

By the Committees on Appropriations; Judiciary; and Regulated Industries; and Senators Altman and Sachs

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1 A bill to be entitled
2 An act relating to residential properties; amending s.
3 399.02, F.S.; exempting certain elevators from
4 specific code update requirements; amending s.
5 718.111, F.S.; revising requirements for an
6 association's approval of land purchases and
7 recreational leases; revising reconstruction costs for
8 which unit owners are responsible and authorizing the
9 costs to be collected in a specified manner; requiring
10 an association to repair or replace as a common
11 expense certain condominium property damaged by an
12 insurable event; requiring an association to allow a
13 member or the member's representative to use certain
14 portable devices to make electronic copies of
15 association records; prohibiting the association from
16 charging the member or representative for using the
17 portable device; authorizing a condominium association
18 to print and distribute a member directory under
19 certain conditions; revising requirements for the
20 preparation of an association's annual financial
21 statement; amending s. 718.112, F.S.; revising terms
22 of members of an association's board of administrators
23 and revising eligibility criteria for candidates;
24 revising condominium unit owner meeting notice
25 requirements; providing for nonapplicability to
26 associations governing timeshare condominiums of
27 certain provisions relating to elections of board
28 members; revising recordkeeping requirements of a
29 condominium association board; requiring commencement

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

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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 providing requirements for the maintenance of the
70 official records of the association; authorizing
71 records to be made available to unit owners in an
72 electronic format; providing a civil penalty for the
73 denial of a request to view records; requiring an
74 association to allow a member or the member's
75 authorized representative to use certain portable
76 devices to make electronic copies of association
77 records; prohibiting the association from charging the
78 member or authorized representative for using the
79 portable device; authorizing a cooperative association
80 to print and distribute a member directory under
81 certain conditions; specifying additional records that
82 are not accessible to unit owners; amending s.
83 719.1055, F.S.; revising provisions relating to the
84 amendment of cooperative documents; providing
85 legislative findings and a finding of compelling state
86 interest; providing criteria for consent or joinder to
87 an amendment; requiring notice regarding proposed

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88 amendments to mortgagees; providing criteria for
89 notification; providing for voiding certain
90 amendments; amending s. 719.106, F.S.; revising
91 applicability of certain board of administration
92 meeting requirements; requiring commencement of
93 challenges to an election within a specified period;
94 specifying certification or educational requirements
95 for a newly elected or appointed cooperative board
96 director; providing requirements for challenging the
97 failure of a board to duly notice and hold the
98 required board meeting or to file the required
99 petition for a recall; providing requirements for
100 recalled board members to challenge the recall;
101 prohibiting the division from accepting recall
102 petitions for filing under certain circumstances;
103 providing education requirements for board members;
104 amending s. 719.303, F.S.; revising provisions
105 relating to imposing remedies against a noncompliant
106 or delinquent cooperative unit owner or member;
107 amending s. 719.501, F.S.; authorizing the division to
108 provide training and educational programs for
109 cooperative association board members and unit owners;
110 amending s. 720.303, F.S.; requiring an association to
111 allow a member or the member's representative to use
112 certain portable devices to make electronic copies of
113 association records; prohibiting the association from
114 charging the member or representative for using the
115 portable device; authorizing a homeowners' association
116 to print and distribute a member directory under

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117 certain conditions; revising requirements for the
118 preparation of an association's annual financial
119 statement; revising the types of records that are not
120 accessible to homeowners' association members and
121 parcel owners; providing requirements for challenging
122 the failure of a board to duly notice and hold the
123 required board meeting or to file the required
124 petition for a recall; providing requirements for
125 recalled board members to challenge the recall;
126 prohibiting the division from accepting recall
127 petitions for filing under certain circumstances;
128 amending s. 720.305, F.S.; revising provisions
129 relating to imposing remedies against a noncompliant
130 or delinquent homeowners' association member and
131 parcel owner; amending s. 720.306, F.S.; revising
132 provisions relating to the amendment of homeowners'
133 association declarations; providing legislative
134 findings and a finding of compelling state interest;
135 providing criteria for consent or joinder to an
136 amendment; requiring notice to mortgagees regarding
137 proposed amendments; providing criteria for
138 notification; providing for voiding certain
139 amendments; revising provisions relating to right to
140 speak at a homeowners' association meeting; requiring
141 commencement of challenges to an election within a
142 specified period; providing an effective date.

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

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

148 399.02 General requirements.—

149 (9) Updates to the Safety Code for Existing Elevators and
150 Escalators, ASME A17.1 and A17.3, which require Phase II
151 Firefighters' Service on elevators may not be enforced ~~until~~
152 ~~July 1, 2015, or~~ until the elevator is replaced or requires
153 major modification, ~~whichever occurs first,~~ on elevators in
154 condominiums or multifamily residential buildings, including
155 those that are part of a continuing care facility licensed under
156 chapter 651, or similar retirement community with apartments,
157 having a certificate of occupancy by the local building
158 authority that was issued before July 1, 2008. This exception
159 does not prevent an elevator owner from requesting a variance
160 from the applicable codes ~~before or after July 1, 2015.~~ This
161 subsection does not prohibit the division from granting
162 variances pursuant to s. 120.542 and subsection (8). The
163 division shall adopt rules to administer this subsection.

164 Section 2. Subsection (8), paragraphs (g) and (j) of
165 subsection (11), paragraph (c) of subsection (12), and
166 paragraphs (a) and (b) of subsection (13) of section 718.111,
167 Florida Statutes, are amended to read:

168 718.111 The association.—

169 (8) PURCHASE OF LEASES.—The association has the power to
170 purchase any land or recreation lease, subject to the same
171 manner of approval as in s. 718.114 for the acquisition of
172 leaseholds ~~upon the approval of such voting interest as is~~
173 ~~required by the declaration. If the declaration makes no~~
174 ~~provision for acquisition of the land or recreation lease, the~~

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175 ~~vote required shall be that required to amend the declaration to~~
176 ~~permit the acquisition.~~

177 (11) INSURANCE.—In order to protect the safety, health, and
178 welfare of the people of the State of Florida and to ensure
179 consistency in the provision of insurance coverage to
180 condominiums and their unit owners, this subsection applies to
181 every residential condominium in the state, regardless of the
182 date of its declaration of condominium. It is the intent of the
183 Legislature to encourage lower or stable insurance premiums for
184 associations described in this subsection.

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

187 1. All reconstruction work after a property loss must be
188 undertaken by the association except as otherwise authorized in
189 this section. A unit owner may undertake reconstruction work on
190 portions of the unit with the prior written consent of the board
191 of administration. However, such work may be conditioned upon
192 the approval of the repair methods, the qualifications of the
193 proposed contractor, or the contract that is used for that
194 purpose. A unit owner must obtain all required governmental
195 permits and approvals before commencing reconstruction.

196 2. Unit owners are responsible for the cost of
197 reconstruction of any portions of the condominium property for
198 which the unit owner is required to carry property insurance, or
199 for which the unit owner is responsible under paragraph (j), and
200 the cost of any such reconstruction work undertaken by the
201 association is chargeable to the unit owner and enforceable as
202 an assessment and may be collected in the manner provided for
203 the collection of assessments pursuant to s. 718.116.

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204 3. A multicondominium association may elect, by a majority
205 vote of the collective members of the condominiums operated by
206 the association, to operate the condominiums as a single
207 condominium for purposes of insurance matters, including, but
208 not limited to, the purchase of the property insurance required
209 by this section and the apportionment of deductibles and damages
210 in excess of coverage. The election to aggregate the treatment
211 of insurance premiums, deductibles, and excess damages
212 constitutes an amendment to the declaration of all condominiums
213 operated by the association, and the costs of insurance must be
214 stated in the association budget. The amendments must be
215 recorded as required by s. 718.110.

216 (j) Any portion of the condominium property that must be
217 insured by the association against property loss pursuant to
218 paragraph (f) which is damaged by an insurable event shall be
219 reconstructed, repaired, or replaced as necessary by the
220 association as a common expense. All property insurance
221 deductibles, uninsured losses, and other damages in excess of
222 property insurance coverage under the property insurance
223 policies maintained by the association are a common expense of
224 the condominium, except that:

225 1. A unit owner is responsible for the costs of repair or
226 replacement of any portion of the condominium property not paid
227 by insurance proceeds if such damage is caused by intentional
228 conduct, negligence, or failure to comply with the terms of the
229 declaration or the rules of the association by a unit owner, the
230 members of his or her family, unit occupants, tenants, guests,
231 or invitees, without compromise of the subrogation rights of the
232 insurer.

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233 2. The provisions of subparagraph 1. regarding the
234 financial responsibility of a unit owner for the costs of
235 repairing or replacing other portions of the condominium
236 property also apply to the costs of repair or replacement of
237 personal property of other unit owners or the association, as
238 well as other property, whether real or personal, which the unit
239 owners are required to insure.

240 3. To the extent the cost of repair or reconstruction for
241 which the unit owner is responsible under this paragraph is
242 reimbursed to the association by insurance proceeds, and the
243 association has collected the cost of such repair or
244 reconstruction from the unit owner, the association shall
245 reimburse the unit owner without the waiver of any rights of
246 subrogation.

247 4. The association is not obligated to pay for
248 reconstruction or repairs of property losses as a common expense
249 if the property losses were known or should have been known to a
250 unit owner and were not reported to the association until after
251 the insurance claim of the association for that property was
252 settled or resolved with finality, or denied because it was
253 untimely filed.

254 (12) OFFICIAL RECORDS.—

255 (c) The official records of the association are open to
256 inspection by any association member or the authorized
257 representative of such member at all reasonable times. The right
258 to inspect the records includes the right to make or obtain
259 copies, at the reasonable expense, if any, of the member. The
260 association may adopt reasonable rules regarding the frequency,
261 time, location, notice, and manner of record inspections and

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262 copying. The failure of an association to provide the records
263 within 10 working days after receipt of a written request
264 creates a rebuttable presumption that the association willfully
265 failed to comply with this paragraph. A unit owner who is denied
266 access to official records is entitled to the actual damages or
267 minimum damages for the association's willful failure to comply.
268 Minimum damages are \$50 per calendar day for up to 10 days,
269 beginning on the 11th working day after receipt of the written
270 request. The failure to permit inspection entitles any person
271 prevailing in an enforcement action to recover reasonable
272 attorney ~~attorney's~~ fees from the person in control of the
273 records who, directly or indirectly, knowingly denied access to
274 the records. Any person who knowingly or intentionally defaces
275 or destroys accounting records that are required by this chapter
276 to be maintained during the period for which such records are
277 required to be maintained, or who knowingly or intentionally
278 fails to create or maintain accounting records that are required
279 to be created or maintained, with the intent of causing harm to
280 the association or one or more of its members, is personally
281 subject to a civil penalty pursuant to s. 718.501(1)(d). The
282 association shall maintain an adequate number of copies of the
283 declaration, articles of incorporation, bylaws, and rules, and
284 all amendments to each of the foregoing, as well as the question
285 and answer sheet as described in s. 718.504 and year-end
286 financial information required under this section, on the
287 condominium property to ensure their availability to unit owners
288 and prospective purchasers, and may charge its actual costs for
289 preparing and furnishing these documents to those requesting the
290 documents. An association shall allow a member or his or her

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291 authorized representative to use a portable device, including a
292 smartphone, tablet, portable scanner, or any other technology
293 capable of scanning or taking photographs, to make an electronic
294 copy of the official records in lieu of the association's
295 providing the member or his or her authorized representative
296 with a copy of such records. The association may not charge a
297 member or his or her authorized representative for the use of a
298 portable device. Notwithstanding this paragraph, the following
299 records are not accessible to unit owners:

300 1. Any record protected by the lawyer-client privilege as
301 described in s. 90.502 and any record protected by the work-
302 product privilege, including a record prepared by an association
303 attorney or prepared at the attorney's express direction, which
304 reflects a mental impression, conclusion, litigation strategy,
305 or legal theory of the attorney or the association, and which
306 was prepared exclusively for civil or criminal litigation or for
307 adversarial administrative proceedings, or which was prepared in
308 anticipation of such litigation or proceedings until the
309 conclusion of the litigation or proceedings.

310 2. Information obtained by an association in connection
311 with the approval of the lease, sale, or other transfer of a
312 unit.

313 3. Personnel records of association or management company
314 employees, including, but not limited to, disciplinary, payroll,
315 health, and insurance records. For purposes of this
316 subparagraph, the term "personnel records" does not include
317 written employment agreements with an association employee or
318 management company, or budgetary or financial records that
319 indicate the compensation paid to an association employee.

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320 4. Medical records of unit owners.

321 5. Social security numbers, driver ~~driver's~~ license
322 numbers, credit card numbers, e-mail addresses, telephone
323 numbers, facsimile numbers, emergency contact information,
324 addresses of a unit owner other than as provided to fulfill the
325 association's notice requirements, and other personal
326 identifying information of any person, excluding the person's
327 name, unit designation, mailing address, property address, and
328 any address, e-mail address, or facsimile number provided to the
329 association to fulfill the association's notice requirements.
330 Notwithstanding the restrictions in this subparagraph, an
331 association may print and distribute to parcel owners a
332 directory containing the name, parcel address, and telephone
333 number of each parcel owner. However, an owner may exclude his
334 or her telephone number from the directory by so requesting in
335 writing to the association ~~consent in writing to the disclosure~~
336 ~~of protected information described in this subparagraph.~~ The
337 association is not liable for the inadvertent disclosure of
338 information that is protected under this subparagraph if the
339 information is included in an official record of the association
340 and is voluntarily provided by an owner and not requested by the
341 association.

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

344 7. The software and operating system used by the
345 association which allow the manipulation of data, even if the
346 owner owns a copy of the same software used by the association.
347 The data is part of the official records of the association.

348 (13) FINANCIAL REPORTING.—Within 90 days after the end of

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349 the fiscal year, or annually on a date provided in the bylaws,
350 the association shall prepare and complete, or contract for the
351 preparation and completion of, a financial report for the
352 preceding fiscal year. Within 21 days after the final financial
353 report is completed by the association or received from the
354 third party, but not later than 120 days after the end of the
355 fiscal year or other date as provided in the bylaws, the
356 association shall mail to each unit owner at the address last
357 furnished to the association by the unit owner, or hand deliver
358 to each unit owner, a copy of the financial report or a notice
359 that a copy of the financial report will be mailed or hand
360 delivered to the unit owner, without charge, upon receipt of a
361 written request from the unit owner. The division shall adopt
362 rules setting forth uniform accounting principles and standards
363 to be used by all associations and addressing the financial
364 reporting requirements for multicondominium associations. The
365 rules must include, but not be limited to, standards for
366 presenting a summary of association reserves, including a good
367 faith estimate disclosing the annual amount of reserve funds
368 that would be necessary for the association to fully fund
369 reserves for each reserve item based on the straight-line
370 accounting method. This disclosure is not applicable to reserves
371 funded via the pooling method. In adopting such rules, the
372 division shall consider the number of members and annual
373 revenues of an association. Financial reports shall be prepared
374 as follows:

375 (a) An association that meets the criteria of this
376 paragraph shall prepare a complete set of financial statements
377 in accordance with generally accepted accounting principles. The

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378 financial statements must be based upon the association's total
379 annual revenues, as follows:

380 1. An association with total annual revenues of \$150,000
381 ~~\$100,000~~ or more, but less than \$300,000 ~~\$200,000~~, shall prepare
382 compiled financial statements.

383 2. An association with total annual revenues of at least
384 \$300,000 ~~\$200,000~~, but less than \$500,000 ~~\$400,000~~, shall
385 prepare reviewed financial statements.

386 3. An association with total annual revenues of \$500,000
387 ~~\$400,000~~ or more shall prepare audited financial statements.

388 (b)1. An association with total annual revenues of less
389 than \$150,000 ~~\$100,000~~ shall prepare a report of cash receipts
390 and expenditures.

391 2. An association that operates fewer than 50 ~~75~~ units,
392 regardless of the association's annual revenues, shall prepare a
393 report of cash receipts and expenditures in lieu of financial
394 statements required by paragraph (a).

395 3. A report of cash receipts and disbursements must
396 disclose the amount of receipts by accounts and receipt
397 classifications and the amount of expenses by accounts and
398 expense classifications, including, but not limited to, the
399 following, as applicable: costs for security, professional and
400 management fees and expenses, taxes, costs for recreation
401 facilities, expenses for refuse collection and utility services,
402 expenses for lawn care, costs for building maintenance and
403 repair, insurance costs, administration and salary expenses, and
404 reserves accumulated and expended for capital expenditures,
405 deferred maintenance, and any other category for which the
406 association maintains reserves.

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

409 718.112 Bylaws.—

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

413 (d) *Unit owner meetings*.—

414 1. An annual meeting of the unit owners shall be held at
415 the location provided in the association bylaws and, if the
416 bylaws are silent as to the location, the meeting shall be held
417 within 45 miles of the condominium property. However, such
418 distance requirement does not apply to an association governing
419 a timeshare condominium.

420 2. Unless the bylaws provide otherwise, a vacancy on the
421 board caused by the expiration of a director's term shall be
422 filled by electing a new board member, and the election must be
423 by secret ballot. An election is not required if the number of
424 vacancies equals or exceeds the number of candidates. For
425 purposes of this paragraph, the term "candidate" means an
426 eligible person who has timely submitted the written notice, as
427 described in sub-subparagraph 4.a., of his or her intention to
428 become a candidate. Except in a timeshare condominium, or if the
429 staggered term of a board member does not expire until a later
430 annual meeting, or if all members' terms would otherwise expire
431 but there are no candidates, the terms of all board members
432 expire at the annual meeting, and such members may stand for
433 reelection unless prohibited by the bylaws. If the bylaws or
434 articles of incorporation permit ~~staggered~~ terms of no more than
435 2 years ~~and upon approval of a majority of the total voting~~

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436 interests, the association board members may serve 2-year
437 ~~staggered~~ terms. If the number of board members whose terms
438 expire at the annual meeting equals or exceeds the number of
439 candidates, the candidates become members of the board effective
440 upon the adjournment of the annual meeting. Unless the bylaws
441 provide otherwise, any remaining vacancies shall be filled by
442 the affirmative vote of the majority of the directors making up
443 the newly constituted board even if the directors constitute
444 less than a quorum or there is only one director. In a
445 condominium association of more than 10 units or in a
446 condominium association that does not include timeshare units or
447 timeshare interests, coowners of a unit may not serve as members
448 of the board of directors at the same time unless they own more
449 than one unit or unless there are not enough eligible candidates
450 to fill the vacancies on the board at the time of the vacancy.
451 Any unit owner desiring to be a candidate for board membership
452 must comply with sub-subparagraph 4.a. and must be eligible to
453 be a candidate to serve on the board of directors at the time of
454 the deadline for submitting a notice of intent to run in order
455 to have his or her name listed as a proper candidate on the
456 ballot or to serve on the board. A person who has been suspended
457 or removed by the division under this chapter, or who is
458 delinquent in the payment of any monetary obligation due to the
459 association fee, fine, or special or regular assessment as
460 provided in paragraph (n), is not eligible to be a candidate for
461 board membership and may not be listed on the ballot. A person
462 who has been convicted of any felony in this state or in a
463 United States District or Territorial Court, or who has been
464 convicted of any offense in another jurisdiction which would be

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465 considered a felony if committed in this state, is not eligible
466 for board membership unless such felon's civil rights have been
467 restored for at least 5 years as of the date such person seeks
468 election to the board. The validity of an action by the board is
469 not affected if it is later determined that a board member is
470 ineligible for board membership due to having been convicted of
471 a felony.

472 3. The bylaws must provide the method of calling meetings
473 of unit owners, including annual meetings. Written notice must
474 include an agenda, must be mailed, hand delivered, or
475 electronically transmitted to each unit owner at least 14 days
476 before the annual meeting, and must be posted in a conspicuous
477 place on the condominium property at least 14 continuous days
478 before the annual meeting. Upon notice to the unit owners, the
479 board shall, by duly adopted rule, designate a specific location
480 on the condominium property or association property where all
481 notices of unit owner meetings shall be posted. This requirement
482 does not apply if there is no condominium property or
483 association property for posting notices. In lieu of, or in
484 addition to, the physical posting of meeting notices, the
485 association may, by reasonable rule, adopt a procedure for
486 conspicuously posting and repeatedly broadcasting the notice and
487 the agenda on a closed-circuit cable television system serving
488 the condominium association. However, if broadcast notice is
489 used in lieu of a notice posted physically on the condominium
490 property, the notice and agenda must be broadcast at least four
491 times every broadcast hour of each day that a posted notice is
492 otherwise required under this section. If broadcast notice is
493 provided, the notice and agenda must be broadcast in a manner

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494 and for a sufficient continuous length of time so as to allow an
495 average reader to observe the notice and read and comprehend the
496 entire content of the notice and the agenda. Unless a unit owner
497 waives in writing the right to receive notice of the annual
498 meeting, such notice must be hand delivered, mailed, or
499 electronically transmitted to each unit owner. Notice for
500 meetings and notice for all other purposes must be mailed to
501 each unit owner at the address last furnished to the association
502 by the unit owner, or hand delivered to each unit owner.
503 However, if a unit is owned by more than one person, the
504 association must provide notice to the address that the
505 developer identifies for that purpose and thereafter as one or
506 more of the owners of the unit advise the association in
507 writing, or if no address is given or the owners of the unit do
508 not agree, to the address provided on the deed of record. An
509 officer of the association, or the manager or other person
510 providing notice of the association meeting, must provide an
511 affidavit or United States Postal Service certificate of
512 mailing, to be included in the official records of the
513 association affirming that the notice was mailed or hand
514 delivered in accordance with this provision.

515 4. The members of the board shall be elected by written
516 ballot or voting machine. Proxies may not be used in electing
517 the board in general elections or elections to fill vacancies
518 caused by recall, resignation, or otherwise, unless otherwise
519 provided in this chapter. This subparagraph does not apply to an
520 association governing a timeshare condominium.

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

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523 separate association mailing or included in another association
524 mailing, delivery, or transmission, including regularly
525 published newsletters, to each unit owner entitled to a vote, a
526 first notice of the date of the election. Any unit owner or
527 other eligible person desiring to be a candidate for the board
528 must give written notice of his or her intent to be a candidate
529 to the association at least 40 days before a scheduled election.
530 Together with the written notice and agenda as set forth in
531 subparagraph 3., the association shall mail, deliver, or
532 electronically transmit a second notice of the election to all
533 unit owners entitled to vote, together with a ballot that lists
534 all candidates. Upon request of a candidate, an information
535 sheet, no larger than 8 1/2 inches by 11 inches, which must be
536 furnished by the candidate at least 35 days before the election,
537 must be included with the mailing, delivery, or transmission of
538 the ballot, with the costs of mailing, delivery, or electronic
539 transmission and copying to be borne by the association. The
540 association is not liable for the contents of the information
541 sheets prepared by the candidates. In order to reduce costs, the
542 association may print or duplicate the information sheets on
543 both sides of the paper. The division shall by rule establish
544 voting procedures consistent with this sub-subparagraph,
545 including rules establishing procedures for giving notice by
546 electronic transmission and rules providing for the secrecy of
547 ballots. Elections shall be decided by a plurality of ballots
548 cast. There is no quorum requirement; however, at least 20
549 percent of the eligible voters must cast a ballot in order to
550 have a valid election. A unit owner may not permit any other
551 person to vote his or her ballot, and any ballots improperly

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

560 b. Within 90 days after being elected or appointed to the
561 board, each newly elected or appointed director shall certify in
562 writing to the secretary of the association that he or she has
563 read the association's declaration of condominium, articles of
564 incorporation, bylaws, and current written policies; that he or
565 she will work to uphold such documents and policies to the best
566 of his or her ability; and that he or she will faithfully
567 discharge his or her fiduciary responsibility to the
568 association's members. In lieu of this written certification,
569 within 90 days after being elected or appointed to the board,
570 the newly elected or appointed director may submit a certificate
571 of having satisfactorily completed the educational curriculum
572 administered by a division-approved condominium education
573 provider within 1 year before or 90 days after the date of
574 election or appointment. The written certification or
575 educational certificate is valid and does not have to be
576 resubmitted as long as the director serves on the board without
577 interruption. A director who fails to timely file the written
578 certification or educational certificate is suspended from
579 service on the board until he or she complies with this sub-
580 subparagraph. The board may temporarily fill the vacancy during

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581 the period of suspension. The secretary shall cause the
582 association to retain a director's written certification or
583 educational certificate for inspection by the members for 5
584 years after a director's election or the duration of the
585 director's uninterrupted tenure, whichever is longer. Failure to
586 have such written certification or educational certificate on
587 file does not affect the validity of any board action.

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

590 5. Any approval by unit owners called for by this chapter
591 or the applicable declaration or bylaws, including, but not
592 limited to, the approval requirement in s. 718.111(8), must be
593 made at a duly noticed meeting of unit owners and is subject to
594 all requirements of this chapter or the applicable condominium
595 documents relating to unit owner decisionmaking, except that
596 unit owners may take action by written agreement, without
597 meetings, on matters for which action by written agreement
598 without meetings is expressly allowed by the applicable bylaws
599 or declaration or any law that provides for such action.

600 6. Unit owners may waive notice of specific meetings if
601 allowed by the applicable bylaws or declaration or any law. If
602 authorized by the bylaws, notice of meetings of the board of
603 administration, unit owner meetings, except unit owner meetings
604 called to recall board members under paragraph (j), and
605 committee meetings may be given by electronic transmission to
606 unit owners who consent to receive notice by electronic
607 transmission.

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

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

612 8. A unit owner may tape record or videotape a meeting of
613 the unit owners subject to reasonable rules adopted by the
614 division.

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

629 10. This chapter does not limit the use of general or
630 limited proxies, require the use of general or limited proxies,
631 or require the use of a written ballot or voting machine for any
632 agenda item or election at any meeting of a timeshare
633 condominium association.

634

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

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639 proxy specifically delineating the different voting and election
640 procedures. The different voting and election procedures may
641 provide for elections to be conducted by limited or general
642 proxy.

643 (j) *Recall of board members.*—Subject to ~~the provisions of~~
644 s. 718.301, any member of the board of administration may be
645 recalled and removed from office with or without cause by the
646 vote or agreement in writing by a majority of all the voting
647 interests. A special meeting of the unit owners to recall a
648 member or members of the board of administration may be called
649 by 10 percent of the voting interests giving notice of the
650 meeting as required for a meeting of unit owners, and the notice
651 shall state the purpose of the meeting. Electronic transmission
652 may not be used as a method of giving notice of a meeting called
653 in whole or in part for this purpose.

654 1. If the recall is approved by a majority of all voting
655 interests by a vote at a meeting, the recall will be effective
656 as provided in this paragraph herein. The board shall duly
657 notice and hold a board meeting within 5 full business days
658 after ~~of~~ the adjournment of the unit owner meeting to recall one
659 or more board members. At the meeting, the board shall either
660 certify the recall, in which case such member or members shall
661 be recalled effective immediately and shall turn over to the
662 board within 5 full business days any and all records and
663 property of the association in their possession, or shall
664 proceed as set forth in subparagraph 3.

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

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668 mail or by personal service in the manner authorized by chapter
669 48 and the Florida Rules of Civil Procedure. The board of
670 administration shall duly notice and hold a meeting of the board
671 within 5 full business days after receipt of the agreement in
672 writing. At the meeting, the board shall either certify the
673 written agreement to recall a member or members of the board, in
674 which case such member or members shall be recalled effective
675 immediately and shall turn over to the board within 5 full
676 business days any and all records and property of the
677 association in their possession, or proceed as described in
678 subparagraph 3.

679 3. If the board determines not to certify the written
680 agreement to recall a member or members of the board, or does
681 not certify the recall by a vote at a meeting, the board shall,
682 within 5 full business days after the meeting, file with the
683 division a petition for arbitration pursuant to the procedures
684 in s. 718.1255. For the purposes of this section, the unit
685 owners who voted at the meeting or who executed the agreement in
686 writing shall constitute one party under the petition for
687 arbitration. If the arbitrator certifies the recall as to any
688 member or members of the board, the recall will be effective
689 upon mailing of the final order of arbitration to the
690 association. If the association fails to comply with the order
691 of the arbitrator, the division may take action pursuant to s.
692 718.501. Any member or members so recalled shall deliver to the
693 board any and all records of the association in their possession
694 within 5 full business days after ~~of~~ the effective date of the
695 recall.

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

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697 meeting within 5 full business days after ~~of~~ service of an
698 agreement in writing or within 5 full business days after ~~of~~ the
699 adjournment of the unit owner recall meeting, the recall shall
700 be deemed effective and the board members so recalled shall
701 immediately turn over to the board any and all records and
702 property of the association.

703 5. If the board fails to duly notice and hold the required
704 meeting or fails to file the required petition, the unit owner
705 representative may file a petition pursuant to s. 718.1255
706 challenging the board's failure to act. The petition must be
707 filed within 60 days after the expiration of the applicable 5-
708 full-business-day period. The review of a petition under this
709 subparagraph is limited to the sufficiency of service on the
710 board and the facial validity of the written agreement or
711 ballots filed.

712 ~~6.5.~~ If a vacancy occurs on the board as a result of a
713 recall or removal and less than a majority of the board members
714 are removed, the vacancy may be filled by the affirmative vote
715 of a majority of the remaining directors, notwithstanding any
716 provision to the contrary contained in this subsection. If
717 vacancies occur on the board as a result of a recall and a
718 majority or more of the board members are removed, the vacancies
719 shall be filled in accordance with procedural rules to be
720 adopted by the division, which rules need not be consistent with
721 this subsection. The rules must provide procedures governing the
722 conduct of the recall election as well as the operation of the
723 association during the period after a recall but before ~~prior to~~
724 the recall election.

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

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726 pursuant to s. 718.1255 challenging the validity of the recall.
727 The petition must be filed within 60 days after the recall is
728 deemed certified. The association and the unit owner
729 representative shall be named as the respondents.

730 8. The division may not accept for filing a recall
731 petition, whether filed pursuant to subparagraph 1.,
732 subparagraph 2., subparagraph 5., or subparagraph 7. and
733 regardless of whether the recall was certified, when there are
734 60 or fewer days until the scheduled reelection of the board
735 member sought to be recalled or when 60 or fewer days have
736 elapsed since the election of the board member sought to be
737 recalled.

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

740 718.113 Maintenance; limitation upon improvement; display
741 of flag; hurricane shutters and protection; display of religious
742 decorations.—

743 (5) Each board of administration shall adopt hurricane
744 shutter specifications for each building within each condominium
745 operated by the association which shall include color, style,
746 and other factors deemed relevant by the board. All
747 specifications adopted by the board must comply with the
748 applicable building code.

749 (a) The board may, subject to ~~the provisions of s.~~
750 ~~718.3026~~ and the approval of a majority of voting interests of
751 the condominium, install hurricane shutters, impact glass, ~~or~~
752 ~~other~~ code-compliant windows or doors, or other types of code-
753 compliant hurricane protection that comply ~~complies~~ with or
754 exceed ~~exceeds~~ the applicable building code. However, a vote of

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755 the owners is not required if the maintenance, repair, and
756 replacement of hurricane shutters, impact glass, ~~or other~~ code-
757 compliant windows or doors, or other types of code-compliant
758 hurricane protection are the responsibility of the association
759 pursuant to the declaration of condominium. If hurricane
760 protection or laminated glass or window film architecturally
761 designed to function as hurricane protection that ~~which~~ complies
762 with or exceeds the current applicable building code has been
763 previously installed, the board may not install hurricane
764 shutters, ~~hurricane protection, or~~ impact glass, ~~or other~~ code-
765 compliant windows or doors, or other types of code-compliant
766 hurricane protection except upon approval by a majority vote of
767 the voting interests.

768 (b) The association is responsible for the maintenance,
769 repair, and replacement of the hurricane shutters, impact glass,
770 code-compliant windows or doors, or other types of code-
771 compliant hurricane protection authorized by this subsection if
772 such property ~~hurricane shutters or other hurricane protection~~
773 is the responsibility of the association pursuant to the
774 declaration of condominium. If the hurricane shutters, impact
775 glass, code-compliant windows or doors, or other types of code-
776 compliant hurricane protection ~~authorized by this subsection~~ are
777 the responsibility of the unit owners pursuant to the
778 declaration of condominium, the maintenance, repair, and
779 replacement of such items are the responsibility of the unit
780 owner.

781 (c) The board may operate shutters, impact glass, code-
782 compliant windows or doors, or other types of code-compliant
783 hurricane protection installed pursuant to this subsection

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784 without permission of the unit owners only if such operation is
785 necessary to preserve and protect the condominium property and
786 association property. The installation, replacement, operation,
787 repair, and maintenance of such shutters, impact glass, code-
788 compliant windows or doors, or other types of code-compliant
789 hurricane protection in accordance with the procedures set forth
790 in this paragraph are not a material alteration to the common
791 elements or association property within the meaning of this
792 section.

793 (d) Notwithstanding any other provision in the condominium
794 documents, if approval is required by the documents, a board may
795 not refuse to approve the installation or replacement of
796 hurricane shutters, impact glass, code-compliant windows or
797 doors, or other types of code-compliant hurricane protection by
798 a unit owner conforming to the specifications adopted by the
799 board.

800 Section 5. Paragraph (e) of subsection (1) of section
801 718.115, Florida Statutes, is amended to read:

802 718.115 Common expenses and common surplus.—

803 (1)

804 (e) The expense of installation, replacement, operation,
805 repair, and maintenance of hurricane shutters, impact glass,
806 code-compliant windows or doors, or other types of code-
807 compliant hurricane protection by the board pursuant to s.
808 718.113(5) constitutes ~~shall constitute~~ a common expense ~~as~~
809 ~~defined herein~~ and shall be collected as provided in this
810 section if the association is responsible for the maintenance,
811 repair, and replacement of the hurricane shutters, impact glass,
812 code-compliant windows or doors, or other types of code-

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

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842 ~~laminated glass architecturally designed to function as~~
843 ~~hurricane protection, which hurricane shutters or other~~
844 ~~hurricane protection or laminated glass comply with the current~~
845 ~~applicable building code, shall receive a credit shall be equal~~
846 to the pro rata portion of the assessed installation cost
847 assigned to each unit. However, such unit owner remains ~~shall~~
848 ~~remain~~ responsible for the pro rata share of expenses for
849 hurricane shutters, impact glass, code-compliant windows or
850 doors, or other types of code-compliant hurricane protection
851 installed on common elements and association property by the
852 board pursuant to s. 718.113(5),~~7~~ and remains ~~shall remain~~
853 responsible for a pro rata share of the expense of the
854 replacement, operation, repair, and maintenance of such
855 shutters, impact glass, code-compliant windows or doors, or
856 other types of code-compliant hurricane protection.

857 Section 6. Paragraph (a) of subsection (3) of section
858 718.303, Florida Statutes, is amended to read:

859 718.303 Obligations of owners and occupants; remedies.—

860 (3) The association may levy reasonable fines for the
861 failure of the owner of the unit or its occupant, licensee, or
862 invitee to comply with any provision of the declaration, the
863 association bylaws, or reasonable rules of the association. A
864 fine may not become a lien against a unit. A fine may be levied
865 on the basis of each day of a continuing violation, with a
866 single notice and opportunity for hearing. However, the fine may
867 not exceed \$100 per violation, or \$1,000 in the aggregate.

868 (a) An association may suspend, for a reasonable period of
869 time, the right of a unit owner, or a unit owner's tenant,
870 guest, or invitee, to use the common elements, common

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871 facilities, or any other association property for failure to
872 comply with any provision of the declaration, the association
873 bylaws, or reasonable rules of the association. This paragraph
874 does not apply to limited common elements intended to be used
875 only by that unit, common elements needed to access the unit,
876 utility services provided to the unit, parking spaces, or
877 elevators.

878 Section 7. Subsection (1) of section 718.403, Florida
879 Statutes, is amended to read:

880 718.403 Phase condominiums.—

881 (1) Notwithstanding ~~the provisions of~~ s. 718.110, a
882 developer may develop a condominium in phases, if the original
883 declaration of condominium submitting the initial phase to
884 condominium ownership or an amendment to the declaration which
885 has been approved by all of the unit owners and unit mortgagees
886 provides for and describes in detail all anticipated phases; the
887 impact, if any, which the completion of subsequent phases would
888 have upon the initial phase; and the time period ~~(which may not~~
889 ~~exceed 7 years from the date of recording the declaration of~~
890 ~~condominium)~~ within which all phases must be added to the
891 condominium and comply with the requirements of this section and
892 at the end of which the right to add additional phases expires.

893 (a) All phases must be added to the condominium within 7
894 years after the date of recording the original declaration of
895 condominium submitting the initial phase to condominium
896 ownership unless an amendment extending the 7-year period is
897 approved by the unit owners.

898 (b) An amendment to extend the 7-year period requires the
899 approval of the owners necessary to amend the declaration of

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900 condominium consistent with s. 718.110(1)(a). An extension of
901 the 7-year period may be submitted for approval only during the
902 last 3 years of the 7-year period.

903 (c) An amendment must describe the period within which all
904 phases must be added to the condominium and such period may not
905 exceed 10 years after the date of recording the original
906 declaration of condominium submitting the initial phase to
907 condominium ownership.

908 (d) Notwithstanding s. 718.110, an amendment extending the
909 7-year period is not an amendment subject to s. 718.110(4).

910 Section 8. Section 718.406, Florida Statutes, is created to
911 read:

912 718.406 Condominiums created within condominium parcels.—

913 (1) Unless otherwise expressed in the declaration of
914 condominium, if a condominium is created within a condominium
915 parcel, the term:

916 (a) "Primary condominium" means any condominium that is not
917 a secondary condominium and contains one or more subdivided
918 parcels.

919 (b) "Primary condominium association" means any entity that
920 operates a primary condominium.

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

924 (d) "Secondary condominium" means one or more condominium
925 parcels that have been submitted to condominium ownership
926 pursuant to a secondary condominium declaration.

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

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

932 (g) "Secondary unit" means a unit that is part of a
933 secondary condominium.

934 (h) "Subdivided parcel" means a condominium parcel in a
935 primary condominium that has been submitted to condominium
936 ownership pursuant to a secondary condominium declaration.

937 (2) Unless otherwise provided in the primary condominium
938 declaration, if a condominium parcel is a subdivided parcel, the
939 secondary condominium association responsible for operating the
940 secondary condominium upon the subdivided parcel shall act on
941 behalf of all of the unit owners of secondary units in the
942 secondary condominium and shall exercise all rights of the
943 secondary unit owners in the primary condominium association,
944 other than the right of possession of the secondary unit. The
945 secondary condominium association shall designate a
946 representative who shall cast the vote of the subdivided parcel
947 in the primary condominium association and, if no person is
948 designated by the secondary condominium association to cast such
949 vote, the vote shall be cast by the president of the secondary
950 condominium association or the designee of the president.

951 (3) Unless otherwise provided in the primary condominium
952 declaration as originally recorded, no secondary condominium may
953 be created upon any condominium parcel in the primary
954 condominium, and no amendment to the primary condominium
955 declaration may permit secondary condominiums to be created upon
956 parcels in the primary condominium, unless the record owners of
957 a majority of the condominium parcels join in the execution of

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958 the amendment.

959 (4) If the primary condominium declaration permits the
960 creation of a secondary condominium and a condominium parcel in
961 the primary condominium is being submitted for condominium
962 ownership to create a secondary condominium upon the primary
963 condominium parcel, the approval of the board of administration
964 of the primary condominium association is required in order to
965 create the secondary condominium on the primary condominium
966 parcel. Unless otherwise provided in the primary condominium
967 declaration, the owners of condominium parcels in the primary
968 condominium that will not be part of the proposed secondary
969 condominium and the holders of liens upon such primary
970 condominium parcels shall not have approval rights regarding the
971 creation of the secondary condominium or the contents of the
972 secondary condominium declaration being submitted. Only the
973 board of administration of the primary condominium association,
974 the owner of the subdivided parcel, and the holders of liens
975 upon the subdivided parcel shall have approval rights regarding
976 the creation of the secondary condominium and the contents of
977 the secondary condominium declaration. In order for the
978 recording of the secondary condominium declaration to be
979 effective to create the secondary condominium, the board of
980 administration of the primary condominium association, the owner
981 of the subdivided parcel, and all holders of liens on the
982 subdivided parcel must execute the secondary condominium
983 declaration for the purpose of evidencing their approval.

984 (5) An owner of a secondary unit is subject to both the
985 primary condominium declaration and the secondary condominium
986 declaration.

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987 (6) The primary condominium association may provide
988 insurance required by s. 718.111(11) for common elements and
989 other improvements within the secondary condominium if the
990 primary condominium declaration permits the primary condominium
991 association to provide such insurance for the benefit of the
992 condominium property included in the subdivided parcel, in lieu
993 of such insurance being provided by the secondary condominium
994 association.

995 (7) Unless otherwise provided in the primary condominium
996 declaration, the board of administration of the primary
997 condominium association may adopt hurricane shutter or hurricane
998 protection specifications for each building within which
999 subdivided parcels are located and govern any subdivided parcels
1000 in the primary condominium.

1001 (8) Any unit owner of, or holder of a first mortgage on, a
1002 secondary unit may register such unit owner's or mortgagee's
1003 interest in the secondary unit with the primary condominium
1004 association by delivering written notice to the primary
1005 condominium association. Once registered, the primary
1006 condominium association must provide written notice to such
1007 secondary unit owner and his, her, or its first mortgagee at
1008 least 30 days before instituting any foreclosure action against
1009 the subdivided parcel in which the secondary unit owner and his,
1010 her, or its first mortgagee hold an interest for failure of the
1011 subdivided parcel owner to pay any assessments or other amounts
1012 due to the primary condominium association. A foreclosure action
1013 against a subdivided parcel is not effective without an
1014 affidavit indicating that written notice of the foreclosure was
1015 timely sent to the names and addresses of secondary unit owners

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1016 and first mortgagees registered with the primary condominium
1017 association pursuant to this subsection. The registered
1018 secondary unit owner or mortgagee has a right to pay the
1019 proportionate amount of the delinquent assessment attributable
1020 to the secondary unit in which the registered unit owner or
1021 mortgagee holds an interest. Upon such payment, the primary
1022 condominium association is obligated to promptly modify or
1023 partially release the record of lien on the primary condominium
1024 association so that the lien no longer encumbers such secondary
1025 unit. Alternatively, a registered secondary unit owner or
1026 mortgagee may pay the amount of all delinquent assessments
1027 attributed to the subdivided parcel and seek reimbursement for
1028 all such amounts paid and all costs incurred from the secondary
1029 condominium association, including, without limitation, the
1030 costs of collection other than the share allocable to the
1031 secondary unit on behalf of which such payment was made.

1032 (9) In the event of a conflict between the primary
1033 condominium declaration and the secondary condominium
1034 declaration, the primary condominium declaration controls.

1035 (10) All common expenses due to the primary condominium
1036 association with respect to a subdivided parcel are a common
1037 expense of the secondary condominium association and shall be
1038 collected by the secondary condominium association from its
1039 members and paid to the primary condominium association.

1040 Section 9. Subsection (2) of section 718.5011, Florida
1041 Statutes, is amended to read:

1042 718.5011 Ombudsman; appointment; administration.—

1043 (2) The Governor shall appoint the ombudsman. The ombudsman
1044 must be an attorney admitted to practice before the Florida

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1045 Supreme Court and shall serve at the pleasure of the Governor. A
1046 vacancy in the office shall be filled in the same manner as the
1047 original appointment. An officer or full-time employee of the
1048 ombudsman's office may not actively engage in any other business
1049 or profession that directly or indirectly relates to or
1050 conflicts with his or her work in the ombudsman's office; serve
1051 as the representative of any political party, executive
1052 committee, or other governing body of a political party; serve
1053 as an executive, officer, or employee of a political party;
1054 receive remuneration for activities on behalf of any candidate
1055 for public office; or engage in soliciting votes or other
1056 activities on behalf of a candidate for public office. The
1057 ombudsman or any employee of his or her office may not become a
1058 candidate for election to public office unless he or she first
1059 resigns from his or her office or employment.

1060 Section 10. Paragraphs (b) and (c) of subsection (2) of
1061 section 719.104, Florida Statutes, are amended to read:

1062 719.104 Cooperatives; access to units; records; financial
1063 reports; assessments; purchase of leases.—

1064 (2) OFFICIAL RECORDS.—

1065 (b) The official records of the association must ~~shall~~ be
1066 maintained within the state for at least 7 years. The records of
1067 the association shall be made available to a unit owner within
1068 45 miles of the cooperative property or within the county in
1069 which the cooperative property is located within 5 working days
1070 after receipt of written request by the board or its designee.
1071 This paragraph may be complied with by having a copy of the
1072 official records of the association available for inspection or
1073 copying on the cooperative property, or the association may

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1074 offer the option of making the records available to a unit owner
1075 electronically via the Internet or by allowing the records to be
1076 viewed in an electronic format on a computer screen and printed
1077 upon request. The association is not responsible for the use or
1078 misuse of the information provided to an association member or
1079 his or her authorized representative pursuant to the compliance
1080 requirements of this chapter unless the association has an
1081 affirmative duty not to disclose such information pursuant to
1082 this chapter.

1083 (c) The official records of the association are ~~shall be~~
1084 open to inspection by any association member or the authorized
1085 representative of such member at all reasonable times. ~~Failure~~
1086 ~~to permit inspection of the association records as provided~~
1087 ~~herein entitles any person prevailing in an enforcement action~~
1088 ~~to recover reasonable attorney's fees from the person in control~~
1089 ~~of the records who, directly or indirectly, knowingly denies~~
1090 ~~access to the records for inspection.~~ The right to inspect the
1091 records includes the right to make or obtain copies, at the
1092 reasonable expense, if any, of the association member. The
1093 association may adopt reasonable rules regarding the frequency,
1094 time, location, notice, and manner of record inspections and
1095 copying. The failure of an association to provide the records
1096 within 10 working days after receipt of a written request
1097 creates a rebuttable presumption that the association willfully
1098 failed to comply with this paragraph. A unit owner who is denied
1099 access to official records is entitled to the actual damages or
1100 minimum damages for the association's willful failure to comply
1101 ~~with this paragraph.~~ The minimum damages are ~~shall be~~ \$50 per
1102 calendar day for up to 10 days, beginning ~~the calculation to~~

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1103 ~~begin~~ on the 11th working day after receipt of the written
1104 request. The failure to permit inspection entitles any person
1105 prevailing in an enforcement action to recover reasonable
1106 attorney fees from the person in control of the records who,
1107 directly or indirectly, knowingly denied access to the records.
1108 Any person who knowingly or intentionally defaces or destroys
1109 accounting records that are required by this chapter to be
1110 maintained during the period for which such records are required
1111 to be maintained, or who knowingly or intentionally fails to
1112 create or maintain accounting records that are required to be
1113 created or maintained, with the intent of causing harm to the
1114 association or one or more of its members, is personally subject
1115 to a civil penalty pursuant to s. 719.501(1)(d). The association
1116 shall maintain an adequate number of copies of the declaration,
1117 articles of incorporation, bylaws, and rules, and all amendments
1118 to each of the foregoing, as well as the question and answer
1119 sheet as described ~~provided for~~ in s. 719.504 and year-end
1120 financial information required by the department, on the
1121 cooperative property to ensure their availability to unit owners
1122 and prospective purchasers, and may charge its actual costs for
1123 preparing and furnishing these documents to those requesting the
1124 same. An association shall allow a member or his or her
1125 authorized representative to use a portable device, including a
1126 smartphone, tablet, portable scanner, or any other technology
1127 capable of scanning or taking photographs, to make an electronic
1128 copy of the official records in lieu of the association
1129 providing the member or his or her authorized representative
1130 with a copy of such records. The association may not charge a
1131 member or his or her authorized representative for the use of a

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1132 portable device. Notwithstanding ~~the provisions of~~ this
1133 paragraph, the following records shall not be accessible to unit
1134 owners:

1135 1. Any record protected by the lawyer-client privilege as
1136 described in s. 90.502 and any record protected by the work-
1137 product privilege, including any record ~~A record that was~~
1138 prepared by an association attorney or prepared at the
1139 attorney's express direction which; ~~that~~ reflects a mental
1140 impression, conclusion, litigation strategy, or legal theory of
1141 the attorney or the association, and which; ~~or that~~ was prepared
1142 exclusively for civil or criminal litigation or for adversarial
1143 administrative proceedings, or which was prepared in
1144 anticipation of such imminent civil or criminal litigation or
1145 ~~imminent adversarial administrative~~ proceedings, until the
1146 conclusion of the litigation or ~~adversarial administrative~~
1147 proceedings.

1148 2. Information obtained by an association in connection
1149 with the approval of the lease, sale, or other transfer of a
1150 unit.

1151 3. Personnel records of association or management company
1152 employees, including, but not limited to, disciplinary, payroll,
1153 health, and insurance records. For purposes of this
1154 subparagraph, the term "personnel records" does not include
1155 written employment agreements with an association employee or
1156 management company, or budgetary or financial records that
1157 indicate the compensation paid to an association employee.

1158 ~~4.3.~~ Medical records of unit owners.

1159 5. Social security numbers, driver license numbers, credit
1160 card numbers, e-mail addresses, telephone numbers, facsimile

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1161 numbers, emergency contact information, addresses of a unit
1162 owner other than as provided to fulfill the association's notice
1163 requirements, and other personal identifying information of any
1164 person, excluding the person's name, unit designation, mailing
1165 address, property address, and any address, e-mail address, or
1166 facsimile number provided to the association to fulfill the
1167 association's notice requirements. Notwithstanding the
1168 restrictions in this subparagraph, an association may print and
1169 distribute to parcel owners a directory containing the name,
1170 parcel address, and telephone number of each parcel owner.
1171 However, an owner may exclude his or her telephone number from
1172 the directory by so requesting in writing to the association.
1173 The association is not liable for the inadvertent disclosure of
1174 information that is protected under this subparagraph if the
1175 information is included in an official record of the association
1176 and is voluntarily provided by an owner and not requested by the
1177 association.

1178 6. Electronic security measures that are used by the
1179 association to safeguard data, including passwords.

1180 7. The software and operating system used by the
1181 association which allow the manipulation of data, even if the
1182 owner owns a copy of the same software used by the association.
1183 The data is part of the official records of the association.

1184 Section 11. Subsection (7) is added to section 719.1055,
1185 Florida Statutes, to read:

1186 719.1055 Amendment of cooperative documents; alteration and
1187 acquisition of property.—

1188 (7) The Legislature finds that the procurement of mortgagee
1189 consent to amendments that do not affect the rights or interests

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1190 of mortgagees is an unreasonable and substantial logistical and
1191 financial burden on the unit owners and that there is a
1192 compelling state interest in enabling the members of an
1193 association to approve amendments to the association's
1194 cooperative documents through legal means. Accordingly, and
1195 notwithstanding any provision of this subsection to the
1196 contrary:

1197 (a) As to any mortgage recorded on or after July 1, 2013,
1198 any provision in the association's cooperative documents that
1199 requires the consent or joinder of some or all mortgagees of
1200 units or any other portion of the association's common areas to
1201 amend the association's cooperative documents or for any other
1202 matter is enforceable only as to amendments to the association's
1203 cooperative documents that adversely affect the priority of the
1204 mortgagee's lien or the mortgagee's rights to foreclose its lien
1205 or that otherwise materially affect the rights and interests of
1206 the mortgagees.

1207 (b) As to mortgages recorded before July 1, 2013, any
1208 existing provisions in the association's cooperative documents
1209 requiring mortgagee consent are enforceable.

1210 (c) In securing consent or joinder, the association is
1211 entitled to rely upon the public records to identify the holders
1212 of outstanding mortgages. The association may use the address
1213 provided in the original recorded mortgage document, unless
1214 there is a different address for the holder of the mortgage in a
1215 recorded assignment or modification of the mortgage, which
1216 recorded assignment or modification must reference the official
1217 records book and page on which the original mortgage was
1218 recorded. Once the association has identified the recorded

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1219 mortgages of record, the association shall, in writing, request
1220 of each unit owner whose unit is encumbered by a mortgage of
1221 record any information that the owner has in his or her
1222 possession regarding the name and address of the person to whom
1223 mortgage payments are currently being made. Notice shall be sent
1224 to such person if the address provided in the original recorded
1225 mortgage document is different from the name and address of the
1226 mortgagee or assignee of the mortgage as shown by the public
1227 record. The association is deemed to have complied with this
1228 requirement by making the written request of the unit owners
1229 required under this paragraph. Any notices required to be sent
1230 to the mortgagees under this paragraph shall be sent to all
1231 available addresses provided to the association.

1232 (d) Any notice to the mortgagees required under paragraph
1233 (c) may be sent by a method that establishes proof of delivery,
1234 and any mortgagee who fails to respond within 60 days after the
1235 date of mailing is deemed to have consented to the amendment.

1236 (e) For those amendments requiring mortgagee consent on or
1237 after July 1, 2013, in the event mortgagee consent is provided
1238 other than by properly recorded joinder, such consent shall be
1239 evidenced by affidavit of the association recorded in the public
1240 records of the county in which the declaration is recorded.

1241 (f) Any amendment adopted without the required consent of a
1242 mortgagee is voidable only by a mortgagee who was entitled to
1243 notice and an opportunity to consent. An action to void an
1244 amendment is subject to the statute of limitations beginning 5
1245 years after the date of discovery as to the amendments described
1246 in paragraph (a) and 5 years after the date of recordation of
1247 the certificate of amendment for all other amendments. This

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1248 paragraph applies to all mortgages, regardless of the date of
1249 recordation of the mortgage.

1250 Section 12. Paragraphs (c), (d), and (f) of subsection (1)
1251 of section 719.106, Florida Statutes, are amended to read:

1252 719.106 Bylaws; cooperative ownership.—

1253 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
1254 documents shall provide for the following, and if they do not,
1255 they shall be deemed to include the following:

1256 (c) *Board of administration meetings.*—Meetings of the board
1257 of administration at which a quorum of the members is present
1258 shall be open to all unit owners. Any unit owner may tape record
1259 or videotape meetings of the board of administration. The right
1260 to attend such meetings includes the right to speak at such
1261 meetings with reference to all designated agenda items. The
1262 division shall adopt reasonable rules governing the tape
1263 recording and videotaping of the meeting. The association may
1264 adopt reasonable written rules governing the frequency,
1265 duration, and manner of unit owner statements. Adequate notice
1266 of all meetings shall be posted in a conspicuous place upon the
1267 cooperative property at least 48 continuous hours preceding the
1268 meeting, except in an emergency. Any item not included on the
1269 notice may be taken up on an emergency basis by at least a
1270 majority plus one of the members of the board. Such emergency
1271 action shall be noticed and ratified at the next regular meeting
1272 of the board. However, written notice of any meeting at which
1273 nonemergency special assessments, or at which amendment to rules
1274 regarding unit use, will be considered shall be mailed,
1275 delivered, or electronically transmitted to the unit owners and
1276 posted conspicuously on the cooperative property not less than

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1277 14 days before ~~prior to~~ the meeting. Evidence of compliance with
1278 this 14-day notice shall be made by an affidavit executed by the
1279 person providing the notice and filed among the official records
1280 of the association. Upon notice to the unit owners, the board
1281 shall by duly adopted rule designate a specific location on the
1282 cooperative property upon which all notices of board meetings
1283 shall be posted. In lieu of or in addition to the physical
1284 posting of notice of any meeting of the board of administration
1285 on the cooperative property, the association may, by reasonable
1286 rule, adopt a procedure for conspicuously posting and repeatedly
1287 broadcasting the notice and the agenda on a closed-circuit cable
1288 television system serving the cooperative association. However,
1289 if broadcast notice is used in lieu of a notice posted
1290 physically on the cooperative property, the notice and agenda
1291 must be broadcast at least four times every broadcast hour of
1292 each day that a posted notice is otherwise required under this
1293 section. When broadcast notice is provided, the notice and
1294 agenda must be broadcast in a manner and for a sufficient
1295 continuous length of time so as to allow an average reader to
1296 observe the notice and read and comprehend the entire content of
1297 the notice and the agenda. Notice of any meeting in which
1298 regular assessments against unit owners are to be considered for
1299 any reason shall specifically contain a statement that
1300 assessments will be considered and the nature of any such
1301 assessments. Meetings of a committee to take final action on
1302 behalf of the board or to make recommendations to the board
1303 regarding the association budget are subject to the provisions
1304 of this paragraph. Meetings of a committee that does not take
1305 final action on behalf of the board or make recommendations to

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1306 the board regarding the association budget are subject to the
1307 provisions of this section, unless those meetings are exempted
1308 from this section by the bylaws of the association.
1309 Notwithstanding any other law to the contrary, the requirement
1310 that board meetings and committee meetings be open to the unit
1311 owners does not apply ~~is inapplicable~~ to board or committee
1312 meetings held for the purpose of discussing personnel matters or
1313 meetings between the board or a committee and the association's
1314 attorney, with respect to proposed or pending litigation, if
1315 ~~when~~ the meeting is held for the purpose of seeking or rendering
1316 legal advice.

1317 (d) *Shareholder meetings.*—There shall be an annual meeting
1318 of the shareholders. All members of the board of administration
1319 shall be elected at the annual meeting unless the bylaws provide
1320 for staggered election terms or for their election at another
1321 meeting. Any unit owner desiring to be a candidate for board
1322 membership must comply with subparagraph 1. The bylaws must
1323 provide the method for calling meetings, including annual
1324 meetings. Written notice, which must incorporate an
1325 identification of agenda items, shall be given to each unit
1326 owner at least 14 days before the annual meeting and posted in a
1327 conspicuous place on the cooperative property at least 14
1328 continuous days preceding the annual meeting. Upon notice to the
1329 unit owners, the board must by duly adopted rule designate a
1330 specific location on the cooperative property upon which all
1331 notice of unit owner meetings are posted. In lieu of or in
1332 addition to the physical posting of the meeting notice, the
1333 association may, by reasonable rule, adopt a procedure for
1334 conspicuously posting and repeatedly broadcasting the notice and

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1335 the agenda on a closed-circuit cable television system serving
1336 the cooperative association. However, if broadcast notice is
1337 used in lieu of a posted notice, the notice and agenda must be
1338 broadcast at least four times every broadcast hour of each day
1339 that a posted notice is otherwise required under this section.
1340 If broadcast notice is provided, the notice and agenda must be
1341 broadcast in a manner and for a sufficient continuous length of
1342 time to allow an average reader to observe the notice and read
1343 and comprehend the entire content of the notice and the agenda.
1344 Unless a unit owner waives in writing the right to receive
1345 notice of the annual meeting, the notice of the annual meeting
1346 must be sent by mail, hand delivered, or electronically
1347 transmitted to each unit owner. An officer of the association
1348 must provide an affidavit or United States Postal Service
1349 certificate of mailing, to be included in the official records
1350 of the association, affirming that notices of the association
1351 meeting were mailed, hand delivered, or electronically
1352 transmitted, in accordance with this provision, to each unit
1353 owner at the address last furnished to the association.

1354 1. The board of administration shall be elected by written
1355 ballot or voting machine. A proxy may not be used in electing
1356 the board of administration in general elections or elections to
1357 fill vacancies caused by recall, resignation, or otherwise
1358 unless otherwise provided in this chapter.

1359 a. At least 60 days before a scheduled election, the
1360 association shall mail, deliver, or transmit, whether by
1361 separate association mailing, delivery, or electronic
1362 transmission or included in another association mailing,
1363 delivery, or electronic transmission, including regularly

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1364 published newsletters, to each unit owner entitled to vote, a
1365 first notice of the date of the election. Any unit owner or
1366 other eligible person desiring to be a candidate for the board
1367 of administration must give written notice to the association at
1368 least 40 days before a scheduled election. Together with the
1369 written notice and agenda as set forth in this section, the
1370 association shall mail, deliver, or electronically transmit a
1371 second notice of election to all unit owners entitled to vote,
1372 together with a ballot that ~~which~~ lists all candidates. Upon
1373 request of a candidate, the association shall include an
1374 information sheet, no larger than 8 1/2 inches by 11 inches,
1375 which must be furnished by the candidate at least 35 days before
1376 the election, to be included with the mailing, delivery, or
1377 electronic transmission of the ballot, with the costs of
1378 mailing, delivery, or transmission and copying to be borne by
1379 the association. The association is not liable for the contents
1380 of the information sheets provided by the candidates. In order
1381 to reduce costs, the association may print or duplicate the
1382 information sheets on both sides of the paper. The division
1383 shall by rule establish voting procedures consistent with this
1384 subparagraph, including rules establishing procedures for giving
1385 notice by electronic transmission and rules providing for the
1386 secrecy of ballots. Elections shall be decided by a plurality of
1387 those ballots cast. There is no quorum requirement. However, at
1388 least 20 percent of the eligible voters must cast a ballot in
1389 order to have a valid election. A unit owner may not permit any
1390 other person to vote his or her ballot, and any such ballots
1391 improperly cast are invalid. A unit owner who needs assistance
1392 in casting the ballot for the reasons stated in s. 101.051 may

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1393 obtain assistance in casting the ballot. Any unit owner
1394 violating this provision may be fined by the association in
1395 accordance with s. 719.303. The regular election must occur on
1396 the date of the annual meeting. This subparagraph does not apply
1397 to timeshare cooperatives. Notwithstanding this subparagraph, an
1398 election and balloting are not required unless more candidates
1399 file a notice of intent to run or are nominated than vacancies
1400 exist on the board. Any challenge to the election process must
1401 be commenced within 60 days after the election results are
1402 announced.

1403 b. Within 90 days after being elected or appointed to the
1404 board, each new director shall certify in writing to the
1405 secretary of the association that he or she has read the
1406 association's bylaws, articles of incorporation, proprietary
1407 lease, and current written policies; that he or she will work to
1408 uphold such documents and policies to the best of his or her
1409 ability; and that he or she will faithfully discharge his or her
1410 fiduciary responsibility to the association's members. Within 90
1411 days after being elected or appointed to the board, in lieu of
1412 this written certification, the newly elected or appointed
1413 director may submit a certificate of having satisfactorily
1414 completed the educational curriculum administered by an
1415 education provider as approved by the division pursuant to the
1416 requirements established in chapter 718 within 1 year before or
1417 90 days after the date of election or appointment. The
1418 educational certificate is valid and does not have to be
1419 resubmitted as long as the director serves on the board without
1420 interruption. A director who fails to timely file the written
1421 certification or educational certificate is suspended from

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1422 service on the board until he or she complies with this sub-
1423 subparagraph. The board may temporarily fill the vacancy during
1424 the period of suspension. The secretary of the association shall
1425 cause the association to retain a director's written
1426 certification or educational certificate for inspection by the
1427 members for 5 years after a director's election or the duration
1428 of the director's uninterrupted tenure, whichever is longer.
1429 Failure to have such written certification or educational
1430 certificate on file does not affect the validity of any board
1431 action.

1432 2. Any approval by unit owners called for by this chapter,
1433 or the applicable cooperative documents, must be made at a duly
1434 noticed meeting of unit owners and is subject to this chapter or
1435 the applicable cooperative documents relating to unit owner
1436 decisionmaking, except that unit owners may take action by
1437 written agreement, without meetings, on matters for which action
1438 by written agreement without meetings is expressly allowed by
1439 the applicable cooperative documents or law which provides for
1440 the unit owner action.

1441 3. Unit owners may waive notice of specific meetings if
1442 allowed by the applicable cooperative documents or law. If
1443 authorized by the bylaws, notice of meetings of the board of
1444 administration, shareholder meetings, except shareholder
1445 meetings called to recall board members under paragraph (f), and
1446 committee meetings may be given by electronic transmission to
1447 unit owners who consent to receive notice by electronic
1448 transmission.

1449 4. Unit owners have the right to participate in meetings of
1450 unit owners with reference to all designated agenda items.

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1451 However, the association may adopt reasonable rules governing
1452 the frequency, duration, and manner of unit owner participation.

1453 5. Any unit owner may tape record or videotape meetings of
1454 the unit owners subject to reasonable rules adopted by the
1455 division.

1456 6. Unless otherwise provided in the bylaws, a vacancy
1457 occurring on the board before the expiration of a term may be
1458 filled by the affirmative vote of the majority of the remaining
1459 directors, even if the remaining directors constitute less than
1460 a quorum, or by the sole remaining director. In the alternative,
1461 a board may hold an election to fill the vacancy, in which case
1462 the election procedures must conform to the requirements of
1463 subparagraph 1. unless the association has opted out of the
1464 statutory election process, in which case the bylaws of the
1465 association control. Unless otherwise provided in the bylaws, a
1466 board member appointed or elected under this subparagraph shall
1467 fill the vacancy for the unexpired term of the seat being
1468 filled. Filling vacancies created by recall is governed by
1469 paragraph (f) and rules adopted by the division.

1470

1471 Notwithstanding subparagraphs (b)2. and (d)1., an association
1472 may, by the affirmative vote of a majority of the total voting
1473 interests, provide for a different voting and election procedure
1474 in its bylaws, which vote may be by a proxy specifically
1475 delineating the different voting and election procedures. The
1476 different voting and election procedures may provide for
1477 elections to be conducted by limited or general proxy.

1478 (f) *Recall of board members.*—Subject to ~~the provisions of~~
1479 s. 719.301, any member of the board of administration may be

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1480 recalled and removed from office with or without cause by the
1481 vote or agreement in writing by a majority of all the voting
1482 interests. A special meeting of the voting interests to recall
1483 any member of the board of administration may be called by 10
1484 percent of the unit owners giving notice of the meeting as
1485 required for a meeting of unit owners, and the notice shall
1486 state the purpose of the meeting. Electronic transmission may
1487 not be used as a method of giving notice of a meeting called in
1488 whole or in part for this purpose.

1489 1. If the recall is approved by a majority of all voting
1490 interests by a vote at a meeting, the recall shall be effective
1491 as provided in this paragraph herein. The board shall duly
1492 notice and hold a board meeting within 5 full business days
1493 after ~~of~~ the adjournment of the unit owner meeting to recall one
1494 or more board members. At the meeting, the board shall either
1495 certify the recall, in which case such member or members shall
1496 be recalled effective immediately and shall turn over to the
1497 board within 5 full business days any and all records and
1498 property of the association in their possession, or shall
1499 proceed as set forth in subparagraph 3.

1500 2. If the proposed recall is by an agreement in writing by
1501 a majority of all voting interests, the agreement in writing or
1502 a copy thereof shall be served on the association by certified
1503 mail or by personal service in the manner authorized by chapter
1504 48 and the Florida Rules of Civil Procedure. The board of
1505 administration shall duly notice and hold a meeting of the board
1506 within 5 full business days after receipt of the agreement in
1507 writing. At the meeting, the board shall either certify the
1508 written agreement to recall members of the board, in which case

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1509 such members shall be recalled effective immediately and shall
1510 turn over to the board, within 5 full business days, any and all
1511 records and property of the association in their possession, or
1512 proceed as described in subparagraph 3.

1513 3. If the board determines not to certify the written
1514 agreement to recall members of the board, or does not certify
1515 the recall by a vote at a meeting, the board shall, within 5
1516 full business days after the board meeting, file with the
1517 division a petition for binding arbitration pursuant to the
1518 procedures of s. 719.1255. For purposes of this paragraph, the
1519 unit owners who voted at the meeting or who executed the
1520 agreement in writing shall constitute one party under the
1521 petition for arbitration. If the arbitrator certifies the recall
1522 as to any member of the board, the recall shall be effective
1523 upon mailing of the final order of arbitration to the
1524 association. If the association fails to comply with the order
1525 of the arbitrator, the division may take action pursuant to s.
1526 719.501. Any member so recalled shall deliver to the board any
1527 and all records and property of the association in the member's
1528 possession within 5 full business days after ~~of~~ the effective
1529 date of the recall.

1530 4. If the board fails to duly notice and hold a board
1531 meeting within 5 full business days after ~~of~~ service of an
1532 agreement in writing or within 5 full business days after ~~of~~ the
1533 adjournment of the unit owner recall meeting, the recall shall
1534 be deemed effective and the board members so recalled shall
1535 immediately turn over to the board any and all records and
1536 property of the association.

1537 5. If the board fails to duly notice and hold the required

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1538 meeting or fails to file the required petition, the unit owner
1539 representative may file a petition pursuant to s. 719.1255
1540 challenging the board's failure to act. The petition must be
1541 filed within 60 days after the expiration of the applicable 5-
1542 full-business-day period. The review of a petition under this
1543 subparagraph is limited to the sufficiency of service on the
1544 board and the facial validity of the written agreement or
1545 ballots filed.

1546 ~~6.5.~~ If a vacancy occurs on the board as a result of a
1547 recall and less than a majority of the board members are
1548 removed, the vacancy may be filled by the affirmative vote of a
1549 majority of the remaining directors, notwithstanding any
1550 provision to the contrary contained in this chapter. If
1551 vacancies occur on the board as a result of a recall and a
1552 majority or more of the board members are removed, the vacancies
1553 shall be filled in accordance with procedural rules to be
1554 adopted by the division, which rules need not be consistent with
1555 this chapter. The rules must provide procedures governing the
1556 conduct of the recall election as well as the operation of the
1557 association during the period after a recall but before ~~prior to~~
1558 the recall election.

1559 7. A board member who has been recalled may file a petition
1560 pursuant to s. 719.1255 challenging the validity of the recall.
1561 The petition must be filed within 60 days after the recall is
1562 deemed certified. The association and the unit owner
1563 representative shall be named as the respondents.

1564 8. The division may not accept for filing a recall
1565 petition, whether filed pursuant to subparagraph 1.,
1566 subparagraph 2., subparagraph 5., or subparagraph 7. and

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1567 regardless of whether the recall was certified, when there are
1568 60 or fewer days until the scheduled reelection of the board
1569 member sought to be recalled or when 60 or fewer days have not
1570 elapsed since the election of the board member sought to be
1571 recalled.

1572 Section 13. Paragraph (a) of subsection (3) of section
1573 719.303, Florida Statutes, is amended to read:

1574 719.303 Obligations of owners.—

1575 (3) The association may levy reasonable fines for failure
1576 of the unit owner or the unit's occupant, licensee, or invitee
1577 to comply with any provision of the cooperative documents or
1578 reasonable rules of the association. A fine may not become a
1579 lien against a unit. A fine may be levied on the basis of each
1580 day of a continuing violation, with a single notice and
1581 opportunity for hearing. However, the fine may not exceed \$100
1582 per violation, or \$1,000 in the aggregate.

1583 (a) An association may suspend, for a reasonable period of
1584 time, the right of a unit owner, or a unit owner's tenant,
1585 guest, or invitee, to use the common elements, common
1586 facilities, or any other association property for failure to
1587 comply with any provision of the cooperative documents or
1588 reasonable rules of the association. This paragraph does not
1589 apply to limited common elements intended to be used only by
1590 that unit, common elements needed to access the unit, utility
1591 services provided to the unit, parking spaces, or elevators.

1592 Section 14. Paragraph (k) of subsection (1) of section
1593 719.501, Florida Statutes, is amended to read:

1594 719.501 Powers and duties of Division of Florida
1595 Condominiums, Timeshares, and Mobile Homes.—

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1596 (1) The Division of Florida Condominiums, Timeshares, and
1597 Mobile Homes of the Department of Business and Professional
1598 Regulation, referred to as the "division" in this part, in
1599 addition to other powers and duties prescribed by chapter 718,
1600 has the power to enforce and ensure compliance with this chapter
1601 and adopted rules relating to the development, construction,
1602 sale, lease, ownership, operation, and management of residential
1603 cooperative units. In performing its duties, the division shall
1604 have the following powers and duties:

1605 (k) The division shall provide training and educational
1606 programs for cooperative association board members and unit
1607 owners. The training may, in the division's discretion, include
1608 web-based electronic media, and live training and seminars in
1609 various locations throughout the state. The division may review
1610 and approve education and training programs for board members
1611 and unit owners offered by providers and shall maintain a
1612 current list of approved programs and providers and make such
1613 list available to board members and unit owners in a reasonable
1614 and cost-effective manner.

1615 Section 15. Subsection (5), paragraphs (a) and (b) of
1616 subsection (7), and subsection (10) of section 720.303, Florida
1617 Statutes, are amended to read:

1618 720.303 Association powers and duties; meetings of board;
1619 official records; budgets; financial reporting; association
1620 funds; recalls.—

1621 (5) INSPECTION AND COPYING OF RECORDS.—The official records
1622 shall be maintained within the state and must be open to
1623 inspection and available for photocopying by members or their
1624 authorized agents at reasonable times and places within 10

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1625 business days after receipt of a written request for access.
1626 This subsection may be complied with by having a copy of the
1627 official records available for inspection or copying in the
1628 community. If the association has a photocopy machine available
1629 where the records are maintained, it must provide parcel owners
1630 with copies on request during the inspection if the entire
1631 request is limited to no more than 25 pages. An association
1632 shall allow a member or his or her authorized representative to
1633 use a portable device, including a smartphone, tablet, portable
1634 scanner, or any other technology capable of scanning or taking
1635 photographs, to make an electronic copy of the official records
1636 in lieu of the association's providing the member or his or her
1637 authorized representative with a copy of such records. The
1638 association may not charge a member or his or her authorized
1639 representative for the use of a portable device.

1640 (a) The failure of an association to provide access to the
1641 records within 10 business days after receipt of a written
1642 request submitted by certified mail, return receipt requested,
1643 creates a rebuttable presumption that the association willfully
1644 failed to comply with this subsection.

1645 (b) A member who is denied access to official records is
1646 entitled to the actual damages or minimum damages for the
1647 association's willful failure to comply with this subsection.
1648 The minimum damages are to be \$50 per calendar day up to 10
1649 days, the calculation to begin on the 11th business day after
1650 receipt of the written request.

1651 (c) The association may adopt reasonable written rules
1652 governing the frequency, time, location, notice, records to be
1653 inspected, and manner of inspections, but may not require a

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1654 parcel owner to demonstrate any proper purpose for the
1655 inspection, state any reason for the inspection, or limit a
1656 parcel owner's right to inspect records to less than one 8-hour
1657 business day per month. The association may impose fees to cover
1658 the costs of providing copies of the official records,
1659 including, without limitation, the costs of copying. The
1660 association may charge up to 50 cents per page for copies made
1661 on the association's photocopier. If the association does not
1662 have a photocopy machine available where the records are kept,
1663 or if the records requested to be copied exceed 25 pages in
1664 length, the association may have copies made by an outside
1665 vendor or association management company personnel and may
1666 charge the actual cost of copying, including any reasonable
1667 costs involving personnel fees and charges at an hourly rate for
1668 vendor or employee time to cover administrative costs to the
1669 vendor or association. The association shall maintain an
1670 adequate number of copies of the recorded governing documents,
1671 to ensure their availability to members and prospective members.
1672 Notwithstanding this paragraph, the following records are not
1673 accessible to members or parcel owners:

1674 1. Any record protected by the lawyer-client privilege as
1675 described in s. 90.502 and any record protected by the work-
1676 product privilege, including, but not limited to, a record
1677 prepared by an association attorney or prepared at the
1678 attorney's express direction which reflects a mental impression,
1679 conclusion, litigation strategy, or legal theory of the attorney
1680 or the association and which was prepared exclusively for civil
1681 or criminal litigation or for adversarial administrative
1682 proceedings or which was prepared in anticipation of such

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1683 litigation or proceedings until the conclusion of the litigation
1684 or proceedings.

1685 2. Information obtained by an association in connection
1686 with the approval of the lease, sale, or other transfer of a
1687 parcel.

1688 3. Personnel records of association or management company
1689 ~~the association's~~ employees, including, but not limited to,
1690 disciplinary, payroll, health, and insurance records. For
1691 purposes of this subparagraph, the term "personnel records" does
1692 not include written employment agreements with an association or
1693 management company employee or budgetary or financial records
1694 that indicate the compensation paid to an association or
1695 management company employee.

1696 4. Medical records of parcel owners or community residents.

1697 5. Social security numbers, driver ~~driver's~~ license
1698 numbers, credit card numbers, electronic mailing addresses,
1699 telephone numbers, facsimile numbers, emergency contact
1700 information, any addresses for a parcel owner other than as
1701 provided for association notice requirements, and other personal
1702 identifying information of any person, excluding the person's
1703 name, parcel designation, mailing address, and property address.
1704 Notwithstanding the restrictions in this subparagraph, an
1705 association may print and distribute to parcel owners a
1706 directory containing the name, parcel address, and telephone
1707 number of each parcel owner. However, an owner may exclude his
1708 or her telephone number from the directory by so requesting in
1709 writing to the association ~~consent in writing to the disclosure~~
1710 ~~of protected information described in this subparagraph.~~ The
1711 association is not liable for the disclosure of information that

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1712 is protected under this subparagraph if the information is
1713 included in an official record of the association and is
1714 voluntarily provided by an owner and not requested by the
1715 association.

1716 6. Any electronic security measure that is used by the
1717 association to safeguard data, including passwords.

1718 7. The software and operating system used by the
1719 association which allows the manipulation of data, even if the
1720 owner owns a copy of the same software used by the association.
1721 The data is part of the official records of the association.

1722 (d) The association or its authorized agent is not required
1723 to provide a prospective purchaser or lienholder with
1724 information about the residential subdivision or the association
1725 other than information or documents required by this chapter to
1726 be made available or disclosed. The association or its
1727 authorized agent may charge a reasonable fee to the prospective
1728 purchaser or lienholder or the current parcel owner or member
1729 for providing good faith responses to requests for information
1730 by or on behalf of a prospective purchaser or lienholder, other
1731 than that required by law, if the fee does not exceed \$150 plus
1732 the reasonable cost of photocopying and any attorney ~~attorney's~~
1733 fees incurred by the association in connection with the
1734 response.

1735 (7) FINANCIAL REPORTING.—Within 90 days after the end of
1736 the fiscal year, or annually on the date provided in the bylaws,
1737 the association shall prepare and complete, or contract with a
1738 third party for the preparation and completion of, a financial
1739 report for the preceding fiscal year. Within 21 days after the
1740 final financial report is completed by the association or

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1741 received from the third party, but not later than 120 days after
1742 the end of the fiscal year or other date as provided in the
1743 bylaws, the association shall, within the time limits set forth
1744 in subsection (5), provide each member with a copy of the annual
1745 financial report or a written notice that a copy of the
1746 financial report is available upon request at no charge to the
1747 member. Financial reports shall be prepared as follows:

1748 (a) An association that meets the criteria of this
1749 paragraph shall prepare or cause to be prepared a complete set
1750 of financial statements in accordance with generally accepted
1751 accounting principles as adopted by the Board of Accountancy.
1752 The financial statements shall be based upon the association's
1753 total annual revenues, as follows:

1754 1. An association with total annual revenues of \$150,000
1755 ~~\$100,000~~ or more, but less than \$300,000 ~~\$200,000~~, shall prepare
1756 compiled financial statements.

1757 2. An association with total annual revenues of at least
1758 \$300,000 ~~\$200,000~~, but less than \$500,000 ~~\$400,000~~, shall
1759 prepare reviewed financial statements.

1760 3. An association with total annual revenues of \$500,000
1761 ~~\$400,000~~ or more shall prepare audited financial statements.

1762 (b)1. An association with total annual revenues of less
1763 than \$150,000 ~~\$100,000~~ shall prepare a report of cash receipts
1764 and expenditures.

1765 2. An association in a community of fewer than 50 parcels,
1766 regardless of the association's annual revenues, may prepare a
1767 report of cash receipts and expenditures in lieu of financial
1768 statements required by paragraph (a) unless the governing
1769 documents provide otherwise.

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1770 3. A report of cash receipts and disbursement must disclose
1771 the amount of receipts by accounts and receipt classifications
1772 and the amount of expenses by accounts and expense
1773 classifications, including, but not limited to, the following,
1774 as applicable: costs for security, professional, and management
1775 fees and expenses; taxes; costs for recreation facilities;
1776 expenses for refuse collection and utility services; expenses
1777 for lawn care; costs for building maintenance and repair;
1778 insurance costs; administration and salary expenses; and
1779 reserves if maintained by the association.

1780 (10) RECALL OF DIRECTORS.—

1781 (a)1. Regardless of any provision to the contrary contained
1782 in the governing documents, subject to the provisions of s.
1783 720.307 regarding transition of association control, any member
1784 of the board of directors may be recalled and removed from
1785 office with or without cause by a majority of the total voting
1786 interests.

1787 2. When the governing documents, including the declaration,
1788 articles of incorporation, or bylaws, provide that only a
1789 specific class of members is entitled to elect a board director
1790 or directors, only that class of members may vote to recall
1791 those board directors so elected.

1792 (b)1. Board directors may be recalled by an agreement in
1793 writing or by written ballot without a membership meeting. The
1794 agreement in writing or the written ballots, or a copy thereof,
1795 shall be served on the association by certified mail or by
1796 personal service in the manner authorized by chapter 48 and the
1797 Florida Rules of Civil Procedure.

1798 2. The board shall duly notice and hold a meeting of the

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1799 board within 5 full business days after receipt of the agreement
1800 in writing or written ballots. At the meeting, the board shall
1801 either certify the written ballots or written agreement to
1802 recall a director or directors of the board, in which case such
1803 director or directors shall be recalled effective immediately
1804 and shall turn over to the board within 5 full business days any
1805 and all records and property of the association in their
1806 possession, or proceed as described in paragraph (d).

1807 3. When it is determined by the department pursuant to
1808 binding arbitration proceedings that an initial recall effort
1809 was defective, written recall agreements or written ballots used
1810 in the first recall effort and not found to be defective may be
1811 reused in one subsequent recall effort. However, in no event is
1812 a written agreement or written ballot valid for more than 120
1813 days after it has been signed by the member.

1814 4. Any rescission or revocation of a member's written
1815 recall ballot or agreement must be in writing and, in order to
1816 be effective, must be delivered to the association before the
1817 association is served with the written recall agreements or
1818 ballots.

1819 5. The agreement in writing or ballot shall list at least
1820 as many possible replacement directors as there are directors
1821 subject to the recall, when at least a majority of the board is
1822 sought to be recalled; the person executing the recall
1823 instrument may vote for as many replacement candidates as there
1824 are directors subject to the recall.

1825 (c)1. If the declaration, articles of incorporation, or
1826 bylaws specifically provide, the members may also recall and
1827 remove a board director or directors by a vote taken at a

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1828 meeting. If so provided in the governing documents, a special
1829 meeting of the members to recall a director or directors of the
1830 board of administration may be called by 10 percent of the
1831 voting interests giving notice of the meeting as required for a
1832 meeting of members, and the notice shall state the purpose of
1833 the meeting. Electronic transmission may not be used as a method
1834 of giving notice of a meeting called in whole or in part for
1835 this purpose.

1836 2. The board shall duly notice and hold a board meeting
1837 within 5 full business days after the adjournment of the member
1838 meeting to recall one or more directors. At the meeting, the
1839 board shall certify the recall, in which case such member or
1840 members shall be recalled effective immediately and shall turn
1841 over to the board within 5 full business days any and all
1842 records and property of the association in their possession, or
1843 shall proceed as set forth in paragraph ~~subparagraph~~ (d).

1844 (d) If the board determines not to certify the written
1845 agreement or written ballots to recall a director or directors
1846 of the board or does not certify the recall by a vote at a
1847 meeting, the board shall, within 5 full business days after the
1848 meeting, file with the department a petition for binding
1849 arbitration pursuant to the applicable procedures in ss.
1850 718.112(2)(j) and 718.1255 and the rules adopted thereunder. For
1851 the purposes of this section, the members who voted at the
1852 meeting or who executed the agreement in writing shall
1853 constitute one party under the petition for arbitration. If the
1854 arbitrator certifies the recall as to any director or directors
1855 of the board, the recall will be effective upon mailing of the
1856 final order of arbitration to the association. The director or

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1857 directors so recalled shall deliver to the board any and all
1858 records of the association in their possession within 5 full
1859 business days after the effective date of the recall.

1860 (e) If a vacancy occurs on the board as a result of a
1861 recall and less than a majority of the board directors are
1862 removed, the vacancy may be filled by the affirmative vote of a
1863 majority of the remaining directors, notwithstanding any
1864 provision to the contrary contained in this subsection or in the
1865 association documents. If vacancies occur on the board as a
1866 result of a recall and a majority or more of the board directors
1867 are removed, the vacancies shall be filled by members voting in
1868 favor of the recall; if removal is at a meeting, any vacancies
1869 shall be filled by the members at the meeting. If the recall
1870 occurred by agreement in writing or by written ballot, members
1871 may vote for replacement directors in the same instrument in
1872 accordance with procedural rules adopted by the division, which
1873 rules need not be consistent with this subsection.

1874 (f) If the board fails to duly notice and hold a board
1875 meeting within 5 full business days after service of an
1876 agreement in writing or within 5 full business days after the
1877 adjournment of the member recall meeting, the recall shall be
1878 deemed effective and the board directors so recalled shall
1879 immediately turn over to the board all records and property of
1880 the association.

1881 (g) If the board fails to duly notice and hold the required
1882 meeting or fails to file the required petition, the unit owner
1883 representative may file a petition pursuant to s. 718.1255
1884 challenging the board's failure to act. The petition must be
1885 filed within 60 days after the expiration of the applicable 5-

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1886 full-business-day period. The review of a petition under this
1887 paragraph is limited to the sufficiency of service on the board
1888 and the facial validity of the written agreement or ballots
1889 filed.

1890 (h)~~(g)~~ If a director who is removed fails to relinquish his
1891 or her office or turn over records as required under this
1892 section, the circuit court in the county where the association
1893 maintains its principal office may, upon the petition of the
1894 association, summarily order the director to relinquish his or
1895 her office and turn over all association records upon
1896 application of the association.

1897 (i)~~(h)~~ The minutes of the board meeting at which the board
1898 decides whether to certify the recall are an official
1899 association record. The minutes must record the date and time of
1900 the meeting, the decision of the board, and the vote count taken
1901 on each board member subject to the recall. In addition, when
1902 the board decides not to certify the recall, as to each vote
1903 rejected, the minutes must identify the parcel number and the
1904 specific reason for each such rejection.

1905 (j)~~(i)~~ When the recall of more than one board director is
1906 sought, the written agreement, ballot, or vote at a meeting
1907 shall provide for a separate vote for each board director sought
1908 to be recalled.

1909 (k) A board member who has been recalled may file a
1910 petition pursuant to ss. 718.112(2)(j) and 718.1255 and the
1911 rules adopted challenging the validity of the recall. The
1912 petition must be filed within 60 days after the recall is deemed
1913 certified. The association and the unit owner representative
1914 shall be named as respondents.

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1915 (1) The division may not accept for filing a recall
1916 petition, whether filed pursuant to paragraph (b), paragraph
1917 (c), paragraph (g), or paragraph (k) and regardless of whether
1918 the recall was certified, when there are 60 or fewer days until
1919 the scheduled reelection of the board member sought to be
1920 recalled or when 60 or fewer days have not elapsed since the
1921 election of the board member sought to be recalled.

1922 Section 16. Subsection (2) of section 720.305, Florida
1923 Statutes, is amended to read:

1924 720.305 Obligations of members; remedies at law or in
1925 equity; levy of fines and suspension of use rights.—

1926 (2) The association may levy reasonable fines of up to \$100
1927 per violation against any member or any member's tenant, guest,
1928 or invitee for the failure of the owner of the parcel or its
1929 occupant, licensee, or invitee to comply with any provision of
1930 the declaration, the association bylaws, or reasonable rules of
1931 the association. A fine may be levied for each day of a
1932 continuing violation, with a single notice and opportunity for
1933 hearing, except that the fine may not exceed \$1,000 in the
1934 aggregate unless otherwise provided in the governing documents.
1935 A fine of less than \$1,000 may not become a lien against a
1936 parcel. In any action to recover a fine, the prevailing party is
1937 entitled to reasonable attorney ~~attorney's~~ fees and costs from
1938 the nonprevailing party as determined by the court.

1939 (a) An association may suspend, for a reasonable period of
1940 time, the right of a member, or a member's tenant, guest, or
1941 invitee, to use common areas and facilities for the failure of
1942 the owner of the parcel or its occupant, licensee, or invitee to
1943 comply with any provision of the declaration, the association

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1944 bylaws, or reasonable rules of the association. This paragraph
1945 does not apply to that portion of common areas used to provide
1946 access or utility services to the parcel. A suspension may not
1947 impair the right of an owner or tenant of a parcel to have
1948 vehicular and pedestrian ingress to and egress from the parcel,
1949 including, but not limited to, the right to park.

1950 (b) A fine or suspension may not be imposed without at
1951 least 14 days' notice to the person sought to be fined or
1952 suspended and an opportunity for a hearing before a committee of
1953 at least three members appointed by the board who are not
1954 officers, directors, or employees of the association, or the
1955 spouse, parent, child, brother, or sister of an officer,
1956 director, or employee. If the committee, by majority vote, does
1957 not approve a proposed fine or suspension, it may not be
1958 imposed. If the association imposes a fine or suspension, the
1959 association must provide written notice of such fine or
1960 suspension by mail or hand delivery to the parcel owner and, if
1961 applicable, to any tenant, licensee, or invitee of the parcel
1962 owner.

1963 Section 17. Paragraph (d) is added to subsection (1) of
1964 section 720.306, Florida Statutes, and subsection (6) and
1965 paragraph (a) of subsection (9) of that section are amended, to
1966 read:

1967 720.306 Meetings of members; voting and election
1968 procedures; amendments.—

1969 (1) QUORUM; AMENDMENTS.—

1970 (d) The Legislature finds that the procurement of mortgagee
1971 consent to amendments that do not affect the rights or interests
1972 of mortgagees is an unreasonable and substantial logistical and

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1973 financial burden on the parcel owners and that there is a
1974 compelling state interest in enabling the members of an
1975 association to approve amendments to the association's governing
1976 documents through legal means. Accordingly, and notwithstanding
1977 any provision of this paragraph to the contrary:

1978 1. As to any mortgage recorded on or after July 1, 2013,
1979 any provision in the association's governing documents that
1980 requires the consent or joinder of some or all mortgagees of
1981 parcels or any other portion of the association's common areas
1982 to amend the association's governing documents or for any other
1983 matter is enforceable only as to amendments to the association's
1984 governing documents that adversely affect the priority of the
1985 mortgagee's lien or the mortgagee's rights to foreclose its lien
1986 or that otherwise materially affect the rights and interests of
1987 the mortgagees.

1988 2. As to mortgages recorded before July 1, 2013, any
1989 existing provisions in the association's governing documents
1990 requiring mortgagee consent are enforceable.

1991 3. In securing consent or joinder, the association is
1992 entitled to rely upon the public records to identify the holders
1993 of outstanding mortgages. The association may use the address
1994 provided in the original recorded mortgage document, unless
1995 there is a different address for the holder of the mortgage in a
1996 recorded assignment or modification of the mortgage, which
1997 recorded assignment or modification must reference the official
1998 records book and page on which the original mortgage was
1999 recorded. Once the association has identified the recorded
2000 mortgages of record, the association shall, in writing, request
2001 of each parcel owner whose parcel is encumbered by a mortgage of

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2002 record any information that the owner has in his or her
2003 possession regarding the name and address of the person to whom
2004 mortgage payments are currently being made. Notice shall be sent
2005 to such person if the address provided in the original recorded
2006 mortgage document is different from the name and address of the
2007 mortgagee or assignee of the mortgage as shown by the public
2008 record. The association is deemed to have complied with this
2009 requirement by making the written request of the parcel owners
2010 required under this subparagraph. Any notices required to be
2011 sent to the mortgagees under this subparagraph shall be sent to
2012 all available addresses provided to the association.

2013 4. Any notice to the mortgagees required under subparagraph
2014 3. may be sent by a method that establishes proof of delivery,
2015 and any mortgagee who fails to respond within 60 days after the
2016 date of mailing is deemed to have consented to the amendment.

2017 5. For those amendments requiring mortgagee consent on or
2018 after July 1, 2013, in the event mortgagee consent is provided
2019 other than by properly recorded joinder, such consent shall be
2020 evidenced by affidavit of the association recorded in the public
2021 records of the county in which the declaration is recorded.

2022 6. Any amendment adopted without the required consent of a
2023 mortgagee is voidable only by a mortgagee who was entitled to
2024 notice and an opportunity to consent. An action to void an
2025 amendment is subject to the statute of limitations beginning 5
2026 years after the date of discovery as to the amendments described
2027 in subparagraph 1. and 5 years after the date of recordation of
2028 the certificate of amendment for all other amendments. This
2029 subparagraph applies to all mortgages, regardless of the date of
2030 recordation of the mortgage.

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2031 (6) RIGHT TO SPEAK.—Members and parcel owners have the
2032 right to attend all membership meetings and to speak at any
2033 meeting with reference to all items opened for discussion or
2034 included on the agenda. Notwithstanding any provision to the
2035 contrary in the governing documents or any rules adopted by the
2036 board or by the membership, a member and a parcel owner have the
2037 right to speak for at least 3 minutes on any item, ~~provided that~~
2038 ~~the member or parcel owner submits a written request to speak~~
2039 ~~prior to the meeting.~~ The association may adopt written
2040 reasonable rules governing the frequency, duration, and other
2041 manner of member and parcel owner statements, which rules must
2042 be consistent with this subsection.

2043 (9) ~~(a)~~ ELECTIONS AND BOARD VACANCIES.—

2044 (a) Elections of directors must be conducted in accordance
2045 with the procedures set forth in the governing documents of the
2046 association. All members of the association are eligible to
2047 serve on the board of directors, and a member may nominate
2048 himself or herself as a candidate for the board at a meeting
2049 where the election is to be held or, if the election process
2050 allows voting by absentee ballot, in advance of the balloting.
2051 Except as otherwise provided in the governing documents, boards
2052 of directors must be elected by a plurality of the votes cast by
2053 eligible voters. Any challenge to the election process must be
2054 commenced within 60 days after the election results are
2055 announced.

2056 Section 18. This act shall take effect July 1, 2013.