~A voting~~  
1239 ~~interest or consent right allocated to a unit or member which~~  
1240 ~~has been suspended by the association may not be counted towards~~  
1241 ~~the total number of voting interests for any purpose, including,~~  
1242 ~~but not limited to, the number of voting interests necessary to~~  
1243 ~~constitute a quorum, the number of voting interests required to~~  
1244 ~~conduct an election, or the number of voting interests required~~  
1245 ~~to approve an action under this chapter or pursuant to the~~  
1246 ~~cooperative documents, articles of incorporation, or bylaws. The~~  
1247 suspension ends upon full payment of all obligations currently

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1248 due or overdue the association. The notice and hearing  
1249 requirements under subsection (3) do not apply to a suspension  
1250 imposed under this subsection.

1251 Section 13. Paragraph (c) of subsection (5) and subsection  
1252 (10) of section 720.303, Florida Statutes, are amended to read:

1253 720.303 Association powers and duties; meetings of board;  
1254 official records; budgets; financial reporting; association  
1255 funds; recalls.—

1256 (5) INSPECTION AND COPYING OF RECORDS.—The official records  
1257 shall be maintained within the state and must be open to  
1258 inspection and available for photocopying by members or their  
1259 authorized agents at reasonable times and places within 10  
1260 business days after receipt of a written request for access.  
1261 This subsection may be complied with by having a copy of the  
1262 official records available for inspection or copying in the  
1263 community. If the association has a photocopy machine available  
1264 where the records are maintained, it must provide parcel owners  
1265 with copies on request during the inspection if the entire  
1266 request is limited to no more than 25 pages.

1267 (c) The association may adopt reasonable written rules  
1268 governing the frequency, time, location, notice, records to be  
1269 inspected, and manner of inspections, but may not require a  
1270 parcel owner to demonstrate any proper purpose for the  
1271 inspection, state any reason for the inspection, or limit a  
1272 parcel owner's right to inspect records to less than one 8-hour  
1273 business day per month. The association may impose fees to cover  
1274 the costs of providing copies of the official records,  
1275 including, without limitation, the costs of copying. The  
1276 association may charge up to 50 cents per page for copies made

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1277 on the association's photocopier. If the association does not  
1278 have a photocopy machine available where the records are kept,  
1279 or if the records requested to be copied exceed 25 pages in  
1280 length, the association may have copies made by an outside  
1281 vendor or association management company personnel and may  
1282 charge the actual cost of copying, including any reasonable  
1283 costs involving personnel fees and charges at an hourly rate for  
1284 vendor or employee time to cover administrative costs to the  
1285 vendor or association. The association shall maintain an  
1286 adequate number of copies of the recorded governing documents,  
1287 to ensure their availability to members and prospective members.  
1288 Notwithstanding this paragraph, the following records are not  
1289 accessible to members or parcel owners:

1290 1. Any record protected by the lawyer-client privilege as  
1291 described in s. 90.502 and any record protected by the work-  
1292 product privilege, including, but not limited to, a record  
1293 prepared by an association attorney or prepared at the  
1294 attorney's express direction which reflects a mental impression,  
1295 conclusion, litigation strategy, or legal theory of the attorney  
1296 or the association and which was prepared exclusively for civil  
1297 or criminal litigation or for adversarial administrative  
1298 proceedings or which was prepared in anticipation of such  
1299 litigation or proceedings until the conclusion of the litigation  
1300 or proceedings.

1301 2. Information obtained by an association in connection  
1302 with the approval of the lease, sale, or other transfer of a  
1303 parcel.

1304 3. Personnel records of association or management company  
1305 ~~the association's~~ employees, including, but not limited to,

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1306 disciplinary, payroll, health, and insurance records. For  
1307 purposes of this subparagraph, the term "personnel records" does  
1308 not include written employment agreements with an association or  
1309 management company employee or budgetary or financial records  
1310 that indicate the compensation paid to an association or  
1311 management company employee.

1312 4. Medical records of parcel owners or community residents.

1313 5. Social security numbers, driver ~~driver's~~ license  
1314 numbers, credit card numbers, electronic mailing addresses,  
1315 telephone numbers, facsimile numbers, emergency contact  
1316 information, any addresses for a parcel owner other than as  
1317 provided for association notice requirements, and other personal  
1318 identifying information of any person, excluding the person's  
1319 name, parcel designation, mailing address, and property address.  
1320 However, an owner may consent in writing to the disclosure of  
1321 protected information described in this subparagraph. The  
1322 association is not liable for the disclosure of information that  
1323 is protected under this subparagraph if the information is  
1324 included in an official record of the association and is  
1325 voluntarily provided by an owner and not requested by the  
1326 association.

1327 6. Any electronic security measure that is used by the  
1328 association to safeguard data, including passwords.

1329 7. The software and operating system used by the  
1330 association which allows the manipulation of data, even if the  
1331 owner owns a copy of the same software used by the association.  
1332 The data is part of the official records of the association.

1333 (10) RECALL OF DIRECTORS.—

1334 (a)1. Regardless of any provision to the contrary contained

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1335 in the governing documents, subject to ~~the provisions of~~ s.  
1336 720.307 regarding transition of association control, any member  
1337 of the board of directors may be recalled and removed from  
1338 office with or without cause by a majority of the total voting  
1339 interests.

1340 2. When the governing documents, including the declaration,  
1341 articles of incorporation, or bylaws, provide that only a  
1342 specific class of members is entitled to elect a board director  
1343 or directors, only that class of members may vote to recall  
1344 those board directors so elected.

1345 (b)1. Board directors may be recalled by an agreement in  
1346 writing or by written ballot without a membership meeting. The  
1347 agreement in writing or the written ballots, or a copy thereof,  
1348 shall be served on the association by certified mail or by  
1349 personal service in the manner authorized by chapter 48 and the  
1350 Florida Rules of Civil Procedure.

1351 2. The board shall duly notice and hold a meeting of the  
1352 board within 5 full business days after receipt of the agreement  
1353 in writing or written ballots. At the meeting, the board shall  
1354 either certify the written ballots or written agreement to  
1355 recall a director or directors of the board, in which case such  
1356 director or directors shall be recalled effective immediately  
1357 and shall turn over to the board within 5 full business days any  
1358 and all records and property of the association in their  
1359 possession, or proceed as described in paragraph (d).

1360 3. When it is determined by the department pursuant to  
1361 binding arbitration proceedings that an initial recall effort  
1362 was defective, written recall agreements or written ballots used  
1363 in the first recall effort and not found to be defective may be

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1364 reused in one subsequent recall effort. However, in no event is  
1365 a written agreement or written ballot valid for more than 120  
1366 days after it has been signed by the member.

1367 4. Any rescission or revocation of a member's written  
1368 recall ballot or agreement must be in writing and, in order to  
1369 be effective, must be delivered to the association before the  
1370 association is served with the written recall agreements or  
1371 ballots.

1372 5. The agreement in writing or ballot shall list at least  
1373 as many possible replacement directors as there are directors  
1374 subject to the recall, when at least a majority of the board is  
1375 sought to be recalled; the person executing the recall  
1376 instrument may vote for as many replacement candidates as there  
1377 are directors subject to the recall.

1378 (c)1. If the declaration, articles of incorporation, or  
1379 bylaws specifically provide, the members may also recall and  
1380 remove a board director or directors by a vote taken at a  
1381 meeting. If so provided in the governing documents, a special  
1382 meeting of the members to recall a director or directors of the  
1383 board of administration may be called by 10 percent of the  
1384 voting interests giving notice of the meeting as required for a  
1385 meeting of members, and the notice shall state the purpose of  
1386 the meeting. Electronic transmission may not be used as a method  
1387 of giving notice of a meeting called in whole or in part for  
1388 this purpose.

1389 2. The board shall duly notice and hold a board meeting  
1390 within 5 full business days after the adjournment of the member  
1391 meeting to recall one or more directors. At the meeting, the  
1392 board shall certify the recall, in which case such member or



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1393 members shall be recalled effective immediately and shall turn  
1394 over to the board within 5 full business days any and all  
1395 records and property of the association in their possession, or  
1396 shall proceed as set forth in subparagraph (d).

1397 (d) If the board determines not to certify the written  
1398 agreement or written ballots to recall a director or directors  
1399 of the board or does not certify the recall by a vote at a  
1400 meeting, the board shall, within 5 full business days after the  
1401 meeting, file with the department a petition for binding  
1402 arbitration pursuant to the applicable procedures in ss.  
1403 718.112(2)(j) and 718.1255 and the rules adopted thereunder. For  
1404 the purposes of this section, the members who voted at the  
1405 meeting or who executed the agreement in writing shall  
1406 constitute one party under the petition for arbitration. If the  
1407 arbitrator certifies the recall as to any director or directors  
1408 of the board, the recall will be effective upon mailing of the  
1409 final order of arbitration to the association. The director or  
1410 directors so recalled shall deliver to the board any and all  
1411 records of the association in their possession within 5 full  
1412 business days after the effective date of the recall.

1413 (e) If a vacancy occurs on the board as a result of a  
1414 recall and less than a majority of the board directors are  
1415 removed, the vacancy may be filled by the affirmative vote of a  
1416 majority of the remaining directors, notwithstanding any  
1417 provision to the contrary contained in this subsection or in the  
1418 association documents. If vacancies occur on the board as a  
1419 result of a recall and a majority or more of the board directors  
1420 are removed, the vacancies shall be filled by members voting in  
1421 favor of the recall; if removal is at a meeting, any vacancies

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1422 shall be filled by the members at the meeting. If the recall  
1423 occurred by agreement in writing or by written ballot, members  
1424 may vote for replacement directors in the same instrument in  
1425 accordance with procedural rules adopted by the division, which  
1426 rules need not be consistent with this subsection.

1427 (f) If the board fails to duly notice and hold a board  
1428 meeting within 5 full business days after service of an  
1429 agreement in writing or within 5 full business days after the  
1430 adjournment of the member recall meeting, the recall shall be  
1431 deemed effective and the board directors so recalled shall  
1432 immediately turn over to the board all records and property of  
1433 the association.

1434 (g) If the board fails to duly notice and hold the required  
1435 meeting or fails to file the required petition, the unit owner  
1436 representative may file a petition pursuant to s. 718.1255  
1437 challenging the board's failure to act. The petition must be  
1438 filed within 60 days after the expiration of the applicable 5-  
1439 full-business-day period. The review of a petition under this  
1440 paragraph is limited to the sufficiency of service on the board  
1441 and the facial validity of the written agreement or ballots  
1442 filed.

1443 (h)~~(g)~~ If a director who is removed fails to relinquish his  
1444 or her office or turn over records as required under this  
1445 section, the circuit court in the county where the association  
1446 maintains its principal office may, upon the petition of the  
1447 association, summarily order the director to relinquish his or  
1448 her office and turn over all association records upon  
1449 application of the association.

1450 (i)~~(h)~~ The minutes of the board meeting at which the board

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1451 decides whether to certify the recall are an official  
1452 association record. The minutes must record the date and time of  
1453 the meeting, the decision of the board, and the vote count taken  
1454 on each board member subject to the recall. In addition, when  
1455 the board decides not to certify the recall, as to each vote  
1456 rejected, the minutes must identify the parcel number and the  
1457 specific reason for each such rejection.

1458 (j)~~(i)~~ When the recall of more than one board director is  
1459 sought, the written agreement, ballot, or vote at a meeting  
1460 shall provide for a separate vote for each board director sought  
1461 to be recalled.

1462 (k) A board member who has been recalled may file a  
1463 petition pursuant to ss. 718.112(2)(j) and 718.1255 and the  
1464 rules adopted challenging the validity of the recall. The  
1465 petition must be filed within 60 days after the recall is deemed  
1466 certified. The association and the unit owner representative  
1467 shall be named as respondents.

1468 (l) The division may not accept for filing a recall  
1469 petition, whether filed pursuant to paragraph (b), paragraph  
1470 (c), paragraph (g), or paragraph (k) and regardless of whether  
1471 the recall was certified, when there are 60 or fewer days until  
1472 the scheduled reelection of the board member sought to be  
1473 recalled or when 60 or fewer days have not elapsed since the  
1474 election of the board member sought to be recalled.

1475 Section 14. Subsections (2) and (4) of section 720.305,  
1476 Florida Statutes, are amended to read:

1477 720.305 Obligations of members; remedies at law or in  
1478 equity; levy of fines and suspension of use rights.—

1479 (2) The association may levy reasonable fines of up to \$100

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1480 per violation against any member or any member's tenant, guest,  
1481 or invitee for the failure of the owner of the parcel or its  
1482 occupant, licensee, or invitee to comply with any provision of  
1483 the declaration, the association bylaws, or reasonable rules of  
1484 the association. A fine may be levied for each day of a  
1485 continuing violation, with a single notice and opportunity for  
1486 hearing, except that the fine may not exceed \$1,000 in the  
1487 aggregate unless otherwise provided in the governing documents.  
1488 A fine of less than \$1,000 may not become a lien against a  
1489 parcel. In any action to recover a fine, the prevailing party is  
1490 entitled to reasonable attorney ~~attorney's~~ fees and costs from  
1491 the nonprevailing party as determined by the court.

1492 (a) An association may suspend, for a reasonable period of  
1493 time, the right of a member, or a member's tenant, guest, or  
1494 invitee, to use common areas and facilities for the failure of  
1495 the owner of the parcel or its occupant, licensee, or invitee to  
1496 comply with any provision of the declaration, the association  
1497 bylaws, or reasonable rules of the association. This paragraph  
1498 does not apply to that portion of common areas used to provide  
1499 access or utility services to the parcel. A suspension may not  
1500 impair the right of an owner or tenant of a parcel to have  
1501 vehicular and pedestrian ingress to and egress from the parcel,  
1502 including, but not limited to, the right to park.

1503 (b) A fine or suspension may not be imposed without at  
1504 least 14 days' notice to the person sought to be fined or  
1505 suspended and an opportunity for a hearing before a committee of  
1506 at least three members appointed by the board who are not  
1507 officers, directors, or employees of the association, or the  
1508 spouse, parent, child, brother, or sister of an officer,

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1509 director, or employee. If the committee, by majority vote, does  
1510 not approve a proposed fine or suspension, it may not be  
1511 imposed. If the association imposes a fine or suspension, the  
1512 association must provide written notice of such fine or  
1513 suspension by mail or hand delivery to the parcel owner and, if  
1514 applicable, to any tenant, licensee, or invitee of the parcel  
1515 owner.

1516 (4) An association may suspend the voting rights of a  
1517 parcel or member for the nonpayment of any monetary obligation  
1518 due ~~to~~ the association that is more than 90 days delinquent. ~~A~~  
1519 ~~voting interest or consent right allocated to a parcel or member~~  
1520 ~~which has been suspended by the association may not be counted~~  
1521 ~~towards the total number of voting interests for any purpose,~~  
1522 ~~including, but not limited to, the number of voting interests~~  
1523 ~~necessary to constitute a quorum, the number of voting interests~~  
1524 ~~required to conduct an election, or the number of voting~~  
1525 ~~interests required to approve an action under this chapter or~~  
1526 ~~pursuant to the governing documents.~~ The notice and hearing  
1527 requirements under subsection (2) do not apply to a suspension  
1528 imposed under this subsection. The suspension ends upon full  
1529 payment of all obligations currently due or overdue to the  
1530 association.

1531 Section 15. Paragraph (d) is added to subsection (1) of  
1532 section 720.306, Florida Statutes, and subsections (6) and (9)  
1533 of that section are amended, to read:

1534 720.306 Meetings of members; voting and election  
1535 procedures; amendments.—

1536 (1) QUORUM; AMENDMENTS.—

1537 (d) The Legislature finds that the procurement of mortgagee

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1538 consent to amendments that do not affect the rights or interests  
1539 of mortgagees is an unreasonable and substantial logistical and  
1540 financial burden on the parcel owners and that there is a  
1541 compelling state interest in enabling the members of an  
1542 association to approve amendments to the association's governing  
1543 documents through legal means. Accordingly, and notwithstanding  
1544 any provision of this paragraph to the contrary:

1545 1. As to any mortgage recorded on or after July 1, 2013,  
1546 any provision in the association's governing documents that  
1547 requires the consent or joinder of some or all mortgagees of  
1548 parcels or any other portion of the association's common areas  
1549 to amend the association's governing documents or for any other  
1550 matter is enforceable only as to amendments to the association's  
1551 governing documents that adversely affect the priority of the  
1552 mortgagee's lien or the mortgagee's rights to foreclose its lien  
1553 or that otherwise materially affect the rights and interests of  
1554 the mortgagees.

1555 2. As to mortgages recorded before July 1, 2013, any  
1556 existing provisions in the association's governing documents  
1557 requiring mortgagee consent are enforceable.

1558 3. In securing consent or joinder, the association is  
1559 entitled to rely upon the public records to identify the holders  
1560 of outstanding mortgages. The association may use the address  
1561 provided in the original recorded mortgage document, unless  
1562 there is a different address for the holder of the mortgage in a  
1563 recorded assignment or modification of the mortgage, which  
1564 recorded assignment or modification must reference the official  
1565 records book and page on which the original mortgage was  
1566 recorded. Once the association has identified the recorded

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1567 mortgages of record, the association shall, in writing, request  
1568 of each parcel owner whose parcel is encumbered by a mortgage of  
1569 record any information that the owner has in his or her  
1570 possession regarding the name and address of the person to whom  
1571 mortgage payments are currently being made. Notice shall be sent  
1572 to such person if the address provided in the original recorded  
1573 mortgage document is different from the name and address of the  
1574 mortgagee or assignee of the mortgage as shown by the public  
1575 record. The association is deemed to have complied with this  
1576 requirement by making the written request of the parcel owners  
1577 required under this subparagraph. Any notices required to be  
1578 sent to the mortgagees under this subparagraph shall be sent to  
1579 all available addresses provided to the association.

1580 4. Any notice to the mortgagees required under subparagraph  
1581 3. may be sent by a method that establishes proof of delivery,  
1582 and any mortgagee who fails to respond within 60 days after the  
1583 date of mailing is deemed to have consented to the amendment.

1584 5. For those amendments requiring mortgagee consent on or  
1585 after July 1, 2013, in the event mortgagee consent is provided  
1586 other than by properly recorded joinder, such consent shall be  
1587 evidenced by affidavit of the association recorded in the public  
1588 records of the county in which the declaration is recorded.

1589 6. Any amendment adopted without the required consent of a  
1590 mortgagee is voidable only by a mortgagee who was entitled to  
1591 notice and an opportunity to consent. An action to void an  
1592 amendment is subject to the statute of limitations beginning 5  
1593 years after the date of discovery as to the amendments described  
1594 in subparagraph 1. and 5 years after the date of recordation of  
1595 the certificate of amendment for all other amendments. This

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1596 subparagraph applies to all mortgages, regardless of the date of  
1597 recordation of the mortgage.

1598 (6) RIGHT TO SPEAK.—Members and parcel owners have the  
1599 right to attend all membership meetings and to speak at any  
1600 meeting with reference to all items opened for discussion or  
1601 included on the agenda. Notwithstanding any provision to the  
1602 contrary in the governing documents or any rules adopted by the  
1603 board or by the membership, a member and a parcel owner have the  
1604 right to speak for at least 3 minutes on any item, ~~provided that~~  
1605 ~~the member or parcel owner submits a written request to speak~~  
1606 ~~prior to the meeting.~~ The association may adopt written  
1607 reasonable rules governing the frequency, duration, and other  
1608 manner of member and parcel owner statements, which rules must  
1609 be consistent with this subsection.

1610 (9) ~~(a)~~ ELECTIONS AND BOARD VACANCIES.—

1611 (a) Elections of directors must be conducted in accordance  
1612 with the procedures set forth in the governing documents of the  
1613 association. All members of the association are eligible to  
1614 serve on the board of directors, and a member may nominate  
1615 himself or herself as a candidate for the board at a meeting  
1616 where the election is to be held or, if the election process  
1617 allows voting by absentee ballot, in advance of the balloting.  
1618 Except as otherwise provided in the governing documents, boards  
1619 of directors must be elected by a plurality of the votes cast by  
1620 eligible voters. Any challenge to the election process must be  
1621 commenced within 60 days after the election results are  
1622 announced.

1623 (b) A person who is delinquent in the payment of any fee,  
1624 fine, or other monetary obligation to the association for more



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1625 than 90 days is not eligible for board membership. A person who  
1626 has been convicted of any felony in this state or in a United  
1627 States District or Territorial Court, or has been convicted of  
1628 any offense in another jurisdiction which would be considered a  
1629 felony if committed in this state, is not eligible for board  
1630 membership unless such felon's civil rights have been restored  
1631 for at least 5 years as of the date on which such person seeks  
1632 election to the board. The validity of any action by the board  
1633 is not affected if it is later determined that a member of the  
1634 board is ineligible for board membership.

1635 (c) Any election dispute between a member and an  
1636 association must be submitted to mandatory binding arbitration  
1637 with the division. Such proceedings must be conducted in the  
1638 manner provided by s. 718.1255 and the procedural rules adopted  
1639 by the division. Unless otherwise provided in the bylaws, any  
1640 vacancy occurring on the board before the expiration of a term  
1641 may be filled by an affirmative vote of the majority of the  
1642 remaining directors, even if the remaining directors constitute  
1643 less than a quorum, or by the sole remaining director. In the  
1644 alternative, a board may hold an election to fill the vacancy,  
1645 in which case the election procedures must conform to the  
1646 requirements of the governing documents. Unless otherwise  
1647 provided in the bylaws, a board member appointed or elected  
1648 under this section is appointed for the unexpired term of the  
1649 seat being filled. Filling vacancies created by recall is  
1650 governed by s. 720.303(10) and rules adopted by the division.

1651 Section 16. This act shall take effect July 1, 2013.