

By the Committee on Regulated Industries; and Senator Altman

580-01744-13

2013436c1

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.
5 514.0115, F.S.; revising specified supervision and
6 regulation exemptions for homeowners' association
7 swimming pools; amending s. 718.111, F.S.; revising
8 requirements for an association's approval of land
9 purchases and recreational leases; revising
10 reconstruction costs for which unit owners are
11 responsible and authorizing the costs to be collected
12 in a specified manner; requiring an association to
13 repair or replace as a common expense certain
14 condominium property damaged by an insurable event;
15 requiring an association to allow a member or the
16 member's representative to use certain portable
17 devices to make electronic copies of association
18 records; prohibiting the association from charging the
19 member or representative for using the portable
20 device; revising requirements for the preparation of
21 an association's annual financial statement; amending
22 s. 718.112, F.S.; revising terms of members of an
23 association's board of administrators and revising
24 eligibility criteria for candidates; revising
25 condominium unit owner meeting notice requirements;
26 providing for nonapplicability to associations
27 governing timeshare condominiums of certain provisions
28 relating to elections of board members; revising
29 recordkeeping requirements of a condominium

580-01744-13

2013436c1

30 association board; requiring commencement of
31 challenges to an election within a specified period;
32 providing requirements for challenging the failure of
33 a board to duly notice and hold the required board
34 meeting or to file the required petition for a recall;
35 providing requirements for recalled board members to
36 challenge the recall; prohibiting the Division of
37 Florida Condominiums, Timeshares, and Mobile Homes of
38 the Department of Business and Professional Regulation
39 from accepting recall petitions for filing under
40 certain circumstances; amending s. 718.113, F.S.;
41 providing requirements for a condominium association
42 board relating to the installation of hurricane
43 shutters, impact glass, code-compliant windows or
44 doors, and other types of code-compliant hurricane
45 protection under certain circumstances; amending s.
46 718.115, F.S.; conforming provisions to changes made
47 by the act; amending s. 718.303, F.S.; revising
48 provisions relating to imposing remedies against a
49 noncompliant or delinquent condominium unit owner or
50 member; amending s. 718.403, F.S.; providing
51 requirements for the completion of phase condominiums;
52 creating s. 718.406, F.S.; providing definitions;
53 providing requirements for condominiums created within
54 condominium parcels; providing for the establishment
55 of primary condominium and secondary condominium
56 units; providing requirements for association
57 declarations; authorizing a primary condominium
58 association to provide insurance and adopt hurricane

580-01744-13

2013436c1

59 shutter or hurricane protection specifications under
60 certain conditions; providing requirements relating to
61 assessments; providing for resolution of conflicts
62 between primary condominium declarations and secondary
63 condominium declarations; providing requirements
64 relating to common expenses due the primary
65 condominium association; amending s. 718.5011, F.S.;
66 revising the restriction on officers and full-time
67 employees of the ombudsman from engaging in other
68 businesses or professions; amending s. 719.104, F.S.;
69 requiring an association to allow a member or the
70 member's representative to use certain portable
71 devices to make electronic copies of association
72 records; prohibiting the association from charging the
73 member or representative for using the portable
74 device; specifying additional records that are not
75 accessible to unit owners; amending s. 719.1055, F.S.;
76 revising provisions relating to the amendment of
77 cooperative documents; providing legislative findings
78 and a finding of compelling state interest; providing
79 criteria for consent or joinder to an amendment;
80 requiring notice regarding proposed amendments to
81 mortgagees; providing criteria for notification;
82 providing for voiding certain amendments; amending s.
83 719.106, F.S.; revising applicability of certain board
84 of administration meeting requirements; requiring
85 commencement of challenges to an election within a
86 specified period; specifying certification or
87 educational requirements for a newly elected or

580-01744-13

2013436c1

88 appointed cooperative board director; providing
89 requirements for challenging the failure of a board to
90 duly notice and hold the required board meeting or to
91 file the required petition for a recall; providing
92 requirements for recalled board members to challenge
93 the recall; prohibiting the division from accepting
94 recall petitions for filing under certain
95 circumstances; providing education requirements for
96 board members; amending s. 719.303, F.S.; revising
97 provisions relating to imposing remedies against a
98 noncompliant or delinquent cooperative unit owner or
99 member; amending s. 719.501, F.S.; authorizing the
100 division to provide training and educational programs
101 for cooperative association board members and unit
102 owners; amending s. 720.303, F.S.; requiring an
103 association to allow a member or the member's
104 representative to use certain portable devices to make
105 electronic copies of association records; prohibiting
106 the association from charging the member or
107 representative for using the portable device; revising
108 requirements for the preparation of an association's
109 annual financial statement; revising the types of
110 records that are not accessible to homeowners'
111 association members and parcel owners; providing
112 requirements for challenging the failure of a board to
113 duly notice and hold the required board meeting or to
114 file the required petition for a recall; providing
115 requirements for recalled board members to challenge
116 the recall; prohibiting the division from accepting

580-01744-13

2013436c1

117 recall petitions for filing under certain
118 circumstances; amending s. 720.305, F.S.; revising
119 provisions relating to imposing remedies against a
120 noncompliant or delinquent homeowners' association
121 member and parcel owner; amending s. 720.306, F.S.;
122 revising provisions relating to the amendment of
123 homeowners' association declarations; providing
124 legislative findings and a finding of compelling state
125 interest; providing criteria for consent or joinder to
126 an amendment; requiring notice to mortgagees regarding
127 proposed amendments; providing criteria for
128 notification; providing for voiding certain
129 amendments; revising provisions relating to right to
130 speak at a homeowners' association meeting; requiring
131 commencement of challenges to an election within a
132 specified period; providing an effective date.

133

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

135

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

138 399.02 General requirements.—

139 (9) Updates to the Safety Code for Existing Elevators and
140 Escalators, ASME A17.1 and A17.3, which require Phase II
141 Firefighters' Service on elevators may not be enforced ~~until~~
142 ~~July 1, 2015, or~~ until the elevator is replaced or requires
143 major modification, ~~whichever occurs first,~~ on elevators in
144 condominiums or multifamily residential buildings, including
145 those that are part of a continuing care facility licensed under

580-01744-13

2013436c1

146 chapter 651, or similar retirement community with apartments,
147 having a certificate of occupancy by the local building
148 authority that was issued before July 1, 2008. This exception
149 does not prevent an elevator owner from requesting a variance
150 from the applicable codes ~~before or after July 1, 2015~~. This
151 subsection does not prohibit the division from granting
152 variances pursuant to s. 120.542 and subsection (8). The
153 division shall adopt rules to administer this subsection.

154 Section 2. Subsection (2) of section 514.0115, Florida
155 Statutes, is amended to read:

156 514.0115 Exemptions from supervision or regulation;
157 variances.—

158 (2) (a) Pools serving no more than 32 condominium units, ~~or~~
159 cooperative units, or parcels in a homeowners' association as
160 defined in s. 720.301, which are not operated as a transient
161 public lodging establishment, are ~~shall be~~ exempt from
162 supervision under this chapter, except for water quality.

163 (b) Pools serving more than 32 condominium units, ~~or~~
164 cooperative units, or parcels in a homeowners' association as
165 defined in s. 720.301, ~~associations of more than 32 units~~ and
166 whose recorded documents prohibit the rental or sublease of the
167 units or parcels for periods of less than 60 days are exempt
168 from supervision under this chapter, except that the
169 condominium, ~~or cooperative~~, or parcel owner or association must
170 file applications with the department and obtain construction
171 plans approval and receive an initial operating permit. The
172 department shall inspect the swimming pools at such places
173 annually, at the fee set forth in s. 514.033(3), or upon request
174 by a unit owner, to determine compliance with department rules

580-01744-13

2013436c1

175 relating to water quality and lifesaving equipment. The
176 department may not require compliance with rules relating to
177 swimming pool lifeguard standards.

178 Section 3. Subsection (8), paragraphs (g) and (j) of
179 subsection (11), paragraph (c) of subsection (12), and
180 paragraphs (a) and (b) of subsection (13) of section 718.111,
181 Florida Statutes, are amended to read:

182 718.111 The association.—

183 (8) PURCHASE OF LEASES.—The association has the power to
184 purchase any land or recreation lease, subject to the same
185 manner of approval as in s. 718.114 for the acquisition of
186 leaseholds ~~upon the approval of such voting interest as is~~
187 ~~required by the declaration. If the declaration makes no~~
188 ~~provision for acquisition of the land or recreation lease, the~~
189 ~~vote required shall be that required to amend the declaration to~~
190 ~~permit the acquisition.~~

191 (11) INSURANCE.—In order to protect the safety, health, and
192 welfare of the people of the State of Florida and to ensure
193 consistency in the provision of insurance coverage to
194 condominiums and their unit owners, this subsection applies to
195 every residential condominium in the state, regardless of the
196 date of its declaration of condominium. It is the intent of the
197 Legislature to encourage lower or stable insurance premiums for
198 associations described in this subsection.

199 (g) A condominium unit owner's policy must conform to the
200 requirements of s. 627.714.

201 1. All reconstruction work after a property loss must be
202 undertaken by the association except as otherwise authorized in
203 this section. A unit owner may undertake reconstruction work on

580-01744-13

2013436c1

204 portions of the unit with the prior written consent of the board
205 of administration. However, such work may be conditioned upon
206 the approval of the repair methods, the qualifications of the
207 proposed contractor, or the contract that is used for that
208 purpose. A unit owner must obtain all required governmental
209 permits and approvals before commencing reconstruction.

210 2. Unit owners are responsible for the cost of
211 reconstruction of any portions of the condominium property for
212 which the unit owner is required to carry property insurance, or
213 for which the unit owner is responsible under paragraph (j), and
214 the cost of any such reconstruction work undertaken by the
215 association is chargeable to the unit owner and enforceable as
216 an assessment and may be collected in the manner provided for
217 the collection of assessments pursuant to s. 718.116.

218 3. A multicondominium association may elect, by a majority
219 vote of the collective members of the condominiums operated by
220 the association, to operate the condominiums as a single
221 condominium for purposes of insurance matters, including, but
222 not limited to, the purchase of the property insurance required
223 by this section and the apportionment of deductibles and damages
224 in excess of coverage. The election to aggregate the treatment
225 of insurance premiums, deductibles, and excess damages
226 constitutes an amendment to the declaration of all condominiums
227 operated by the association, and the costs of insurance must be
228 stated in the association budget. The amendments must be
229 recorded as required by s. 718.110.

230 (j) Any portion of the condominium property that must be
231 insured by the association against property loss pursuant to
232 paragraph (f) which is damaged by an insurable event shall be

580-01744-13

2013436c1

233 reconstructed, repaired, or replaced as necessary by the
234 association as a common expense. All property insurance
235 deductibles, uninsured losses, and other damages in excess of
236 property insurance coverage under the property insurance
237 policies maintained by the association are a common expense of
238 the condominium, except that:

239 1. A unit owner is responsible for the costs of repair or
240 replacement of any portion of the condominium property not paid
241 by insurance proceeds if such damage is caused by intentional
242 conduct, negligence, or failure to comply with the terms of the
243 declaration or the rules of the association by a unit owner, the
244 members of his or her family, unit occupants, tenants, guests,
245 or invitees, without compromise of the subrogation rights of the
246 insurer.

247 2. The provisions of subparagraph 1. regarding the
248 financial responsibility of a unit owner for the costs of
249 repairing or replacing other portions of the condominium
250 property also apply to the costs of repair or replacement of
251 personal property of other unit owners or the association, as
252 well as other property, whether real or personal, which the unit
253 owners are required to insure.

254 3. To the extent the cost of repair or reconstruction for
255 which the unit owner is responsible under this paragraph is
256 reimbursed to the association by insurance proceeds, and the
257 association has collected the cost of such repair or
258 reconstruction from the unit owner, the association shall
259 reimburse the unit owner without the waiver of any rights of
260 subrogation.

261 4. The association is not obligated to pay for

580-01744-13

2013436c1

262 reconstruction or repairs of property losses as a common expense
263 if the property losses were known or should have been known to a
264 unit owner and were not reported to the association until after
265 the insurance claim of the association for that property was
266 settled or resolved with finality, or denied because it was
267 untimely filed.

268 (12) OFFICIAL RECORDS.—

269 (c) The official records of the association are open to
270 inspection by any association member or the authorized
271 representative of such member at all reasonable times. The right
272 to inspect the records includes the right to make or obtain
273 copies, at the reasonable expense, if any, of the member. The
274 association may adopt reasonable rules regarding the frequency,
275 time, location, notice, and manner of record inspections and
276 copying. The failure of an association to provide the records
277 within 10 working days after receipt of a written request
278 creates a rebuttable presumption that the association willfully
279 failed to comply with this paragraph. A unit owner who is denied
280 access to official records is entitled to the actual damages or
281 minimum damages for the association's willful failure to comply.
282 Minimum damages are \$50 per calendar day for up to 10 days,
283 beginning on the 11th working day after receipt of the written
284 request. The failure to permit inspection entitles any person
285 prevailing in an enforcement action to recover reasonable
286 attorney ~~attorney's~~ fees from the person in control of the
287 records who, directly or indirectly, knowingly denied access to
288 the records. Any person who knowingly or intentionally defaces
289 or destroys accounting records that are required by this chapter
290 to be maintained during the period for which such records are

580-01744-13

2013436c1

291 required to be maintained, or who knowingly or intentionally
292 fails to create or maintain accounting records that are required
293 to be created or maintained, with the intent of causing harm to
294 the association or one or more of its members, is personally
295 subject to a civil penalty pursuant to s. 718.501(1)(d). The
296 association shall maintain an adequate number of copies of the
297 declaration, articles of incorporation, bylaws, and rules, and
298 all amendments to each of the foregoing, as well as the question
299 and answer sheet as described in s. 718.504 and year-end
300 financial information required under this section, on the
301 condominium property to ensure their availability to unit owners
302 and prospective purchasers, and may charge its actual costs for
303 preparing and furnishing these documents to those requesting the
304 documents. An association shall allow a member or his or her
305 authorized representative to use a portable device, including a
306 smartphone, tablet, portable scanner, or any other technology
307 capable of scanning or taking photographs, to make an electronic
308 copy of the official records in lieu of the association's
309 providing the member or his or her authorized representative
310 with a copy of such records. The association may not charge a
311 member or his or her authorized representative for the use of a
312 portable device. Notwithstanding this paragraph, the following
313 records are not accessible to unit owners:

314 1. Any record protected by the lawyer-client privilege as
315 described in s. 90.502 and any record protected by the work-
316 product privilege, including a record prepared by an association
317 attorney or prepared at the attorney's express direction, which
318 reflects a mental impression, conclusion, litigation strategy,
319 or legal theory of the attorney or the association, and which

580-01744-13

2013436c1

320 was prepared exclusively for civil or criminal litigation or for
321 adversarial administrative proceedings, or which was prepared in
322 anticipation of such litigation or proceedings until the
323 conclusion of the litigation or proceedings.

324 2. Information obtained by an association in connection
325 with the approval of the lease, sale, or other transfer of a
326 unit.

327 3. Personnel records of association or management company
328 employees, including, but not limited to, disciplinary, payroll,
329 health, and insurance records. For purposes of this
330 subparagraph, the term "personnel records" does not include
331 written employment agreements with an association employee or
332 management company, or budgetary or financial records that
333 indicate the compensation paid to an association employee.

334 4. Medical records of unit owners.

335 5. Social security numbers, driver ~~driver's~~ license
336 numbers, credit card numbers, e-mail addresses, telephone
337 numbers, facsimile numbers, emergency contact information,
338 addresses of a unit owner other than as provided to fulfill the
339 association's notice requirements, and other personal
340 identifying information of any person, excluding the person's
341 name, unit designation, mailing address, property address, and
342 any address, e-mail address, or facsimile number provided to the
343 association to fulfill the association's notice requirements.
344 However, an owner may consent in writing to the disclosure of
345 protected information described in this subparagraph. The
346 association is not liable for the inadvertent disclosure of
347 information that is protected under this subparagraph if the
348 information is included in an official record of the association

580-01744-13

2013436c1

349 and is voluntarily provided by an owner and not requested by the
350 association.

351 6. Electronic security measures that are used by the
352 association to safeguard data, including passwords.

353 7. The software and operating system used by the
354 association which allow the manipulation of data, even if the
355 owner owns a copy of the same software used by the association.
356 The data is part of the official records of the association.

357 (13) FINANCIAL REPORTING.—Within 90 days after the end of
358 the fiscal year, or annually on a date provided in the bylaws,
359 the association shall prepare and complete, or contract for the
360 preparation and completion of, a financial report for the
361 preceding fiscal year. Within 21 days after the final financial
362 report is completed by the association or received from the
363 third party, but not later than 120 days after the end of the
364 fiscal year or other date as provided in the bylaws, the
365 association shall mail to each unit owner at the address last
366 furnished to the association by the unit owner, or hand deliver
367 to each unit owner, a copy of the financial report or a notice
368 that a copy of the financial report will be mailed or hand
369 delivered to the unit owner, without charge, upon receipt of a
370 written request from the unit owner. The division shall adopt
371 rules setting forth uniform accounting principles and standards
372 to be used by all associations and addressing the financial
373 reporting requirements for multicondominium associations. The
374 rules must include, but not be limited to, standards for
375 presenting a summary of association reserves, including a good
376 faith estimate disclosing the annual amount of reserve funds
377 that would be necessary for the association to fully fund

580-01744-13

2013436c1

378 reserves for each reserve item based on the straight-line
379 accounting method. This disclosure is not applicable to reserves
380 funded via the pooling method. In adopting such rules, the
381 division shall consider the number of members and annual
382 revenues of an association. Financial reports shall be prepared
383 as follows:

384 (a) An association that meets the criteria of this
385 paragraph shall prepare a complete set of financial statements
386 in accordance with generally accepted accounting principles. The
387 financial statements must be based upon the association's total
388 annual revenues, as follows:

389 1. An association with total annual revenues of \$200,000
390 ~~\$100,000~~ or more, but less than \$300,000 ~~\$200,000~~, shall prepare
391 compiled financial statements.

392 2. An association with total annual revenues of at least
393 \$300,000 ~~\$200,000~~, but less than \$500,000 ~~\$400,000~~, shall
394 prepare reviewed financial statements.

395 3. An association with total annual revenues of \$500,000
396 ~~\$400,000~~ or more shall prepare audited financial statements.

397 (b)1. An association with total annual revenues of less
398 than \$200,000 ~~\$100,000~~ shall prepare a report of cash receipts
399 and expenditures.

400 2. An association that operates fewer than 75 units,
401 regardless of the association's annual revenues, shall prepare a
402 report of cash receipts and expenditures in lieu of financial
403 statements required by paragraph (a).

404 3. A report of cash receipts and disbursements must
405 disclose the amount of receipts by accounts and receipt
406 classifications and the amount of expenses by accounts and

580-01744-13

2013436c1

407 expense classifications, including, but not limited to, the
408 following, as applicable: costs for security, professional and
409 management fees and expenses, taxes, costs for recreation
410 facilities, expenses for refuse collection and utility services,
411 expenses for lawn care, costs for building maintenance and
412 repair, insurance costs, administration and salary expenses, and
413 reserves accumulated and expended for capital expenditures,
414 deferred maintenance, and any other category for which the
415 association maintains reserves.

416 Section 4. Paragraphs (d) and (j) of subsection (2) of
417 section 718.112, Florida Statutes, are amended to read:

418 718.112 Bylaws.—

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

422 (d) *Unit owner meetings*.—

423 1. An annual meeting of the unit owners shall be held at
424 the location provided in the association bylaws and, if the
425 bylaws are silent as to the location, the meeting shall be held
426 within 45 miles of the condominium property. However, such
427 distance requirement does not apply to an association governing
428 a timeshare condominium.

429 2. Unless the bylaws provide otherwise, a vacancy on the
430 board caused by the expiration of a director's term shall be
431 filled by electing a new board member, and the election must be
432 by secret ballot. An election is not required if the number of
433 vacancies equals or exceeds the number of candidates. For
434 purposes of this paragraph, the term "candidate" means an
435 eligible person who has timely submitted the written notice, as

580-01744-13

2013436c1

436 described in sub-subparagraph 4.a., of his or her intention to
437 become a candidate. Except in a timeshare condominium, or if the
438 staggered term of a board member does not expire until a later
439 annual meeting, or if all members' terms would otherwise expire
440 but there are no candidates, the terms of all board members
441 expire at the annual meeting, and such members may stand for
442 reelection unless prohibited by the bylaws. If the bylaws or
443 articles of incorporation permit ~~staggered~~ terms of no more than
444 2 years ~~and upon approval of a majority of the total voting~~
445 ~~interests~~, the association board members may serve 2-year
446 ~~staggered~~ terms. If the number of board members whose terms
447 expire at the annual meeting equals or exceeds the number of
448 candidates, the candidates become members of the board effective
449 upon the adjournment of the annual meeting. Unless the bylaws
450 provide otherwise, any remaining vacancies shall be filled by
451 the affirmative vote of the majority of the directors making up
452 the newly constituted board even if the directors constitute
453 less than a quorum or there is only one director. In a
454 condominium association of more than 10 units or in a
455 condominium association that does not include timeshare units or
456 timeshare interests, coowners of a unit may not serve as members
457 of the board of directors at the same time unless they own more
458 than one unit or unless there are not enough eligible candidates
459 to fill the vacancies on the board at the time of the vacancy.
460 Any unit owner desiring to be a candidate for board membership
461 must comply with sub-subparagraph 4.a. and must be eligible to
462 be a candidate to serve on the board of directors at the time of
463 the deadline for submitting a notice of intent to run in order
464 to have his or her name listed as a proper candidate on the

580-01744-13

2013436c1

465 ballot or to serve on the board. A person who has been suspended
466 or removed by the division under this chapter, or who is
467 delinquent in the payment of any monetary obligation due to the
468 association fee, fine, or special or regular assessment as
469 provided in paragraph (n), is not eligible to be a candidate for
470 board membership and may not be listed on the ballot. A person
471 who has been convicted of any felony in this state or in a
472 United States District or Territorial Court, or who has been
473 convicted of any offense in another jurisdiction which would be
474 considered a felony if committed in this state, is not eligible
475 for board membership unless such felon's civil rights have been
476 restored for at least 5 years as of the date such person seeks
477 election to the board. The validity of an action by the board is
478 not affected if it is later determined that a board member is
479 ineligible for board membership due to having been convicted of
480 a felony.

481 3. The bylaws must provide the method of calling meetings
482 of unit owners, including annual meetings. Written notice must
483 include an agenda, must be mailed, hand delivered, or
484 electronically transmitted to each unit owner at least 14 days
485 before the annual meeting, and must be posted in a conspicuous
486 place on the condominium property at least 14 continuous days
487 before the annual meeting. Upon notice to the unit owners, the
488 board shall, by duly adopted rule, designate a specific location
489 on the condominium property or association property where all
490 notices of unit owner meetings shall be posted. This requirement
491 does not apply if there is no condominium property or
492 association property for posting notices. In lieu of, or in
493 addition to, the physical posting of meeting notices, the

580-01744-13

2013436c1

494 association may, by reasonable rule, adopt a procedure for
495 conspicuously posting and repeatedly broadcasting the notice and
496 the agenda on a closed-circuit cable television system serving
497 the condominium association. However, if broadcast notice is
498 used in lieu of a notice posted physically on the condominium
499 property, the notice and agenda must be broadcast at least four
500 times every broadcast hour of each day that a posted notice is
501 otherwise required under this section. If broadcast notice is
502 provided, the notice and agenda must be broadcast in a manner
503 and for a sufficient continuous length of time so as to allow an
504 average reader to observe the notice and read and comprehend the
505 entire content of the notice and the agenda. Unless a unit owner
506 waives in writing the right to receive notice of the annual
507 meeting, such notice must be hand delivered, mailed, or
508 electronically transmitted to each unit owner. Notice for
509 meetings and notice for all other purposes must be mailed to
510 each unit owner at the address last furnished to the association
511 by the unit owner, or hand delivered to each unit owner.
512 However, if a unit is owned by more than one person, the
513 association must provide notice to the address that the
514 developer identifies for that purpose and thereafter as one or
515 more of the owners of the unit advise the association in
516 writing, or if no address is given or the owners of the unit do
517 not agree, to the address provided on the deed of record. An
518 officer of the association, or the manager or other person
519 providing notice of the association meeting, must provide an
520 affidavit or United States Postal Service certificate of
521 mailing, to be included in the official records of the
522 association affirming that the notice was mailed or hand

580-01744-13

2013436c1

523 delivered in accordance with this provision.

524 4. The members of the board shall be elected by written
525 ballot or voting machine. Proxies may not be used in electing
526 the board in general elections or elections to fill vacancies
527 caused by recall, resignation, or otherwise, unless otherwise
528 provided in this chapter. This subparagraph does not apply to an
529 association governing a timeshare condominium.

530 a. At least 60 days before a scheduled election, the
531 association shall mail, deliver, or electronically transmit, by
532 separate association mailing or included in another association
533 mailing, delivery, or transmission, including regularly
534 published newsletters, to each unit owner entitled to a vote, a
535 first notice of the date of the election. Any unit owner or
536 other eligible person desiring to be a candidate for the board
537 must give written notice of his or her intent to be a candidate
538 to the association at least 40 days before a scheduled election.
539 Together with the written notice and agenda as set forth in
540 subparagraph 3., the association shall mail, deliver, or
541 electronically transmit a second notice of the election to all
542 unit owners entitled to vote, together with a ballot that lists
543 all candidates. Upon request of a candidate, an information
544 sheet, no larger than 8 1/2 inches by 11 inches, which must be
545 furnished by the candidate at least 35 days before the election,
546 must be included with the mailing, delivery, or transmission of
547 the ballot, with the costs of mailing, delivery, or electronic
548 transmission and copying to be borne by the association. The
549 association is not liable for the contents of the information
550 sheets prepared by the candidates. In order to reduce costs, the
551 association may print or duplicate the information sheets on

580-01744-13

2013436c1

552 both sides of the paper. The division shall by rule establish
553 voting procedures consistent with this sub-subparagraph,
554 including rules establishing procedures for giving notice by
555 electronic transmission and rules providing for the secrecy of
556 ballots. Elections shall be decided by a plurality of ballots
557 cast. There is no quorum requirement; however, at least 20
558 percent of the eligible voters must cast a ballot in order to
559 have a valid election. A unit owner may not permit any other
560 person to vote his or her ballot, and any ballots improperly
561 cast are invalid. A unit owner who violates this provision may
562 be fined by the association in accordance with s. 718.303. A
563 unit owner who needs assistance in casting the ballot for the
564 reasons stated in s. 101.051 may obtain such assistance. The
565 regular election must occur on the date of the annual meeting.
566 Notwithstanding this sub-subparagraph, an election is not
567 required unless more candidates file notices of intent to run or
568 are nominated than board vacancies exist.

569 b. Within 90 days after being elected or appointed to the
570 board, each newly elected or appointed director shall certify in
571 writing to the secretary of the association that he or she has
572 read the association's declaration of condominium, articles of
573 incorporation, bylaws, and current written policies; that he or
574 she will work to uphold such documents and policies to the best
575 of his or her ability; and that he or she will faithfully
576 discharge his or her fiduciary responsibility to the
577 association's members. In lieu of this written certification,
578 within 90 days after being elected or appointed to the board,
579 the newly elected or appointed director may submit a certificate
580 of having satisfactorily completed the educational curriculum

580-01744-13

2013436c1

581 administered by a division-approved condominium education
582 provider within 1 year before or 90 days after the date of
583 election or appointment. The written certification or
584 educational certificate is valid and does not have to be
585 resubmitted as long as the director serves on the board without
586 interruption. A director who fails to timely file the written
587 certification or educational certificate is suspended from
588 service on the board until he or she complies with this sub-
589 subparagraph. The board may temporarily fill the vacancy during
590 the period of suspension. The secretary shall cause the
591 association to retain a director's written certification or
592 educational certificate for inspection by the members for 5
593 years after a director's election or the duration of the
594 director's uninterrupted tenure, whichever is longer. Failure to
595 have such written certification or educational certificate on
596 file does not affect the validity of any board action.

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

599 5. Any approval by unit owners called for by this chapter
600 or the applicable declaration or bylaws, including, but not
601 limited to, the approval requirement in s. 718.111(8), must be
602 made at a duly noticed meeting of unit owners and is subject to
603 all requirements of this chapter or the applicable condominium
604 documents relating to unit owner decisionmaking, except that
605 unit owners may take action by written agreement, without
606 meetings, on matters for which action by written agreement
607 without meetings is expressly allowed by the applicable bylaws
608 or declaration or any law that provides for such action.

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

580-01744-13

2013436c1

610 allowed by the applicable bylaws or declaration or any law. If
611 authorized by the bylaws, notice of meetings of the board of
612 administration, unit owner meetings, except unit owner meetings
613 called to recall board members under paragraph (j), and
614 committee meetings may be given by electronic transmission to
615 unit owners who consent to receive notice by electronic
616 transmission.

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

621 8. A unit owner may tape record or videotape a meeting of
622 the unit owners subject to reasonable rules adopted by the
623 division.

624 9. Unless otherwise provided in the bylaws, any vacancy
625 occurring on the board before the expiration of a term may be
626 filled by the affirmative vote of the majority of the remaining
627 directors, even if the remaining directors constitute less than
628 a quorum, or by the sole remaining director. In the alternative,
629 a board may hold an election to fill the vacancy, in which case
630 the election procedures must conform to sub-subparagraph 4.a.
631 unless the association governs 10 units or fewer and has opted
632 out of the statutory election process, in which case the bylaws
633 of the association control. Unless otherwise provided in the
634 bylaws, a board member appointed or elected under this section
635 shall fill the vacancy for the unexpired term of the seat being
636 filled. Filling vacancies created by recall is governed by
637 paragraph (j) and rules adopted by the division.

638 10. This chapter does not limit the use of general or

580-01744-13

2013436c1

639 limited proxies, require the use of general or limited proxies,
640 or require the use of a written ballot or voting machine for any
641 agenda item or election at any meeting of a timeshare
642 condominium association.

643

644 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
645 association of 10 or fewer units may, by affirmative vote of a
646 majority of the total voting interests, provide for different
647 voting and election procedures in its bylaws, which may be by a
648 proxy specifically delineating the different voting and election
649 procedures. The different voting and election procedures may
650 provide for elections to be conducted by limited or general
651 proxy.

652 (j) *Recall of board members.*—Subject to ~~the provisions of~~
653 s. 718.301, any member of the board of administration may be
654 recalled and removed from office with or without cause by the
655 vote or agreement in writing by a majority of all the voting
656 interests. A special meeting of the unit owners to recall a
657 member or members of the board of administration may be called
658 by 10 percent of the voting interests giving notice of the
659 meeting as required for a meeting of unit owners, and the notice
660 shall state the purpose of the meeting. Electronic transmission
661 may not be used as a method of giving notice of a meeting called
662 in whole or in part for this purpose.

663 1. If the recall is approved by a majority of all voting
664 interests by a vote at a meeting, the recall will be effective
665 as provided in this paragraph herein. The board shall duly
666 notice and hold a board meeting within 5 full business days
667 after ~~of~~ the adjournment of the unit owner meeting to recall one

580-01744-13

2013436c1

668 or more board members. At the meeting, the board shall either
669 certify the recall, in which case such member or members shall
670 be recalled effective immediately and shall turn over to the
671 board within 5 full business days any and all records and
672 property of the association in their possession, or shall
673 proceed as set forth in subparagraph 3.

674 2. If the proposed recall is by an agreement in writing by
675 a majority of all voting interests, the agreement in writing or
676 a copy thereof shall be served on the association by certified
677 mail or by personal service in the manner authorized by chapter
678 48 and the Florida Rules of Civil Procedure. The board of
679 administration shall duly notice and hold a meeting of the board
680 within 5 full business days after receipt of the agreement in
681 writing. At the meeting, the board shall either certify the
682 written agreement to recall a member or members of the board, in
683 which case such member or members shall be recalled effective
684 immediately and shall turn over to the board within 5 full
685 business days any and all records and property of the
686 association in their possession, or proceed as described in
687 subparagraph 3.

688 3. If the board determines not to certify the written
689 agreement to recall a member or members of the board, or does
690 not certify the recall by a vote at a meeting, the board shall,
691 within 5 full business days after the meeting, file with the
692 division a petition for arbitration pursuant to the procedures
693 in s. 718.1255. For the purposes of this section, the unit
694 owners who voted at the meeting or who executed the agreement in
695 writing shall constitute one party under the petition for
696 arbitration. If the arbitrator certifies the recall as to any

580-01744-13

2013436c1

697 member or members of the board, the recall will be effective
698 upon mailing of the final order of arbitration to the
699 association. If the association fails to comply with the order
700 of the arbitrator, the division may take action pursuant to s.
701 718.501. Any member or members so recalled shall deliver to the
702 board any and all records of the association in their possession
703 within 5 full business days after ~~of~~ the effective date of the
704 recall.

705 4. If the board fails to duly notice and hold a board
706 meeting within 5 full business days after ~~of~~ service of an
707 agreement in writing or within 5 full business days after ~~of~~ the
708 adjournment of the unit owner recall meeting, the recall shall
709 be deemed effective and the board members so recalled shall
710 immediately turn over to the board any and all records and
711 property of the association.

712 5. If the board fails to duly notice and hold the required
713 meeting or fails to file the required petition, the unit owner
714 representative may file a petition pursuant to s. 718.1255
715 challenging the board's failure to act. The petition must be
716 filed within 60 days after the expiration of the applicable 5-
717 full-business-day period. The review of a petition under this
718 subparagraph is limited to the sufficiency of service on the
719 board and the facial validity of the written agreement or
720 ballots filed.

721 ~~6.5.~~ If a vacancy occurs on the board as a result of a
722 recall or removal and less than a majority of the board members
723 are removed, the vacancy may be filled by the affirmative vote
724 of a majority of the remaining directors, notwithstanding any
725 provision to the contrary contained in this subsection. If

580-01744-13

2013436c1

726 vacancies occur on the board as a result of a recall and a
727 majority or more of the board members are removed, the vacancies
728 shall be filled in accordance with procedural rules to be
729 adopted by the division, which rules need not be consistent with
730 this subsection. The rules must provide procedures governing the
731 conduct of the recall election as well as the operation of the
732 association during the period after a recall but before ~~prior to~~
733 the recall election.

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

739 8. The division may not accept for filing a recall
740 petition, whether filed pursuant to subparagraph 1.,
741 subparagraph 2., subparagraph 5., or subparagraph 7. and
742 regardless of whether the recall was certified, when there are
743 60 or fewer days until the scheduled reelection of the board
744 member sought to be recalled or when 60 or fewer days have
745 elapsed since the election of the board member sought to be
746 recalled.

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

749 718.113 Maintenance; limitation upon improvement; display
750 of flag; hurricane shutters and protection; display of religious
751 decorations.—

752 (5) Each board of administration shall adopt hurricane
753 shutter specifications for each building within each condominium
754 operated by the association which shall include color, style,

580-01744-13

2013436c1

755 and other factors deemed relevant by the board. All
756 specifications adopted by the board must comply with the
757 applicable building code.

758 (a) The board may, subject to ~~the provisions of s.~~
759 718.3026~~7~~, and the approval of a majority of voting interests of
760 the condominium, install hurricane shutters, impact glass, ~~or~~
761 ~~other~~ code-compliant windows or doors, or other types of code-
762 compliant hurricane protection that comply ~~complies~~ with or
763 exceed ~~exceeds~~ the applicable building code. However, a vote of
764 the owners is not required if the maintenance, repair, and
765 replacement of hurricane shutters, impact glass, ~~or other~~ code-
766 compliant windows or doors, or other types of code-compliant
767 hurricane protection are the responsibility of the association
768 pursuant to the declaration of condominium. If hurricane
769 protection or laminated glass or window film architecturally
770 designed to function as hurricane protection that ~~which~~ complies
771 with or exceeds the current applicable building code has been
772 previously installed, the board may not install hurricane
773 shutters, ~~hurricane protection, or~~ impact glass, ~~or other~~ code-
774 compliant windows or doors, or other types of code-compliant
775 hurricane protection except upon approval by a majority vote of
776 the voting interests.

777 (b) The association is responsible for the maintenance,
778 repair, and replacement of the hurricane shutters, impact glass,
779 code-compliant windows or doors, or other types of code-
780 compliant hurricane protection authorized by this subsection if
781 such property ~~hurricane shutters or other hurricane protection~~
782 is the responsibility of the association pursuant to the
783 declaration of condominium. If the hurricane shutters, impact

580-01744-13

2013436c1

784 glass, code-compliant windows or doors, or other types of code-
785 compliant hurricane protection ~~authorized by this subsection~~ are
786 the responsibility of the unit owners pursuant to the
787 declaration of condominium, the maintenance, repair, and
788 replacement of such items are the responsibility of the unit
789 owner.

790 (c) The board may operate shutters, impact glass, code-
791 compliant windows or doors, or other types of code-compliant
792 hurricane protection installed pursuant to this subsection
793 without permission of the unit owners only if such operation is
794 necessary to preserve and protect the condominium property and
795 association property. The installation, replacement, operation,
796 repair, and maintenance of such shutters, impact glass, code-
797 compliant windows or doors, or other types of code-compliant
798 hurricane protection in accordance with the procedures set forth
799 in this paragraph are not a material alteration to the common
800 elements or association property within the meaning of this
801 section.

802 (d) Notwithstanding any other provision in the condominium
803 documents, if approval is required by the documents, a board may
804 not refuse to approve the installation or replacement of
805 hurricane shutters, impact glass, code-compliant windows or
806 doors, or other types of code-compliant hurricane protection by
807 a unit owner conforming to the specifications adopted by the
808 board.

809 Section 6. Paragraph (e) of subsection (1) of section
810 718.115, Florida Statutes, is amended to read:

811 718.115 Common expenses and common surplus.—

812 (1)

580-01744-13

2013436c1

813 (e) The expense of installation, replacement, operation,
814 repair, and maintenance of hurricane shutters, impact glass,
815 code-compliant windows or doors, or other types of code-
816 compliant hurricane protection by the board pursuant to s.
817 718.113(5) constitutes ~~shall constitute~~ a common expense ~~as~~
818 ~~defined herein~~ and shall be collected as provided in this
819 section if the association is responsible for the maintenance,
820 repair, and replacement of the hurricane shutters, impact glass,
821 code-compliant windows or doors, or other types of code-
822 compliant hurricane protection pursuant to the declaration of
823 condominium. However, if the maintenance, repair, and
824 replacement of the hurricane shutters, impact glass, code-
825 compliant windows or doors, or other types of code-compliant
826 hurricane protection are ~~is~~ the responsibility of the unit
827 owners pursuant to the declaration of condominium, the cost of
828 the installation of the hurricane shutters, impact glass, code-
829 compliant windows or doors, or other types of code-compliant
830 hurricane protection is ~~shall~~ not be a common expense and, ~~but~~
831 shall be charged individually to the unit owners based on the
832 cost of installation of the hurricane shutters, impact glass,
833 code-compliant windows or doors, or other types of code-
834 compliant hurricane protection appurtenant to the unit.
835 Notwithstanding ~~the provisions of~~ s. 718.116(9), and regardless
836 of whether or not the declaration requires the association or
837 unit owners to maintain, repair, or replace hurricane shutters,
838 impact glass, code-compliant windows or doors, or other types of
839 code-compliant hurricane protection, a unit owner who has
840 previously installed hurricane shutters in accordance with s.
841 718.113(5) that comply with the current applicable building code

580-01744-13

2013436c1

842 shall receive a credit when the shutters are installed; a unit
843 owner who has previously installed impact glass or code-
844 compliant windows or doors that comply with the current
845 applicable building code shall receive a credit when the impact
846 glass or code-compliant windows or doors are installed; and a
847 unit owner who has installed, other types of code-compliant
848 hurricane protection that comply with the current applicable
849 building code shall receive a credit when the same type of other
850 code-compliant hurricane protection is installed, and the ~~or~~
851 ~~laminated glass architecturally designed to function as~~
852 ~~hurricane protection, which hurricane shutters or other~~
853 ~~hurricane protection or laminated glass comply with the current~~
854 ~~applicable building code, shall receive a credit shall be equal~~
855 to the pro rata portion of the assessed installation cost
856 assigned to each unit. However, such unit owner remains shall
857 ~~remain~~ responsible for the pro rata share of expenses for
858 hurricane shutters, impact glass, code-compliant windows or
859 doors, or other types of code-compliant hurricane protection
860 installed on common elements and association property by the
861 board pursuant to s. 718.113(5), and remains shall remain
862 responsible for a pro rata share of the expense of the
863 replacement, operation, repair, and maintenance of such
864 shutters, impact glass, code-compliant windows or doors, or
865 other types of code-compliant hurricane protection.

866 Section 7. Paragraph (a) of subsection (3) of section
867 718.303, Florida Statutes, is amended to read:

868 718.303 Obligations of owners and occupants; remedies.—

869 (3) The association may levy reasonable fines for the
870 failure of the owner of the unit or its occupant, licensee, or

580-01744-13

2013436c1

871 invitee to comply with any provision of the declaration, the
872 association bylaws, or reasonable rules of the association. A
873 fine may not become a lien against a unit. A fine may be levied
874 on the basis of each day of a continuing violation, with a
875 single notice and opportunity for hearing. However, the fine may
876 not exceed \$100 per violation, or \$1,000 in the aggregate.

877 (a) An association may suspend, for a reasonable period of
878 time, the right of a unit owner, or a unit owner's tenant,
879 guest, or invitee, to use the common elements, common
880 facilities, or any other association property for failure to
881 comply with any provision of the declaration, the association
882 bylaws, or reasonable rules of the association. This paragraph
883 does not apply to limited common elements intended to be used
884 only by that unit, common elements needed to access the unit,
885 utility services provided to the unit, parking spaces, or
886 elevators.

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

889 718.403 Phase condominiums.—

890 (1) Notwithstanding ~~the provisions of~~ s. 718.110, a
891 developer may develop a condominium in phases, if the original
892 declaration of condominium submitting the initial phase to
893 condominium ownership or an amendment to the declaration which
894 has been approved by all of the unit owners and unit mortgagees
895 provides for and describes in detail all anticipated phases; the
896 impact, if any, which the completion of subsequent phases would
897 have upon the initial phase; and the time period ~~(which may not~~
898 ~~exceed 7 years from the date of recording the declaration of~~
899 ~~condominium)~~ within which all phases must be added to the

580-01744-13

2013436c1

900 condominium and comply with the requirements of this section and
901 at the end of which the right to add additional phases expires.

902 (a) All phases must be added to the condominium within 7
903 years after the date of recording the original declaration of
904 condominium submitting the initial phase to condominium
905 ownership unless an amendment extending the 7-year period is
906 approved by the unit owners.

907 (b) An amendment to extend the 7-year period requires the
908 approval of the owners necessary to amend the declaration of
909 condominium consistent with s. 718.110(1) (a). An extension of
910 the 7-year period may be submitted for approval only during the
911 last 3 years of the 7-year period.

912 (c) An amendment must describe the period within which all
913 phases must be added to the condominium and such period may not
914 exceed 10 years after the date of recording the original
915 declaration of condominium submitting the initial phase to
916 condominium ownership.

917 (d) Notwithstanding s. 718.110, an amendment extending the
918 7-year period is not an amendment subject to s. 718.110(4).

919 Section 9. Section 718.406, Florida Statutes, is created to
920 read:

921 718.406 Condominiums created within condominium parcels.-

922 (1) Unless otherwise expressed in the declaration of
923 condominium, if a condominium is created within a condominium
924 parcel, the term:

925 (a) "Primary condominium" means any condominium that is not
926 a secondary condominium and contains one or more subdivided
927 parcels.

928 (b) "Primary condominium association" means any entity that

580-01744-13

2013436c1

929 operates a primary condominium.

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

933 (d) "Secondary condominium" means one or more condominium
934 parcels that have been submitted to condominium ownership
935 pursuant to a secondary condominium declaration.

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

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

941 (g) "Secondary unit" means a unit that is part of a
942 secondary condominium.

943 (h) "Subdivided parcel" means a condominium parcel in a
944 primary condominium that has been submitted to condominium
945 ownership pursuant to a secondary condominium declaration.

946 (2) Unless otherwise provided in the primary condominium
947 declaration, if a condominium parcel is a subdivided parcel, the
948 secondary condominium association responsible for operating the
949 secondary condominium upon the subdivided parcel shall act on
950 behalf of all of the unit owners of secondary units in the
951 secondary condominium and shall exercise all rights of the
952 secondary unit owners in the primary condominium association,
953 other than the right of possession of the secondary unit. The
954 secondary condominium association shall designate a
955 representative who shall cast the vote of the subdivided parcel
956 in the primary condominium association and, if no person is
957 designated by the secondary condominium association to cast such

580-01744-13

2013436c1

958 vote, the vote shall be cast by the president of the secondary
959 condominium association or the designee of the president.

960 (3) Unless otherwise provided in the primary condominium
961 declaration as originally recorded, no secondary condominium may
962 be created upon any condominium parcel in the primary
963 condominium, and no amendment to the primary condominium
964 declaration may permit secondary condominiums to be created upon
965 parcels in the primary condominium, unless the record owners of
966 a majority of the condominium parcels join in the execution of
967 the amendment.

968 (4) If the primary condominium declaration permits the
969 creation of a secondary condominium and a condominium parcel in
970 the primary condominium is being submitted for condominium
971 ownership to create a secondary condominium upon the primary
972 condominium parcel, the approval of the board of administration
973 of the primary condominium association is required in order to
974 create the secondary condominium on the primary condominium
975 parcel. Unless otherwise provided in the primary condominium
976 declaration, the owners of condominium parcels in the primary
977 condominium that will not be part of the proposed secondary
978 condominium and the holders of liens upon such primary
979 condominium parcels shall not have approval rights regarding the
980 creation of the secondary condominium or the contents of the
981 secondary condominium declaration being submitted. Only the
982 board of administration of the primary condominium association,
983 the owner of the subdivided parcel, and the holders of liens
984 upon the subdivided parcel shall have approval rights regarding
985 the creation of the secondary condominium and the contents of
986 the secondary condominium declaration. In order for the

580-01744-13

2013436c1

987 recording of the secondary condominium declaration to be
988 effective to create the secondary condominium, the board of
989 administration of the primary condominium association, the owner
990 of the subdivided parcel, and all holders of liens on the
991 subdivided parcel must execute the secondary condominium
992 declaration for the purpose of evidencing their approval.

993 (5) An owner of a secondary unit is subject to both the
994 primary condominium declaration and the secondary condominium
995 declaration.

996 (6) The primary condominium association may provide
997 insurance required by s. 718.111(11) for common elements and
998 other improvements within the secondary condominium if the
999 primary condominium declaration permits the primary condominium
1000 association to provide such insurance for the benefit of the
1001 condominium property included in the subdivided parcel, in lieu
1002 of such insurance being provided by the secondary condominium
1003 association.

1004 (7) Unless otherwise provided in the primary condominium
1005 declaration, the board of administration of the primary
1006 condominium association may adopt hurricane shutter or hurricane
1007 protection specifications for each building within which
1008 subdivided parcels are located and govern any subdivided parcels
1009 in the primary condominium.

1010 (8) Any unit owner of, or holder of a first mortgage on, a
1011 secondary unit may register such unit owner's or mortgagee's
1012 interest in the secondary unit with the primary condominium
1013 association by delivering written notice to the primary
1014 condominium association. Once registered, the primary
1015 condominium association must provide written notice to such

580-01744-13

2013436c1

1016 secondary unit owner and his, her, or its first mortgagee at
1017 least 30 days before instituting any foreclosure action against
1018 the subdivided parcel in which the secondary unit owner and his,
1019 her, or its first mortgagee hold an interest for failure of the
1020 subdivided parcel owner to pay any assessments or other amounts
1021 due to the primary condominium association. A foreclosure action
1022 against a subdivided parcel is not effective without an
1023 affidavit indicating that written notice of the foreclosure was
1024 timely sent to the names and addresses of secondary unit owners
1025 and first mortgagees registered with the primary condominium
1026 association pursuant to this subsection. The registered
1027 secondary unit owner or mortgagee has a right to pay the
1028 proportionate amount of the delinquent assessment attributable
1029 to the secondary unit in which the registered unit owner or
1030 mortgagee holds an interest. Upon such payment, the primary
1031 condominium association is obligated to promptly modify or
1032 partially release the record of lien on the primary condominium
1033 association so that the lien no longer encumbers such secondary
1034 unit. Alternatively, a registered secondary unit owner or
1035 mortgagee may pay the amount of all delinquent assessments
1036 attributed to the subdivided parcel and seek reimbursement for
1037 all such amounts paid and all costs incurred from the secondary
1038 condominium association, including, without limitation, the
1039 costs of collection other than the share allocable to the
1040 secondary unit on behalf of which such payment was made.

1041 (9) In the event of a conflict between the primary
1042 condominium declaration and the secondary condominium
1043 declaration, the primary condominium declaration controls.

1044 (10) All common expenses due to the primary condominium

580-01744-13

2013436c1

1045 association with respect to a subdivided parcel are a common
1046 expense of the secondary condominium association and shall be
1047 collected by the secondary condominium association from its
1048 members and paid to the primary condominium association.

1049 Section 10. Subsection (2) of section 718.5011, Florida
1050 Statutes, is amended to read:

1051 718.5011 Ombudsman; appointment; administration.—

1052 (2) The Governor shall appoint the ombudsman. The ombudsman
1053 must be an attorney admitted to practice before the Florida
1054 Supreme Court and shall serve at the pleasure of the Governor. A
1055 vacancy in the office shall be filled in the same manner as the
1056 original appointment. An officer or full-time employee of the
1057 ombudsman's office may not actively engage in any other business
1058 or profession that directly or indirectly relates to or
1059 conflicts with his or her work in the ombudsman's office; serve
1060 as the representative of any political party, executive
1061 committee, or other governing body of a political party; serve
1062 as an executive, officer, or employee of a political party;
1063 receive remuneration for activities on behalf of any candidate
1064 for public office; or engage in soliciting votes or other
1065 activities on behalf of a candidate for public office. The
1066 ombudsman or any employee of his or her office may not become a
1067 candidate for election to public office unless he or she first
1068 resigns from his or her office or employment.

1069 Section 11. Paragraphs (b) and (c) of subsection (2) of
1070 section 719.104, Florida Statutes, are amended to read:

1071 719.104 Cooperatives; access to units; records; financial
1072 reports; assessments; purchase of leases.—

1073 (2) OFFICIAL RECORDS.—

580-01744-13

2013436c1

1074 (b) The official records of the association shall be
1075 maintained within the state. The records of the association
1076 shall be made available to a unit owner within 5 working days
1077 after receipt of written request by the board or its designee.
1078 This paragraph may be complied with by having a copy of the
1079 official records available for inspection or copying on the
1080 cooperative property. An association shall allow a member or his
1081 or her authorized representative to use a portable device,
1082 including a smartphone, tablet, portable scanner, or any other
1083 technology capable of scanning or taking photographs, to make an
1084 electronic copy of the official records in lieu of the
1085 association's providing the member or his or her authorized
1086 representative with a copy of such records. The association may
1087 not charge a member or his or her authorized representative for
1088 the use of a portable device.

1089 (c) The official records of the association shall be open
1090 to inspection by any association member or the authorized
1091 representative of such member at all reasonable times. Failure
1092 to permit inspection of the association records as provided in
1093 this subsection ~~herein~~ entitles any person prevailing in an
1094 enforcement action to recover reasonable attorney ~~attorney's~~
1095 fees from the person in control of the records who, directly or
1096 indirectly, knowingly denies access to the records for
1097 inspection. The right to inspect the records includes the right
1098 to make or obtain copies, at the reasonable expense, if any, of
1099 the association member. The association may adopt reasonable
1100 rules regarding the frequency, time, location, notice, and
1101 manner of record inspections and copying. The failure of an
1102 association to provide the records within 10 working days after

580-01744-13

2013436c1

1103 receipt of a written request creates a rebuttable presumption
1104 that the association willfully failed to comply with this
1105 paragraph. A unit owner who is denied access to official records
1106 is entitled to the actual damages or minimum damages for the
1107 association's willful failure to comply with this paragraph. The
1108 minimum damages shall be \$50 per calendar day up to 10 days, the
1109 calculation to begin on the 11th day after receipt of the
1110 written request. The association shall maintain an adequate
1111 number of copies of the declaration, articles of incorporation,
1112 bylaws, and rules, and all amendments to each of the foregoing,
1113 as well as the question and answer sheet provided for in s.
1114 719.504, on the cooperative property to ensure their
1115 availability to unit owners and prospective purchasers, and may
1116 charge its actual costs for preparing and furnishing these
1117 documents to those requesting the same. Notwithstanding ~~the~~
1118 ~~provisions of~~ this paragraph, the following records shall not be
1119 accessible to unit owners:

1120 1. Any record protected by the lawyer-client privilege as
1121 provided in s. 90.502; protected by the work-product privilege,
1122 including any record ~~A record that was~~ prepared by an
1123 association attorney or prepared at the attorney's express
1124 direction; reflecting ~~that reflects~~ a mental impression,
1125 conclusion, litigation strategy, or legal theory of the attorney
1126 or the association; or ~~that was~~ prepared exclusively for civil
1127 or criminal litigation or for adversarial administrative
1128 proceedings or in anticipation of imminent civil or criminal
1129 litigation or imminent adversarial administrative proceedings,
1130 until the conclusion of the litigation or adversarial
1131 administrative proceedings.

580-01744-13

2013436c1

1132 2. Information obtained by an association in connection
1133 with the approval of the lease, sale, or other transfer of a
1134 unit.

1135 3. Medical records of unit owners.

1136 4. Personnel records of association employees, including,
1137 but not limited to, disciplinary, payroll, health, and insurance
1138 records. For purposes of this subparagraph, the term "personnel
1139 records" does not include written employment agreements with an
1140 association employee or budgetary or financial records that
1141 indicate the compensation paid to an association employee.

1142 5. Social security numbers, driver license numbers, credit
1143 card numbers, e-mail addresses, telephone numbers, emergency
1144 contact information, any addresses of a unit owner other than
1145 addresses provided to fulfill the association's notice
1146 requirements, and other personal identifying information of any
1147 person, excluding the person's name, unit designation, mailing
1148 address, and property address.

1149 6. Any electronic security measures that are used by the
1150 association to safeguard data, including passwords.

1151 7. The software and operating system used by the
1152 association which allows manipulation of data, even if the owner
1153 owns a copy of the same software used by the association. The
1154 data is part of the official records of the association.

1155 Section 12. Subsection (7) is added to section 719.1055,
1156 Florida Statutes, to read:

1157 719.1055 Amendment of cooperative documents; alteration and
1158 acquisition of property.—

1159 (7) The Legislature finds that the procurement of mortgagee
1160 consent to amendments that do not affect the rights or interests

580-01744-13

2013436c1

1161 of mortgagees is an unreasonable and substantial logistical and
1162 financial burden on the unit owners and that there is a
1163 compelling state interest in enabling the members of an
1164 association to approve amendments to the association's
1165 cooperative documents through legal means. Accordingly, and
1166 notwithstanding any provision of this subsection to the
1167 contrary:

1168 (a) As to any mortgage recorded on or after July 1, 2013,
1169 any provision in the association's cooperative documents that
1170 requires the consent or joinder of some or all mortgagees of
1171 units or any other portion of the association's common areas to
1172 amend the association's cooperative documents or for any other
1173 matter is enforceable only as to amendments to the association's
1174 cooperative documents that adversely affect the priority of the
1175 mortgagee's lien or the mortgagee's rights to foreclose its lien
1176 or that otherwise materially affect the rights and interests of
1177 the mortgagees.

1178 (b) As to mortgages recorded before July 1, 2013, any
1179 existing provisions in the association's cooperative documents
1180 requiring mortgagee consent are enforceable.

1181 (c) In securing consent or joinder, the association is
1182 entitled to rely upon the public records to identify the holders
1183 of outstanding mortgages. The association may use the address
1184 provided in the original recorded mortgage document, unless
1185 there is a different address for the holder of the mortgage in a
1186 recorded assignment or modification of the mortgage, which
1187 recorded assignment or modification must reference the official
1188 records book and page on which the original mortgage was
1189 recorded. Once the association has identified the recorded

580-01744-13

2013436c1

1190 mortgages of record, the association shall, in writing, request
1191 of each unit owner whose unit is encumbered by a mortgage of
1192 record any information that the owner has in his or her
1193 possession regarding the name and address of the person to whom
1194 mortgage payments are currently being made. Notice shall be sent
1195 to such person if the address provided in the original recorded
1196 mortgage document is different from the name and address of the
1197 mortgagee or assignee of the mortgage as shown by the public
1198 record. The association is deemed to have complied with this
1199 requirement by making the written request of the unit owners
1200 required under this paragraph. Any notices required to be sent
1201 to the mortgagees under this paragraph shall be sent to all
1202 available addresses provided to the association.

1203 (d) Any notice to the mortgagees required under paragraph
1204 (c) may be sent by a method that establishes proof of delivery,
1205 and any mortgagee who fails to respond within 60 days after the
1206 date of mailing is deemed to have consented to the amendment.

1207 (e) For those amendments requiring mortgagee consent on or
1208 after July 1, 2013, in the event mortgagee consent is provided
1209 other than by properly recorded joinder, such consent shall be
1210 evidenced by affidavit of the association recorded in the public
1211 records of the county in which the declaration is recorded.

1212 (f) Any amendment adopted without the required consent of a
1213 mortgagee is voidable only by a mortgagee who was entitled to
1214 notice and an opportunity to consent. An action to void an
1215 amendment is subject to the statute of limitations beginning 5
1216 years after the date of discovery as to the amendments described
1217 in paragraph (a) and 5 years after the date of recordation of
1218 the certificate of amendment for all other amendments. This

580-01744-13

2013436c1

1219 paragraph applies to all mortgages, regardless of the date of
1220 recordation of the mortgage.

1221 Section 13. Paragraphs (c), (d), and (f) of subsection (1)
1222 of section 719.106, Florida Statutes, are amended to read:

1223 719.106 Bylaws; cooperative ownership.—

1224 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
1225 documents shall provide for the following, and if they do not,
1226 they shall be deemed to include the following:

1227 (c) *Board of administration meetings.*—Meetings of the board
1228 of administration at which a quorum of the members is present
1229 shall be open to all unit owners. Any unit owner may tape record
1230 or videotape meetings of the board of administration. The right
1231 to attend such meetings includes the right to speak at such
1232 meetings with reference to all designated agenda items. The
1233 division shall adopt reasonable rules governing the tape
1234 recording and videotaping of the meeting. The association may
1235 adopt reasonable written rules governing the frequency,
1236 duration, and manner of unit owner statements. Adequate notice
1237 of all meetings shall be posted in a conspicuous place upon the
1238 cooperative property at least 48 continuous hours preceding the
1239 meeting, except in an emergency. Any item not included on the
1240 notice may be taken up on an emergency basis by at least a
1241 majority plus one of the members of the board. Such emergency
1242 action shall be noticed and ratified at the next regular meeting
1243 of the board. However, written notice of any meeting at which
1244 nonemergency special assessments, or at which amendment to rules
1245 regarding unit use, will be considered shall be mailed,
1246 delivered, or electronically transmitted to the unit owners and
1247 posted conspicuously on the cooperative property not less than

580-01744-13

2013436c1

1248 14 days before ~~prior to~~ the meeting. Evidence of compliance with
1249 this 14-day notice shall be made by an affidavit executed by the
1250 person providing the notice and filed among the official records
1251 of the association. Upon notice to the unit owners, the board
1252 shall by duly adopted rule designate a specific location on the
1253 cooperative property upon which all notices of board meetings
1254 shall be posted. In lieu of or in addition to the physical
1255 posting of notice of any meeting of the board of administration
1256 on the cooperative property, the association may, by reasonable
1257 rule, adopt a procedure for conspicuously posting and repeatedly
1258 broadcasting the notice and the agenda on a closed-circuit cable
1259 television system serving the cooperative association. However,
1260 if broadcast notice is used in lieu of a notice posted
1261 physically on the cooperative property, the notice and agenda
1262 must be broadcast at least four times every broadcast hour of
1263 each day that a posted notice is otherwise required under this
1264 section. When broadcast notice is provided, the notice and
1265 agenda must be broadcast in a manner and for a sufficient
1266 continuous length of time so as to allow an average reader to
1267 observe the notice and read and comprehend the entire content of
1268 the notice and the agenda. Notice of any meeting in which
1269 regular assessments against unit owners are to be considered for
1270 any reason shall specifically contain a statement that
1271 assessments will be considered and the nature of any such
1272 assessments. Meetings of a committee to take final action on
1273 behalf of the board or to make recommendations to the board
1274 regarding the association budget are subject to the provisions
1275 of this paragraph. Meetings of a committee that does not take
1276 final action on behalf of the board or make recommendations to

580-01744-13

2013436c1

1277 the board regarding the association budget are subject to the
1278 provisions of this section, unless those meetings are exempted
1279 from this section by the bylaws of the association.
1280 Notwithstanding any other law to the contrary, the requirement
1281 that board meetings and committee meetings be open to the unit
1282 owners does not apply ~~is inapplicable~~ to board or committee
1283 meetings held for the purpose of discussing personnel matters or
1284 meetings between the board or a committee and the association's
1285 attorney, with respect to proposed or pending litigation, if
1286 ~~when~~ the meeting is held for the purpose of seeking or rendering
1287 legal advice.

1288 (d) *Shareholder meetings.*—There shall be an annual meeting
1289 of the shareholders. All members of the board of administration
1290 shall be elected at the annual meeting unless the bylaws provide
1291 for staggered election terms or for their election at another
1292 meeting. Any unit owner desiring to be a candidate for board
1293 membership must comply with subparagraph 1. The bylaws must
1294 provide the method for calling meetings, including annual
1295 meetings. Written notice, which must incorporate an
1296 identification of agenda items, shall be given to each unit
1297 owner at least 14 days before the annual meeting and posted in a
1298 conspicuous place on the cooperative property at least 14
1299 continuous days preceding the annual meeting. Upon notice to the
1300 unit owners, the board must by duly adopted rule designate a
1301 specific location on the cooperative property upon which all
1302 notice of unit owner meetings are posted. In lieu of or in
1303 addition to the physical posting of the meeting notice, the
1304 association may, by reasonable rule, adopt a procedure for
1305 conspicuously posting and repeatedly broadcasting the notice and

580-01744-13

2013436c1

1306 the agenda on a closed-circuit cable television system serving
1307 the cooperative association. However, if broadcast notice is
1308 used in lieu of a posted notice, the notice and agenda must be
1309 broadcast at least four times every broadcast hour of each day
1310 that a posted notice is otherwise required under this section.
1311 If broadcast notice is provided, the notice and agenda must be
1312 broadcast in a manner and for a sufficient continuous length of
1313 time to allow an average reader to observe the notice and read
1314 and comprehend the entire content of the notice and the agenda.
1315 Unless a unit owner waives in writing the right to receive
1316 notice of the annual meeting, the notice of the annual meeting
1317 must be sent by mail, hand delivered, or electronically
1318 transmitted to each unit owner. An officer of the association
1319 must provide an affidavit or United States Postal Service
1320 certificate of mailing, to be included in the official records
1321 of the association, affirming that notices of the association
1322 meeting were mailed, hand delivered, or electronically
1323 transmitted, in accordance with this provision, to each unit
1324 owner at the address last furnished to the association.

1325 1. The board of administration shall be elected by written
1326 ballot or voting machine. A proxy may not be used in electing
1327 the board of administration in general elections or elections to
1328 fill vacancies caused by recall, resignation, or otherwise
1329 unless otherwise provided in this chapter.

1330 a. At least 60 days before a scheduled election, the
1331 association shall mail, deliver, or transmit, whether by
1332 separate association mailing, delivery, or electronic
1333 transmission or included in another association mailing,
1334 delivery, or electronic transmission, including regularly

580-01744-13

2013436c1

1335 published newsletters, to each unit owner entitled to vote, a
1336 first notice of the date of the election. Any unit owner or
1337 other eligible person desiring to be a candidate for the board
1338 of administration must give written notice to the association at
1339 least 40 days before a scheduled election. Together with the
1340 written notice and agenda as set forth in this section, the
1341 association shall mail, deliver, or electronically transmit a
1342 second notice of election to all unit owners entitled to vote,
1343 together with a ballot that ~~which~~ lists all candidates. Upon
1344 request of a candidate, the association shall include an
1345 information sheet, no larger than 8 1/2 inches by 11 inches,
1346 which must be furnished by the candidate at least 35 days before
1347 the election, to be included with the mailing, delivery, or
1348 electronic transmission of the ballot, with the costs of
1349 mailing, delivery, or transmission and copying to be borne by
1350 the association. The association is not liable for the contents
1351 of the information sheets provided by the candidates. In order
1352 to reduce costs, the association may print or duplicate the
1353 information sheets on both sides of the paper. The division
1354 shall by rule establish voting procedures consistent with this
1355 subparagraph, including rules establishing procedures for giving
1356 notice by electronic transmission and rules providing for the
1357 secrecy of ballots. Elections shall be decided by a plurality of
1358 those ballots cast. There is no quorum requirement. However, at
1359 least 20 percent of the eligible voters must cast a ballot in
1360 order to have a valid election. A unit owner may not permit any
1361 other person to vote his or her ballot, and any such ballots
1362 improperly cast are invalid. A unit owner who needs assistance
1363 in casting the ballot for the reasons stated in s. 101.051 may

580-01744-13

2013436c1

1364 obtain assistance in casting the ballot. Any unit owner
1365 violating this provision may be fined by the association in
1366 accordance with s. 719.303. The regular election must occur on
1367 the date of the annual meeting. This subparagraph does not apply
1368 to timeshare cooperatives. Notwithstanding this subparagraph, an
1369 election and balloting are not required unless more candidates
1370 file a notice of intent to run or are nominated than vacancies
1371 exist on the board. Any challenge to the election process must
1372 be commenced within 60 days after the election results are
1373 announced.

1374 b. Within 90 days after being elected or appointed to the
1375 board, each new director shall certify in writing to the
1376 secretary of the association that he or she has read the
1377 association's bylaws, articles of incorporation, proprietary
1378 lease, and current written policies; that he or she will work to
1379 uphold such documents and policies to the best of his or her
1380 ability; and that he or she will faithfully discharge his or her
1381 fiduciary responsibility to the association's members. Within 90
1382 days after being elected or appointed to the board, in lieu of
1383 this written certification, the newly elected or appointed
1384 director may submit a certificate of having satisfactorily
1385 completed the educational curriculum administered by an
1386 education provider as approved by the division pursuant to the
1387 requirements established in chapter 718 within 1 year before or
1388 90 days after the date of election or appointment. The
1389 educational certificate is valid and does not have to be
1390 resubmitted as long as the director serves on the board without
1391 interruption. A director who fails to timely file the written
1392 certification or educational certificate is suspended from

580-01744-13

2013436c1

1393 service on the board until he or she complies with this sub-
1394 subparagraph. The board may temporarily fill the vacancy during
1395 the period of suspension. The secretary of the association shall
1396 cause the association to retain a director's written
1397 certification or educational certificate for inspection by the
1398 members for 5 years after a director's election or the duration
1399 of the director's uninterrupted tenure, whichever is longer.
1400 Failure to have such written certification or educational
1401 certificate on file does not affect the validity of any board
1402 action.

1403 2. Any approval by unit owners called for by this chapter,
1404 or the applicable cooperative documents, must be made at a duly
1405 noticed meeting of unit owners and is subject to this chapter or
1406 the applicable cooperative documents relating to unit owner
1407 decisionmaking, except that unit owners may take action by
1408 written agreement, without meetings, on matters for which action
1409 by written agreement without meetings is expressly allowed by
1410 the applicable cooperative documents or law which provides for
1411 the unit owner action.

1412 3. Unit owners may waive notice of specific meetings if
1413 allowed by the applicable cooperative documents or law. If
1414 authorized by the bylaws, notice of meetings of the board of
1415 administration, shareholder meetings, except shareholder
1416 meetings called to recall board members under paragraph (f), and
1417 committee meetings may be given by electronic transmission to
1418 unit owners who consent to receive notice by electronic
1419 transmission.

1420 4. Unit owners have the right to participate in meetings of
1421 unit owners with reference to all designated agenda items.

580-01744-13

2013436c1

1422 However, the association may adopt reasonable rules governing
1423 the frequency, duration, and manner of unit owner participation.

1424 5. Any unit owner may tape record or videotape meetings of
1425 the unit owners subject to reasonable rules adopted by the
1426 division.

1427 6. Unless otherwise provided in the bylaws, a vacancy
1428 occurring on the board before the expiration of a term may be
1429 filled by the affirmative vote of the majority of the remaining
1430 directors, even if the remaining directors constitute less than
1431 a quorum, or by the sole remaining director. In the alternative,
1432 a board may hold an election to fill the vacancy, in which case
1433 the election procedures must conform to the requirements of
1434 subparagraph 1. unless the association has opted out of the
1435 statutory election process, in which case the bylaws of the
1436 association control. Unless otherwise provided in the bylaws, a
1437 board member appointed or elected under this subparagraph shall
1438 fill the vacancy for the unexpired term of the seat being
1439 filled. Filling vacancies created by recall is governed by
1440 paragraph (f) and rules adopted by the division.

1441
1442 Notwithstanding subparagraphs (b)2. and (d)1., an association
1443 may, by the affirmative vote of a majority of the total voting
1444 interests, provide for a different voting and election procedure
1445 in its bylaws, which vote may be by a proxy specifically
1446 delineating the different voting and election procedures. The
1447 different voting and election procedures may provide for
1448 elections to be conducted by limited or general proxy.

1449 (f) *Recall of board members.*—Subject to ~~the provisions of~~
1450 s. 719.301, any member of the board of administration may be

580-01744-13

2013436c1

1451 recalled and removed from office with or without cause by the
1452 vote or agreement in writing by a majority of all the voting
1453 interests. A special meeting of the voting interests to recall
1454 any member of the board of administration may be called by 10
1455 percent of the unit owners giving notice of the meeting as
1456 required for a meeting of unit owners, and the notice shall
1457 state the purpose of the meeting. Electronic transmission may
1458 not be used as a method of giving notice of a meeting called in
1459 whole or in part for this purpose.

1460 1. If the recall is approved by a majority of all voting
1461 interests by a vote at a meeting, the recall shall be effective
1462 as provided in this paragraph herein. The board shall duly
1463 notice and hold a board meeting within 5 full business days
1464 after ~~of~~ the adjournment of the unit owner meeting to recall one
1465 or more board members. At the meeting, the board shall either
1466 certify the recall, in which case such member or members shall
1467 be recalled effective immediately and shall turn over to the
1468 board within 5 full business days any and all records and
1469 property of the association in their possession, or shall
1470 proceed as set forth in subparagraph 3.

1471 2. If the proposed recall is by an agreement in writing by
1472 a majority of all voting interests, the agreement in writing or
1473 a copy thereof shall be served on the association by certified
1474 mail or by personal service in the manner authorized by chapter
1475 48 and the Florida Rules of Civil Procedure. The board of
1476 administration shall duly notice and hold a meeting of the board
1477 within 5 full business days after receipt of the agreement in
1478 writing. At the meeting, the board shall either certify the
1479 written agreement to recall members of the board, in which case

580-01744-13

2013436c1

1480 such members shall be recalled effective immediately and shall
1481 turn over to the board, within 5 full business days, any and all
1482 records and property of the association in their possession, or
1483 proceed as described in subparagraph 3.

1484 3. If the board determines not to certify the written
1485 agreement to recall members of the board, or does not certify
1486 the recall by a vote at a meeting, the board shall, within 5
1487 full business days after the board meeting, file with the
1488 division a petition for binding arbitration pursuant to the
1489 procedures of s. 719.1255. For purposes of this paragraph, the
1490 unit owners who voted at the meeting or who executed the
1491 agreement in writing shall constitute one party under the
1492 petition for arbitration. If the arbitrator certifies the recall
1493 as to any member of the board, the recall shall be effective
1494 upon mailing of the final order of arbitration to the
1495 association. If the association fails to comply with the order
1496 of the arbitrator, the division may take action pursuant to s.
1497 719.501. Any member so recalled shall deliver to the board any
1498 and all records and property of the association in the member's
1499 possession within 5 full business days after ~~of~~ the effective
1500 date of the recall.

1501 4. If the board fails to duly notice and hold a board
1502 meeting within 5 full business days after ~~of~~ service of an
1503 agreement in writing or within 5 full business days after ~~of~~ the
1504 adjournment of the unit owner recall meeting, the recall shall
1505 be deemed effective and the board members so recalled shall
1506 immediately turn over to the board any and all records and
1507 property of the association.

1508 5. If the board fails to duly notice and hold the required

580-01744-13

2013436c1

1509 meeting or fails to file the required petition, the unit owner
1510 representative may file a petition pursuant to s. 719.1255
1511 challenging the board's failure to act. The petition must be
1512 filed within 60 days after the expiration of the applicable 5-
1513 full-business-day period. The review of a petition under this
1514 subparagraph is limited to the sufficiency of service on the
1515 board and the facial validity of the written agreement or
1516 ballots filed.

1517 ~~6.5.~~ If a vacancy occurs on the board as a result of a
1518 recall and less than a majority of the board members are
1519 removed, the vacancy may be filled by the affirmative vote of a
1520 majority of the remaining directors, notwithstanding any
1521 provision to the contrary contained in this chapter. If
1522 vacancies occur on the board as a result of a recall and a
1523 majority or more of the board members are removed, the vacancies
1524 shall be filled in accordance with procedural rules to be
1525 adopted by the division, which rules need not be consistent with
1526 this chapter. The rules must provide procedures governing the
1527 conduct of the recall election as well as the operation of the
1528 association during the period after a recall but before ~~prior to~~
1529 the recall election.

1530 7. A board member who has been recalled may file a petition
1531 pursuant to s. 719.1255 challenging the validity of the recall.
1532 The petition must be filed within 60 days after the recall is
1533 deemed certified. The association and the unit owner
1534 representative shall be named as the respondents.

1535 8. The division may not accept for filing a recall
1536 petition, whether filed pursuant to subparagraph 1.,
1537 subparagraph 2., subparagraph 5., or subparagraph 7. and

580-01744-13

2013436c1

1538 regardless of whether the recall was certified, when there are
1539 60 or fewer days until the scheduled reelection of the board
1540 member sought to be recalled or when 60 or fewer days have not
1541 elapsed since the election of the board member sought to be
1542 recalled.

1543 Section 14. Paragraph (a) of subsection (3) of section
1544 719.303, Florida Statutes, is amended to read:

1545 719.303 Obligations of owners.—

1546 (3) The association may levy reasonable fines for failure
1547 of the unit owner or the unit's occupant, licensee, or invitee
1548 to comply with any provision of the cooperative documents or
1549 reasonable rules of the association. A fine may not become a
1550 lien against a unit. A fine may be levied on the basis of each
1551 day of a continuing violation, with a single notice and
1552 opportunity for hearing. However, the fine may not exceed \$100
1553 per violation, or \$1,000 in the aggregate.

1554 (a) An association may suspend, for a reasonable period of
1555 time, the right of a unit owner, or a unit owner's tenant,
1556 guest, or invitee, to use the common elements, common
1557 facilities, or any other association property for failure to
1558 comply with any provision of the cooperative documents or
1559 reasonable rules of the association. This paragraph does not
1560 apply to limited common elements intended to be used only by
1561 that unit, common elements needed to access the unit, utility
1562 services provided to the unit, parking spaces, or elevators.

1563 Section 15. Paragraph (k) of subsection (1) of section
1564 719.501, Florida Statutes, is amended to read:

1565 719.501 Powers and duties of Division of Florida
1566 Condominiums, Timeshares, and Mobile Homes.—

580-01744-13

2013436c1

1567 (1) The Division of Florida Condominiums, Timeshares, and
1568 Mobile Homes of the Department of Business and Professional
1569 Regulation, referred to as the "division" in this part, in
1570 addition to other powers and duties prescribed by chapter 718,
1571 has the power to enforce and ensure compliance with this chapter
1572 and adopted rules relating to the development, construction,
1573 sale, lease, ownership, operation, and management of residential
1574 cooperative units. In performing its duties, the division shall
1575 have the following powers and duties:

1576 (k) The division shall provide training and educational
1577 programs for cooperative association board members and unit
1578 owners. The training may, in the division's discretion, include
1579 web-based electronic media, and live training and seminars in
1580 various locations throughout the state. The division may review
1581 and approve education and training programs for board members
1582 and unit owners offered by providers and shall maintain a
1583 current list of approved programs and providers and make such
1584 list available to board members and unit owners in a reasonable
1585 and cost-effective manner.

1586 Section 16. Subsection (5), paragraphs (a) and (b) of
1587 subsection (7), and subsection (10) of section 720.303, Florida
1588 Statutes, are amended to read:

1589 720.303 Association powers and duties; meetings of board;
1590 official records; budgets; financial reporting; association
1591 funds; recalls.—

1592 (5) INSPECTION AND COPYING OF RECORDS.—The official records
1593 shall be maintained within the state and must be open to
1594 inspection and available for photocopying by members or their
1595 authorized agents at reasonable times and places within 10

580-01744-13

2013436c1

1596 business days after receipt of a written request for access.
1597 This subsection may be complied with by having a copy of the
1598 official records available for inspection or copying in the
1599 community. If the association has a photocopy machine available
1600 where the records are maintained, it must provide parcel owners
1601 with copies on request during the inspection if the entire
1602 request is limited to no more than 25 pages. An association
1603 shall allow a member or his or her authorized representative to
1604 use a portable device, including a smartphone, tablet, portable
1605 scanner, or any other technology capable of scanning or taking
1606 photographs, to make an electronic copy of the official records
1607 in lieu of the association's providing the member or his or her
1608 authorized representative with a copy of such records. The
1609 association may not charge a member or his or her authorized
1610 representative for the use of a portable device.

1611 (a) The failure of an association to provide access to the
1612 records within 10 business days after receipt of a written
1613 request submitted by certified mail, return receipt requested,
1614 creates a rebuttable presumption that the association willfully
1615 failed to comply with this subsection.

1616 (b) A member who is denied access to official records is
1617 entitled to the actual damages or minimum damages for the
1618 association's willful failure to comply with this subsection.
1619 The minimum damages are to be \$50 per calendar day up to 10
1620 days, the calculation to begin on the 11th business day after
1621 receipt of the written request.

1622 (c) The association may adopt reasonable written rules
1623 governing the frequency, time, location, notice, records to be
1624 inspected, and manner of inspections, but may not require a

580-01744-13

2013436c1

1625 parcel owner to demonstrate any proper purpose for the
1626 inspection, state any reason for the inspection, or limit a
1627 parcel owner's right to inspect records to less than one 8-hour
1628 business day per month. The association may impose fees to cover
1629 the costs of providing copies of the official records,
1630 including, without limitation, the costs of copying. The
1631 association may charge up to 50 cents per page for copies made
1632 on the association's photocopier. If the association does not
1633 have a photocopy machine available where the records are kept,
1634 or if the records requested to be copied exceed 25 pages in
1635 length, the association may have copies made by an outside
1636 vendor or association management company personnel and may
1637 charge the actual cost of copying, including any reasonable
1638 costs involving personnel fees and charges at an hourly rate for
1639 vendor or employee time to cover administrative costs to the
1640 vendor or association. The association shall maintain an
1641 adequate number of copies of the recorded governing documents,
1642 to ensure their availability to members and prospective members.
1643 Notwithstanding this paragraph, the following records are not
1644 accessible to members or parcel owners:

1645 1. Any record protected by the lawyer-client privilege as
1646 described in s. 90.502 and any record protected by the work-
1647 product privilege, including, but not limited to, a record
1648 prepared by an association attorney or prepared at the
1649 attorney's express direction which reflects a mental impression,
1650 conclusion, litigation strategy, or legal theory of the attorney
1651 or the association and which was prepared exclusively for civil
1652 or criminal litigation or for adversarial administrative
1653 proceedings or which was prepared in anticipation of such

580-01744-13

2013436c1

1654 litigation or proceedings until the conclusion of the litigation
1655 or proceedings.

1656 2. Information obtained by an association in connection
1657 with the approval of the lease, sale, or other transfer of a
1658 parcel.

1659 3. Personnel records of association or management company
1660 ~~the association's~~ employees, including, but not limited to,
1661 disciplinary, payroll, health, and insurance records. For
1662 purposes of this subparagraph, the term "personnel records" does
1663 not include written employment agreements with an association or
1664 management company employee or budgetary or financial records
1665 that indicate the compensation paid to an association or
1666 management company employee.

1667 4. Medical records of parcel owners or community residents.

1668 5. Social security numbers, driver ~~driver's~~ license
1669 numbers, credit card numbers, electronic mailing addresses,
1670 telephone numbers, facsimile numbers, emergency contact
1671 information, any addresses for a parcel owner other than as
1672 provided for association notice requirements, and other personal
1673 identifying information of any person, excluding the person's
1674 name, parcel designation, mailing address, and property address.
1675 However, an owner may consent in writing to the disclosure of
1676 protected information described in this subparagraph. The
1677 association is not liable for the disclosure of information that
1678 is protected under this subparagraph if the information is
1679 included in an official record of the association and is
1680 voluntarily provided by an owner and not requested by the
1681 association.

1682 6. Any electronic security measure that is used by the

580-01744-13

2013436c1

1683 association to safeguard data, including passwords.

1684 7. The software and operating system used by the
1685 association which allows the manipulation of data, even if the
1686 owner owns a copy of the same software used by the association.
1687 The data is part of the official records of the association.

1688 (d) The association or its authorized agent is not required
1689 to provide a prospective purchaser or lienholder with
1690 information about the residential subdivision or the association
1691 other than information or documents required by this chapter to
1692 be made available or disclosed. The association or its
1693 authorized agent may charge a reasonable fee to the prospective
1694 purchaser or lienholder or the current parcel owner or member
1695 for providing good faith responses to requests for information
1696 by or on behalf of a prospective purchaser or lienholder, other
1697 than that required by law, if the fee does not exceed \$150 plus
1698 the reasonable cost of photocopying and any attorney ~~attorney's~~
1699 fees incurred by the association in connection with the
1700 response.

1701 (7) FINANCIAL REPORTING.—Within 90 days after the end of
1702 the fiscal year, or annually on the date provided in the bylaws,
1703 the association shall prepare and complete, or contract with a
1704 third party for the preparation and completion of, a financial
1705 report for the preceding fiscal year. Within 21 days after the
1706 final financial report is completed by the association or
1707 received from the third party, but not later than 120 days after
1708 the end of the fiscal year or other date as provided in the
1709 bylaws, the association shall, within the time limits set forth
1710 in subsection (5), provide each member with a copy of the annual
1711 financial report or a written notice that a copy of the

580-01744-13

2013436c1

1712 financial report is available upon request at no charge to the
1713 member. Financial reports shall be prepared as follows:

1714 (a) An association that meets the criteria of this
1715 paragraph shall prepare or cause to be prepared a complete set
1716 of financial statements in accordance with generally accepted
1717 accounting principles as adopted by the Board of Accountancy.
1718 The financial statements shall be based upon the association's
1719 total annual revenues, as follows:

1720 1. An association with total annual revenues of \$200,000
1721 ~~\$100,000~~ or more, but less than \$300,000 ~~\$200,000~~, shall prepare
1722 compiled financial statements.

1723 2. An association with total annual revenues of at least
1724 \$300,000 ~~\$200,000~~, but less than \$500,000 ~~\$400,000~~, shall
1725 prepare reviewed financial statements.

1726 3. An association with total annual revenues of \$500,000
1727 ~~\$400,000~~ or more shall prepare audited financial statements.

1728 (b)1. An association with total annual revenues of less
1729 than \$200,000 ~~\$100,000~~ shall prepare a report of cash receipts
1730 and expenditures.

1731 2. An association in a community of fewer than 50 parcels,
1732 regardless of the association's annual revenues, may prepare a
1733 report of cash receipts and expenditures in lieu of financial
1734 statements required by paragraph (a) unless the governing
1735 documents provide otherwise.

1736 3. A report of cash receipts and disbursement must disclose
1737 the amount of receipts by accounts and receipt classifications
1738 and the amount of expenses by accounts and expense
1739 classifications, including, but not limited to, the following,
1740 as applicable: costs for security, professional, and management

580-01744-13

2013436c1

1741 fees and expenses; taxes; costs for recreation facilities;
1742 expenses for refuse collection and utility services; expenses
1743 for lawn care; costs for building maintenance and repair;
1744 insurance costs; administration and salary expenses; and
1745 reserves if maintained by the association.

1746 (10) RECALL OF DIRECTORS.—

1747 (a)1. Regardless of any provision to the contrary contained
1748 in the governing documents, subject to the provisions of s.
1749 720.307 regarding transition of association control, any member
1750 of the board of directors may be recalled and removed from
1751 office with or without cause by a majority of the total voting
1752 interests.

1753 2. When the governing documents, including the declaration,
1754 articles of incorporation, or bylaws, provide that only a
1755 specific class of members is entitled to elect a board director
1756 or directors, only that class of members may vote to recall
1757 those board directors so elected.

1758 (b)1. Board directors may be recalled by an agreement in
1759 writing or by written ballot without a membership meeting. The
1760 agreement in writing or the written ballots, or a copy thereof,
1761 shall be served on the association by certified mail or by
1762 personal service in the manner authorized by chapter 48 and the
1763 Florida Rules of Civil Procedure.

1764 2. The board shall duly notice and hold a meeting of the
1765 board within 5 full business days after receipt of the agreement
1766 in writing or written ballots. At the meeting, the board shall
1767 either certify the written ballots or written agreement to
1768 recall a director or directors of the board, in which case such
1769 director or directors shall be recalled effective immediately

580-01744-13

2013436c1

1770 and shall turn over to the board within 5 full business days any
1771 and all records and property of the association in their
1772 possession, or proceed as described in paragraph (d).

1773 3. When it is determined by the department pursuant to
1774 binding arbitration proceedings that an initial recall effort
1775 was defective, written recall agreements or written ballots used
1776 in the first recall effort and not found to be defective may be
1777 reused in one subsequent recall effort. However, in no event is
1778 a written agreement or written ballot valid for more than 120
1779 days after it has been signed by the member.

1780 4. Any rescission or revocation of a member's written
1781 recall ballot or agreement must be in writing and, in order to
1782 be effective, must be delivered to the association before the
1783 association is served with the written recall agreements or
1784 ballots.

1785 5. The agreement in writing or ballot shall list at least
1786 as many possible replacement directors as there are directors
1787 subject to the recall, when at least a majority of the board is
1788 sought to be recalled; the person executing the recall
1789 instrument may vote for as many replacement candidates as there
1790 are directors subject to the recall.

1791 (c)1. If the declaration, articles of incorporation, or
1792 bylaws specifically provide, the members may also recall and
1793 remove a board director or directors by a vote taken at a
1794 meeting. If so provided in the governing documents, a special
1795 meeting of the members to recall a director or directors of the
1796 board of administration may be called by 10 percent of the
1797 voting interests giving notice of the meeting as required for a
1798 meeting of members, and the notice shall state the purpose of

580-01744-13

2013436c1

1799 the meeting. Electronic transmission may not be used as a method
1800 of giving notice of a meeting called in whole or in part for
1801 this purpose.

1802 2. The board shall duly notice and hold a board meeting
1803 within 5 full business days after the adjournment of the member
1804 meeting to recall one or more directors. At the meeting, the
1805 board shall certify the recall, in which case such member or
1806 members shall be recalled effective immediately and shall turn
1807 over to the board within 5 full business days any and all
1808 records and property of the association in their possession, or
1809 shall proceed as set forth in paragraph ~~subparagraph~~ (d).

1810 (d) If the board determines not to certify the written
1811 agreement or written ballots to recall a director or directors
1812 of the board or does not certify the recall by a vote at a
1813 meeting, the board shall, within 5 full business days after the
1814 meeting, file with the department a petition for binding
1815 arbitration pursuant to the applicable procedures in ss.
1816 718.112(2)(j) and 718.1255 and the rules adopted thereunder. For
1817 the purposes of this section, the members who voted at the
1818 meeting or who executed the agreement in writing shall
1819 constitute one party under the petition for arbitration. If the
1820 arbitrator certifies the recall as to any director or directors
1821 of the board, the recall will be effective upon mailing of the
1822 final order of arbitration to the association. The director or
1823 directors so recalled shall deliver to the board any and all
1824 records of the association in their possession within 5 full
1825 business days after the effective date of the recall.

1826 (e) If a vacancy occurs on the board as a result of a
1827 recall and less than a majority of the board directors are

580-01744-13

2013436c1

1828 removed, the vacancy may be filled by the affirmative vote of a
1829 majority of the remaining directors, notwithstanding any
1830 provision to the contrary contained in this subsection or in the
1831 association documents. If vacancies occur on the board as a
1832 result of a recall and a majority or more of the board directors
1833 are removed, the vacancies shall be filled by members voting in
1834 favor of the recall; if removal is at a meeting, any vacancies
1835 shall be filled by the members at the meeting. If the recall
1836 occurred by agreement in writing or by written ballot, members
1837 may vote for replacement directors in the same instrument in
1838 accordance with procedural rules adopted by the division, which
1839 rules need not be consistent with this subsection.

1840 (f) If the board fails to duly notice and hold a board
1841 meeting within 5 full business days after service of an
1842 agreement in writing or within 5 full business days after the
1843 adjournment of the member recall meeting, the recall shall be
1844 deemed effective and the board directors so recalled shall
1845 immediately turn over to the board all records and property of
1846 the association.

1847 (g) If the board fails to duly notice and hold the required
1848 meeting or fails to file the required petition, the unit owner
1849 representative may file a petition pursuant to s. 718.1255
1850 challenging the board's failure to act. The petition must be
1851 filed within 60 days after the expiration of the applicable 5-
1852 full-business-day period. The review of a petition under this
1853 paragraph is limited to the sufficiency of service on the board
1854 and the facial validity of the written agreement or ballots
1855 filed.

1856 (h) ~~(g)~~ If a director who is removed fails to relinquish his

580-01744-13

2013436c1

1857 or her office or turn over records as required under this
1858 section, the circuit court in the county where the association
1859 maintains its principal office may, upon the petition of the
1860 association, summarily order the director to relinquish his or
1861 her office and turn over all association records upon
1862 application of the association.

1863 (i)~~(h)~~ The minutes of the board meeting at which the board
1864 decides whether to certify the recall are an official
1865 association record. The minutes must record the date and time of
1866 the meeting, the decision of the board, and the vote count taken
1867 on each board member subject to the recall. In addition, when
1868 the board decides not to certify the recall, as to each vote
1869 rejected, the minutes must identify the parcel number and the
1870 specific reason for each such rejection.

1871 (j)~~(i)~~ When the recall of more than one board director is
1872 sought, the written agreement, ballot, or vote at a meeting
1873 shall provide for a separate vote for each board director sought
1874 to be recalled.

1875 (k) A board member who has been recalled may file a
1876 petition pursuant to ss. 718.112(2)(j) and 718.1255 and the
1877 rules adopted challenging the validity of the recall. The
1878 petition must be filed within 60 days after the recall is deemed
1879 certified. The association and the unit owner representative
1880 shall be named as respondents.

1881 (l) The division may not accept for filing a recall
1882 petition, whether filed pursuant to paragraph (b), paragraph
1883 (c), paragraph (g), or paragraph (k) and regardless of whether
1884 the recall was certified, when there are 60 or fewer days until
1885 the scheduled reelection of the board member sought to be

580-01744-13

2013436c1

1886 recalled or when 60 or fewer days have not elapsed since the
1887 election of the board member sought to be recalled.

1888 Section 17. Subsection (2) of section 720.305, Florida
1889 Statutes, is amended to read:

1890 720.305 Obligations of members; remedies at law or in
1891 equity; levy of fines and suspension of use rights.—

1892 (2) The association may levy reasonable fines of up to \$100
1893 per violation against any member or any member's tenant, guest,
1894 or invitee for the failure of the owner of the parcel or its
1895 occupant, licensee, or invitee to comply with any provision of
1896 the declaration, the association bylaws, or reasonable rules of
1897 the association. A fine may be levied for each day of a
1898 continuing violation, with a single notice and opportunity for
1899 hearing, except that the fine may not exceed \$1,000 in the
1900 aggregate unless otherwise provided in the governing documents.
1901 A fine of less than \$1,000 may not become a lien against a
1902 parcel. In any action to recover a fine, the prevailing party is
1903 entitled to reasonable attorney ~~attorney's~~ fees and costs from
1904 the nonprevailing party as determined by the court.

1905 (a) An association may suspend, for a reasonable period of
1906 time, the right of a member, or a member's tenant, guest, or
1907 invitee, to use common areas and facilities for the failure of
1908 the owner of the parcel or its occupant, licensee, or invitee to
1909 comply with any provision of the declaration, the association
1910 bylaws, or reasonable rules of the association. This paragraph
1911 does not apply to that portion of common areas used to provide
1912 access or utility services to the parcel. A suspension may not
1913 impair the right of an owner or tenant of a parcel to have
1914 vehicular and pedestrian ingress to and egress from the parcel,

580-01744-13

2013436c1

1915 including, but not limited to, the right to park.

1916 (b) A fine or suspension may not be imposed without at
1917 least 14 days' notice to the person sought to be fined or
1918 suspended and an opportunity for a hearing before a committee of
1919 at least three members appointed by the board who are not
1920 officers, directors, or employees of the association, or the
1921 spouse, parent, child, brother, or sister of an officer,
1922 director, or employee. If the committee, by majority vote, does
1923 not approve a proposed fine or suspension, it may not be
1924 imposed. If the association imposes a fine or suspension, the
1925 association must provide written notice of such fine or
1926 suspension by mail or hand delivery to the parcel owner and, if
1927 applicable, to any tenant, licensee, or invitee of the parcel
1928 owner.

1929 Section 18. Paragraph (d) is added to subsection (1) of
1930 section 720.306, Florida Statutes, and subsection (6) and
1931 paragraph (a) of subsection (9) of that section are amended, to
1932 read:

1933 720.306 Meetings of members; voting and election
1934 procedures; amendments.—

1935 (1) QUORUM; AMENDMENTS.—

1936 (d) The Legislature finds that the procurement of mortgagee
1937 consent to amendments that do not affect the rights or interests
1938 of mortgagees is an unreasonable and substantial logistical and
1939 financial burden on the parcel owners and that there is a
1940 compelling state interest in enabling the members of an
1941 association to approve amendments to the association's governing
1942 documents through legal means. Accordingly, and notwithstanding
1943 any provision of this paragraph to the contrary:

580-01744-13

2013436c1

1944 1. As to any mortgage recorded on or after July 1, 2013,
1945 any provision in the association's governing documents that
1946 requires the consent or joinder of some or all mortgagees of
1947 parcels or any other portion of the association's common areas
1948 to amend the association's governing documents or for any other
1949 matter is enforceable only as to amendments to the association's
1950 governing documents that adversely affect the priority of the
1951 mortgagee's lien or the mortgagee's rights to foreclose its lien
1952 or that otherwise materially affect the rights and interests of
1953 the mortgagees.

1954 2. As to mortgages recorded before July 1, 2013, any
1955 existing provisions in the association's governing documents
1956 requiring mortgagee consent are enforceable.

1957 3. In securing consent or joinder, the association is
1958 entitled to rely upon the public records to identify the holders
1959 of outstanding mortgages. The association may use the address
1960 provided in the original recorded mortgage document, unless
1961 there is a different address for the holder of the mortgage in a
1962 recorded assignment or modification of the mortgage, which
1963 recorded assignment or modification must reference the official
1964 records book and page on which the original mortgage was
1965 recorded. Once the association has identified the recorded
1966 mortgages of record, the association shall, in writing, request
1967 of each parcel owner whose parcel is encumbered by a mortgage of
1968 record any information that the owner has in his or her
1969 possession regarding the name and address of the person to whom
1970 mortgage payments are currently being made. Notice shall be sent
1971 to such person if the address provided in the original recorded
1972 mortgage document is different from the name and address of the

580-01744-13

2013436c1

1973 mortgagee or assignee of the mortgage as shown by the public
1974 record. The association is deemed to have complied with this
1975 requirement by making the written request of the parcel owners
1976 required under this subparagraph. Any notices required to be
1977 sent to the mortgagees under this subparagraph shall be sent to
1978 all available addresses provided to the association.

1979 4. Any notice to the mortgagees required under subparagraph
1980 3. may be sent by a method that establishes proof of delivery,
1981 and any mortgagee who fails to respond within 60 days after the
1982 date of mailing is deemed to have consented to the amendment.

1983 5. For those amendments requiring mortgagee consent on or
1984 after July 1, 2013, in the event mortgagee consent is provided
1985 other than by properly recorded joinder, such consent shall be
1986 evidenced by affidavit of the association recorded in the public
1987 records of the county in which the declaration is recorded.

1988 6. Any amendment adopted without the required consent of a
1989 mortgagee is voidable only by a mortgagee who was entitled to
1990 notice and an opportunity to consent. An action to void an
1991 amendment is subject to the statute of limitations beginning 5
1992 years after the date of discovery as to the amendments described
1993 in subparagraph 1. and 5 years after the date of recordation of
1994 the certificate of amendment for all other amendments. This
1995 subparagraph applies to all mortgages, regardless of the date of
1996 recordation of the mortgage.

1997 (6) RIGHT TO SPEAK.—Members and parcel owners have the
1998 right to attend all membership meetings and to speak at any
1999 meeting with reference to all items opened for discussion or
2000 included on the agenda. Notwithstanding any provision to the
2001 contrary in the governing documents or any rules adopted by the

580-01744-13

2013436c1

2002 board or by the membership, a member and a parcel owner have the
2003 right to speak for at least 3 minutes on any item, ~~provided that~~
2004 ~~the member or parcel owner submits a written request to speak~~
2005 ~~prior to the meeting.~~ The association may adopt written
2006 reasonable rules governing the frequency, duration, and other
2007 manner of member and parcel owner statements, which rules must
2008 be consistent with this subsection.

2009 (9) ~~(a)~~ ELECTIONS AND BOARD VACANCIES.—

2010 (a) Elections of directors must be conducted in accordance
2011 with the procedures set forth in the governing documents of the
2012 association. All members of the association are eligible to
2013 serve on the board of directors, and a member may nominate
2014 himself or herself as a candidate for the board at a meeting
2015 where the election is to be held or, if the election process
2016 allows voting by absentee ballot, in advance of the balloting.
2017 Except as otherwise provided in the governing documents, boards
2018 of directors must be elected by a plurality of the votes cast by
2019 eligible voters. Any challenge to the election process must be
2020 commenced within 60 days after the election results are
2021 announced.

2022 Section 19. This act shall take effect July 1, 2013.