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1  
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



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29 | condominium association board; requiring commencement  
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



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57 |        declarations; authorizing a primary condominium  
58 |        association to provide insurance and adopt hurricane  
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



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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  
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



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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  
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



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141 commencement of challenges to an election within a  
 142 specified period; providing an effective date.

143

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

145

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.—



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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~~  
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,  
178 and 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



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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 subsection (j),  
200 and 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.

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:





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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.

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



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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  
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



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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  
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



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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.

320 4. Medical records of unit owners.

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



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337 | for the inadvertent disclosure of information that is protected  
338 | under this subparagraph if the information is included in an  
339 | official record of the association and is voluntarily provided  
340 | by an owner and not requested by the association.

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

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

347 |         (13) FINANCIAL REPORTING.—Within 90 days after the end of  
348 | the fiscal year, or annually on a date provided in the bylaws,  
349 | the association shall prepare and complete, or contract for the  
350 | preparation and completion of, a financial report for the  
351 | preceding fiscal year. Within 21 days after the final financial  
352 | report is completed by the association or received from the  
353 | third party, but not later than 120 days after the end of the  
354 | fiscal year or other date as provided in the bylaws, the  
355 | association shall mail to each unit owner at the address last  
356 | furnished to the association by the unit owner, or hand deliver  
357 | to each unit owner, a copy of the financial report or a notice  
358 | that a copy of the financial report will be mailed or hand  
359 | delivered to the unit owner, without charge, upon receipt of a  
360 | written request from the unit owner. The division shall adopt  
361 | rules setting forth uniform accounting principles and standards  
362 | to be used by all associations and addressing the financial  
363 | reporting requirements for multicondominium associations. The  
364 | rules must include, but not be limited to, standards for



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365 presenting a summary of association reserves, including a good  
366 faith estimate disclosing the annual amount of reserve funds  
367 that would be necessary for the association to fully fund  
368 reserves for each reserve item based on the straight-line  
369 accounting method. This disclosure is not applicable to reserves  
370 funded via the pooling method. In adopting such rules, the  
371 division shall consider the number of members and annual  
372 revenues of an association. Financial reports shall be prepared  
373 as follows:

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

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

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

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

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

390 2. An association that operates fewer than 50 ~~75~~ units,  
391 regardless of the association's annual revenues, shall prepare a  
392 report of cash receipts and expenditures in lieu of financial



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393 statements required by paragraph (a).

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

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

408 718.112 Bylaws.—

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

412 (d) Unit owner meetings.—

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

419 2. Unless the bylaws provide otherwise, a vacancy on the  
 420 board caused by the expiration of a director's term shall be



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421 filled by electing a new board member, and the election must be  
422 by secret ballot. An election is not required if the number of  
423 vacancies equals or exceeds the number of candidates. For  
424 purposes of this paragraph, the term "candidate" means an  
425 eligible person who has timely submitted the written notice, as  
426 described in sub-subparagraph 4.a., of his or her intention to  
427 become a candidate. Except in a timeshare condominium, or if the  
428 staggered term of a board member does not expire until a later  
429 annual meeting, or if all members' terms would otherwise expire  
430 but there are no candidates, the terms of all board members  
431 expire at the annual meeting, and such members may stand for  
432 reelection unless prohibited by the bylaws. If the bylaws or  
433 articles of incorporation permit ~~staggered~~ terms of no more than  
434 2 years ~~and upon approval of a majority of the total voting~~  
435 ~~interests~~, the association board members may serve 2-year  
436 ~~staggered~~ terms. If the number of board members whose terms  
437 expire at the annual meeting equals or exceeds the number of  
438 candidates, the candidates become members of the board effective  
439 upon the adjournment of the annual meeting. Unless the bylaws  
440 provide otherwise, any remaining vacancies shall be filled by  
441 the affirmative vote of the majority of the directors making up  
442 the newly constituted board even if the directors constitute  
443 less than a quorum or there is only one director. In a  
444 condominium association of more than 10 units or in a  
445 condominium association that does not include timeshare units or  
446 timeshare interests, coowners of a unit may not serve as members  
447 of the board of directors at the same time unless they own more  
448 than one unit or unless there are not enough eligible candidates





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449 | to fill the vacancies on the board at the time of the vacancy.  
450 | Any unit owner desiring to be a candidate for board membership  
451 | must comply with sub-subparagraph 4.a. and must be eligible to  
452 | be a candidate to serve on the board of directors at the time of  
453 | the deadline for submitting a notice of intent to run in order  
454 | to have his or her name listed as a proper candidate on the  
455 | ballot or to serve on the board. A person who has been suspended  
456 | or removed by the division under this chapter, or who is  
457 | delinquent in the payment of any monetary obligation due to the  
458 | association fee, fine, or special or regular assessment as  
459 | provided in paragraph (n), is not eligible to be a candidate for  
460 | board membership and may not be listed on the ballot. A person  
461 | who has been convicted of any felony in this state or in a  
462 | United States District or Territorial Court, or who has been  
463 | convicted of any offense in another jurisdiction which would be  
464 | considered a felony if committed in this state, is not eligible  
465 | for board membership unless such felon's civil rights have been  
466 | restored for at least 5 years as of the date such person seeks  
467 | election to the board. The validity of an action by the board is  
468 | not affected if it is later determined that a board member is  
469 | ineligible for board membership due to having been convicted of  
470 | a felony.

471 |         3. The bylaws must provide the method of calling meetings  
472 | of unit owners, including annual meetings. Written notice must  
473 | include an agenda, must be mailed, hand delivered, or  
474 | electronically transmitted to each unit owner at least 14 days  
475 | before the annual meeting, and must be posted in a conspicuous  
476 | place on the condominium property at least 14 continuous days



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477 | before the annual meeting. Upon notice to the unit owners, the  
478 | board shall, by duly adopted rule, designate a specific location  
479 | on the condominium property or association property where all  
480 | notices of unit owner meetings shall be posted. This requirement  
481 | does not apply if there is no condominium property or  
482 | association property for posting notices. In lieu of, or in  
483 | addition to, the physical posting of meeting notices, the  
484 | association may, by reasonable rule, adopt a procedure for  
485 | conspicuously posting and repeatedly broadcasting the notice and  
486 | the agenda on a closed-circuit cable television system serving  
487 | the condominium association. However, if broadcast notice is  
488 | used in lieu of a notice posted physically on the condominium  
489 | property, the notice and agenda must be broadcast at least four  
490 | times every broadcast hour of each day that a posted notice is  
491 | otherwise required under this section. If broadcast notice is  
492 | provided, the notice and agenda must be broadcast in a manner  
493 | and for a sufficient continuous length of time so as to allow an  
494 | average reader to observe the notice and read and comprehend the  
495 | entire content of the notice and the agenda. Unless a unit owner  
496 | waives in writing the right to receive notice of the annual  
497 | meeting, such notice must be hand delivered, mailed, or  
498 | electronically transmitted to each unit owner. Notice for  
499 | meetings and notice for all other purposes must be mailed to  
500 | each unit owner at the address last furnished to the association  
501 | by the unit owner, or hand delivered to each unit owner.  
502 | However, if a unit is owned by more than one person, the  
503 | association must provide notice to the address that the  
504 | developer identifies for that purpose and thereafter as one or



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505 | more of the owners of the unit advise the association in  
506 | writing, or if no address is given or the owners of the unit do  
507 | not agree, to the address provided on the deed of record. An  
508 | officer of the association, or the manager or other person  
509 | providing notice of the association meeting, must provide an  
510 | affidavit or United States Postal Service certificate of  
511 | mailing, to be included in the official records of the  
512 | association affirming that the notice was mailed or hand  
513 | delivered in accordance with this provision.

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

520 |         a. At least 60 days before a scheduled election, the  
521 | association shall mail, deliver, or electronically transmit, by  
522 | separate association mailing or included in another association  
523 | mailing, delivery, or transmission, including regularly  
524 | published newsletters, to each unit owner entitled to a vote, a  
525 | first notice of the date of the election. Any unit owner or  
526 | other eligible person desiring to be a candidate for the board  
527 | must give written notice of his or her intent to be a candidate  
528 | to the association at least 40 days before a scheduled election.  
529 | Together with the written notice and agenda as set forth in  
530 | subparagraph 3., the association shall mail, deliver, or  
531 | electronically transmit a second notice of the election to all  
532 | unit owners entitled to vote, together with a ballot that lists



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533 all candidates. Upon request of a candidate, an information  
534 sheet, no larger than 8 1/2 inches by 11 inches, which must be  
535 furnished by the candidate at least 35 days before the election,  
536 must be included with the mailing, delivery, or transmission of  
537 the ballot, with the costs of mailing, delivery, or electronic  
538 transmission and copying to be borne by the association. The  
539 association is not liable for the contents of the information  
540 sheets prepared by the candidates. In order to reduce costs, the  
541 association may print or duplicate the information sheets on  
542 both sides of the paper. The division shall by rule establish  
543 voting procedures consistent with this sub-subparagraph,  
544 including rules establishing procedures for giving notice by  
545 electronic transmission and rules providing for the secrecy of  
546 ballots. Elections shall be decided by a plurality of ballots  
547 cast. There is no quorum requirement; however, at least 20  
548 percent of the eligible voters must cast a ballot in order to  
549 have a valid election. A unit owner may not permit any other  
550 person to vote his or her ballot, and any ballots improperly  
551 cast are invalid. A unit owner who violates this provision may  
552 be fined by the association in accordance with s. 718.303. A  
553 unit owner who needs assistance in casting the ballot for the  
554 reasons stated in s. 101.051 may obtain such assistance. The  
555 regular election must occur on the date of the annual meeting.  
556 Notwithstanding this sub-subparagraph, an election is not  
557 required unless more candidates file notices of intent to run or  
558 are nominated than board vacancies exist.

559       b. Within 90 days after being elected or appointed to the  
560 board, each newly elected or appointed director shall certify in



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561 writing to the secretary of the association that he or she has  
562 read the association's declaration of condominium, articles of  
563 incorporation, bylaws, and current written policies; that he or  
564 she will work to uphold such documents and policies to the best  
565 of his or her ability; and that he or she will faithfully  
566 discharge his or her fiduciary responsibility to the  
567 association's members. In lieu of this written certification,  
568 within 90 days after being elected or appointed to the board,  
569 the newly elected or appointed director may submit a certificate  
570 of having satisfactorily completed the educational curriculum  
571 administered by a division-approved condominium education  
572 provider within 1 year before or 90 days after the date of  
573 election or appointment. The written certification or  
574 educational certificate is valid and does not have to be  
575 resubmitted as long as the director serves on the board without  
576 interruption. A director who fails to timely file the written  
577 certification or educational certificate is suspended from  
578 service on the board until he or she complies with this sub-  
579 subparagraph. The board may temporarily fill the vacancy during  
580 the period of suspension. The secretary shall cause the  
581 association to retain a director's written certification or  
582 educational certificate for inspection by the members for 5  
583 years after a director's election or the duration of the  
584 director's uninterrupted tenure, whichever is longer. Failure to  
585 have such written certification or educational certificate on  
586 file does not affect the validity of any board action.

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



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

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

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

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

614           9. Unless otherwise provided in the bylaws, any vacancy  
615 occurring on the board before the expiration of a term may be  
616 filled by the affirmative vote of the majority of the remaining



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

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

633  
634 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an  
635 association of 10 or fewer units may, by affirmative vote of a  
636 majority of the total voting interests, provide for different  
637 voting and election procedures in its bylaws, which may be by a  
638 proxy specifically delineating the different voting and election  
639 procedures. The different voting and election procedures may  
640 provide for elections to be conducted by limited or general  
641 proxy.

642       (j) Recall of board members.—Subject to ~~the provisions of~~  
643 s. 718.301, any member of the board of administration may be  
644 recalled and removed from office with or without cause by the



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645 | vote or agreement in writing by a majority of all the voting  
646 | interests. A special meeting of the unit owners to recall a  
647 | member or members of the board of administration may be called  
648 | by 10 percent of the voting interests giving notice of the  
649 | meeting as required for a meeting of unit owners, and the notice  
650 | shall state the purpose of the meeting. Electronic transmission  
651 | may not be used as a method of giving notice of a meeting called  
652 | in whole or in part for this purpose.

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

664 |         2. If the proposed recall is by an agreement in writing by  
665 | a majority of all voting interests, the agreement in writing or  
666 | a copy thereof shall be served on the association by certified  
667 | mail or by personal service in the manner authorized by chapter  
668 | 48 and the Florida Rules of Civil Procedure. The board of  
669 | administration shall duly notice and hold a meeting of the board  
670 | within 5 full business days after receipt of the agreement in  
671 | writing. At the meeting, the board shall either certify the  
672 | written agreement to recall a member or members of the board, in





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673 | which case such member or members shall be recalled effective  
 674 | immediately and shall turn over to the board within 5 full  
 675 | business days any and all records and property of the  
 676 | association in their possession, or proceed as described in  
 677 | subparagraph 3.

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

695 |         4. If the board fails to duly notice and hold a board  
 696 | meeting within 5 full business days after ~~of~~ service of an  
 697 | agreement in writing or within 5 full business days after ~~of~~ the  
 698 | adjournment of the unit owner recall meeting, the recall shall  
 699 | be deemed effective and the board members so recalled shall  
 700 | immediately turn over to the board any and all records and

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701 property of the association.

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

711 ~~6.5.~~ If a vacancy occurs on the board as a result of a  
712 recall or removal and less than a majority of the board members  
713 are removed, the vacancy may be filled by the affirmative vote  
714 of a majority of the remaining directors, notwithstanding any  
715 provision to the contrary contained in this subsection. If  
716 vacancies occur on the board as a result of a recall and a  
717 majority or more of the board members are removed, the vacancies  
718 shall be filled in accordance with procedural rules to be  
719 adopted by the division, which rules need not be consistent with  
720 this subsection. The rules must provide procedures governing the  
721 conduct of the recall election as well as the operation of the  
722 association during the period after a recall but before ~~prior to~~  
723 the recall election.

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



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

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

739           718.113 Maintenance; limitation upon improvement; display  
 740 of flag; hurricane shutters and protection; display of religious  
 741 decorations.—

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

748           (a) The board may, subject to ~~the provisions of s.~~  
 749 ~~718.3026,~~ and the approval of a majority of voting interests of  
 750 the condominium, install hurricane shutters, impact glass, ~~or~~  
 751 ~~either~~ code-compliant windows or doors, or other types of code-  
 752 compliant hurricane protection that comply ~~complies~~ with or  
 753 exceed ~~exceeds~~ the applicable building code. However, a vote of  
 754 the owners is not required if the maintenance, repair, and  
 755 replacement of hurricane shutters, impact glass, ~~or other~~ code-  
 756 compliant windows or doors, or other types of code-compliant



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

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

780 (c) The board may operate shutters, impact glass, code-  
781 compliant windows or doors, or other types of code-compliant  
782 hurricane protection installed pursuant to this subsection  
783 without permission of the unit owners only if such operation is  
784 necessary to preserve and protect the condominium property and



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785 association property. The installation, replacement, operation,  
 786 repair, and maintenance of such shutters, impact glass, code-  
 787 compliant windows or doors, or other types of code-compliant  
 788 hurricane protection in accordance with the procedures set forth  
 789 in this paragraph are not a material alteration to the common  
 790 elements or association property within the meaning of this  
 791 section.

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

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

801 718.115 Common expenses and common surplus.—

802 (1)

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



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



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

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

858 718.303 Obligations of owners and occupants; remedies.—

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

867 (a) An association may suspend, for a reasonable period of  
868 time, the right of a unit owner, or a unit owner's tenant,



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

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

879 |         718.403 Phase condominiums.—

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

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





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897 (b) An amendment to extend the 7-year period requires the  
898 approval of the owners necessary to amend the declaration of  
899 condominium consistent with s. 718.110(1)(a). An extension of  
900 the 7-year period may be submitted for approval only during the  
901 last 3 years of the 7-year period.

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

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

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

911 718.406 Condominiums created within condominium parcels.—

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

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

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

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

923 (d) "Secondary condominium" means one or more condominium  
924 parcels that have been submitted to condominium ownership



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925 pursuant to a secondary condominium declaration.

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

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

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

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

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

950 (3) Unless otherwise provided in the primary condominium  
951 declaration as originally recorded, no secondary condominium may  
952 be created upon any condominium parcel in the primary



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953 condominium, and no amendment to the primary condominium  
954 declaration may permit secondary condominiums to be created upon  
955 parcels in the primary condominium, unless the record owners of  
956 a majority of the condominium parcels join in the execution of  
957 the amendment.

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



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981 subdivided parcel must execute the secondary condominium  
982 declaration for the purpose of evidencing their approval.

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

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

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

1000 (8) Any unit owner of, or holder of a first mortgage on, a  
1001 secondary unit may register such unit owner's or mortgagee's  
1002 interest in the secondary unit with the primary condominium  
1003 association by delivering written notice to the primary  
1004 condominium association. Once registered, the primary  
1005 condominium association must provide written notice to such  
1006 secondary unit owner and his, her, or its first mortgagee at  
1007 least 30 days before instituting any foreclosure action against  
1008 the subdivided parcel in which the secondary unit owner and his,



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1009 her, or its first mortgagee hold an interest for failure of the  
 1010 subdivided parcel owner to pay any assessments or other amounts  
 1011 due to the primary condominium association. A foreclosure action  
 1012 against a subdivided parcel is not effective without an  
 1013 affidavit indicating that written notice of the foreclosure was  
 1014 timely sent to the names and addresses of secondary unit owners  
 1015 and first mortgagees registered with the primary condominium  
 1016 association pursuant to this subsection. The registered  
 1017 secondary unit owner or mortgagee has a right to pay the  
 1018 proportionate amount of the delinquent assessment attributable  
 1019 to the secondary unit in which the registered unit owner or  
 1020 mortgagee holds an interest. Upon such payment, the primary  
 1021 condominium association is obligated to promptly modify or  
 1022 partially release the record of lien on the primary condominium  
 1023 association so that the lien no longer encumbers such secondary  
 1024 unit. Alternatively, a registered secondary unit owner or  
 1025 mortgagee may pay the amount of all delinquent assessments  
 1026 attributed to the subdivided parcel and seek reimbursement for  
 1027 all such amounts paid and all costs incurred from the secondary  
 1028 condominium association, including, without limitation, the  
 1029 costs of collection other than the share allocable to the  
 1030 secondary unit on behalf of which such payment was made.

1031 (9) In the event of a conflict between the primary  
 1032 condominium declaration and the secondary condominium  
 1033 declaration, the primary condominium declaration controls.

1034 (10) All common expenses due to the primary condominium  
 1035 association with respect to a subdivided parcel are a common  
 1036 expense of the secondary condominium association and shall be



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1037 collected by the secondary condominium association from its  
 1038 members and paid to the primary condominium association.

1039 Section 9. Subsection (2) of section 718.5011, Florida  
 1040 Statutes, is amended to read:

1041 718.5011 Ombudsman; appointment; administration.—

1042 (2) The Governor shall appoint the ombudsman. The  
 1043 ombudsman must be an attorney admitted to practice before the  
 1044 Florida Supreme Court and shall serve at the pleasure of the  
 1045 Governor. A vacancy in the office shall be filled in the same  
 1046 manner as the original appointment. An officer or full-time  
 1047 employee of the ombudsman's office may not actively engage in  
 1048 any other business or profession that directly or indirectly  
 1049 relates to or conflicts with his or her work in the ombudsman's  
 1050 office; serve as the representative of any political party,  
 1051 executive committee, or other governing body of a political  
 1052 party; serve as an executive, officer, or employee of a  
 1053 political party; receive remuneration for activities on behalf  
 1054 of any candidate for public office; or engage in soliciting  
 1055 votes or other activities on behalf of a candidate for public  
 1056 office. The ombudsman or any employee of his or her office may  
 1057 not become a candidate for election to public office unless he  
 1058 or she first resigns from his or her office or employment.

1059 Section 10. Paragraphs (b) and (c) of subsection (2) of  
 1060 section 719.104, Florida Statutes, are amended to read:

1061 719.104 Cooperatives; access to units; records; financial  
 1062 reports; assessments; purchase of leases.—

1063 (2) OFFICIAL RECORDS.—

1064 (b) The official records of the association must ~~shall~~ be



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1065 maintained within the state for at least 7 years. The records of  
 1066 the association shall be made available to a unit owner within  
 1067 45 miles of the cooperative property or within the county in  
 1068 which the cooperative property is located within 5 working days  
 1069 after receipt of written request by the board or its designee.  
 1070 This paragraph may be complied with by having a copy of the  
 1071 official records of the association available for inspection or  
 1072 copying on the cooperative property or the association may offer  
 1073 the option of making the records available to a unit owner  
 1074 electronically via the Internet or by allowing the records to be  
 1075 viewed in an electronic format on a computer screen and printed  
 1076 upon request. The association is not responsible for the use or  
 1077 misuse of the information provided to an association member or  
 1078 his or her authorized representative pursuant to the compliance  
 1079 requirements of this chapter unless the association has an  
 1080 affirmative duty not to disclose such information pursuant to  
 1081 this chapter.

1082 (c) The official records of the association are ~~shall be~~  
 1083 open to inspection by any association member or the authorized  
 1084 representative of such member at all reasonable times. ~~Failure~~  
 1085 ~~to permit inspection of the association records as provided~~  
 1086 ~~herein entitles any person prevailing in an enforcement action~~  
 1087 ~~to recover reasonable attorney's fees from the person in control~~  
 1088 ~~of the records who, directly or indirectly, knowingly denies~~  
 1089 ~~access to the records for inspection.~~ The right to inspect the  
 1090 records includes the right to make or obtain copies, at the  
 1091 reasonable expense, if any, of the association member. The  
 1092 association may adopt reasonable rules regarding the frequency,



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1093 | time, location, notice, and manner of record inspections and  
 1094 | copying. The failure of an association to provide the records  
 1095 | within 10 working days after receipt of a written request  
 1096 | creates a rebuttable presumption that the association willfully  
 1097 | failed to comply with this paragraph. A unit owner who is denied  
 1098 | access to official records is entitled to the actual damages or  
 1099 | minimum damages for the association's willful failure to comply  
 1100 | ~~with this paragraph~~. The minimum damages are ~~shall be~~ \$50 per  
 1101 | calendar day for up to 10 days, beginning ~~the calculation to~~  
 1102 | ~~begin~~ on the 11th working day after receipt of the written  
 1103 | request. The failure to permit inspection entitles any person  
 1104 | prevailing in an enforcement action to recover reasonable  
 1105 | attorney fees from the person in control of the records who,  
 1106 | directly or indirectly, knowingly denied access to the records.  
 1107 | Any person who knowingly or intentionally defaces or destroys  
 1108 | accounting records that are required by this chapter to be  
 1109 | maintained during the period for which such records are required  
 1110 | to be maintained, or who knowingly or intentionally fails to  
 1111 | create or maintain accounting records that are required to be  
 1112 | created or maintained, with the intent of causing harm to the  
 1113 | association or one or more of its members, is personally subject  
 1114 | to a civil penalty pursuant to s. 719.501(1)(d). The association  
 1115 | shall maintain an adequate number of copies of the declaration,  
 1116 | articles of incorporation, bylaws, and rules, and all amendments  
 1117 | to each of the foregoing, as well as the question and answer  
 1118 | sheet as described ~~provided for~~ in s. 719.504 and year-end  
 1119 | financial information required by the department, on the  
 1120 | cooperative property to ensure their availability to unit owners





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1121 and prospective purchasers, and may charge its actual costs for  
 1122 preparing and furnishing these documents to those requesting the  
 1123 same. An association shall allow a member or his or her  
 1124 authorized representative to use a portable device, including a  
 1125 smartphone, tablet, portable scanner, or any other technology  
 1126 capable of scanning or taking photographs, to make an electronic  
 1127 copy of the official records in lieu of the association  
 1128 providing the member or his or her authorized representative  
 1129 with a copy of such records. The association may not charge a  
 1130 member or his or her authorized representative for the use of a  
 1131 portable device. Notwithstanding ~~the provisions of~~ this  
 1132 paragraph, the following records shall not be accessible to unit  
 1133 owners:

1134 1. Any record protected by the lawyer-client privilege as  
 1135 described in s. 90.502 and any record protected by the work-  
 1136 product privilege, including any record ~~A record that was~~  
 1137 prepared by an association attorney or prepared at the  
 1138 attorney's express direction which; ~~that~~ reflects a mental  
 1139 impression, conclusion, litigation strategy, or legal theory of  
 1140 the attorney or the association, and which; ~~or that~~ was prepared  
 1141 exclusively for civil or criminal litigation or for adversarial  
 1142 administrative proceedings, or which was prepared in  
 1143 anticipation of such ~~imminent civil or criminal~~ litigation or  
 1144 ~~imminent adversarial administrative proceedings,~~ until the  
 1145 conclusion of the litigation or ~~adversarial administrative~~  
 1146 proceedings.

1147 2. Information obtained by an association in connection  
 1148 with the approval of the lease, sale, or other transfer of a



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1149 unit.

1150 3. Personnel records of association or management company  
1151 employees, including, but not limited to, disciplinary, payroll,  
1152 health, and insurance records. For purposes of this  
1153 subparagraph, the term "personnel records" does not include  
1154 written employment agreements with an association employee or  
1155 management company, or budgetary or financial records that  
1156 indicate the compensation paid to an association employee.

1157 4.3. Medical records of unit owners.

1158 5. Social security numbers, driver license numbers, credit  
1159 card numbers, e-mail addresses, telephone numbers, facsimile  
1160 numbers, emergency contact information, addresses of a unit  
1161 owner other than as provided to fulfill the association's notice  
1162 requirements, and other personal identifying information of any  
1163 person, excluding the person's name, unit designation, mailing  
1164 address, property address, and any address, e-mail address, or  
1165 facsimile number provided to the association to fulfill the  
1166 association's notice requirements. Notwithstanding the  
1167 restrictions in this subparagraph, an association may print and  
1168 distribute to parcel owners a directory containing the name,  
1169 parcel address, and telephone number of each parcel owner.  
1170 However, an owner may exclude his or her telephone number from  
1171 the directory by so requesting in writing to the association.  
1172 The association is not liable for the inadvertent disclosure of  
1173 information that is protected under this subparagraph if the  
1174 information is included in an official record of the association  
1175 and is voluntarily provided by an owner and not requested by the  
1176 association.



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1177           6. Electronic security measures that are used by the  
 1178 association to safeguard data, including passwords.

1179           7. The software and operating system used by the  
 1180 association which allow the manipulation of data, even if the  
 1181 owner owns a copy of the same software used by the association.  
 1182 The data is part of the official records of the association.

1183           Section 11. Subsection (7) is added to section 719.1055,  
 1184 Florida Statutes, to read:

1185           719.1055 Amendment of cooperative documents; alteration  
 1186 and acquisition of property.—

1187           (7) The Legislature finds that the procurement of  
 1188 mortgagee consent to amendments that do not affect the rights or  
 1189 interests of mortgagees is an unreasonable and substantial  
 1190 logistical and financial burden on the unit owners and that  
 1191 there is a compelling state interest in enabling the members of  
 1192 an association to approve amendments to the association's  
 1193 cooperative documents through legal means. Accordingly, and  
 1194 notwithstanding any provision of this subsection to the  
 1195 contrary:

1196           (a) As to any mortgage recorded on or after July 1, 2013,  
 1197 any provision in the association's cooperative documents that  
 1198 requires the consent or joinder of some or all mortgagees of  
 1199 units or any other portion of the association's common areas to  
 1200 amend the association's cooperative documents or for any other  
 1201 matter is enforceable only as to amendments to the association's  
 1202 cooperative documents that adversely affect the priority of the  
 1203 mortgagee's lien or the mortgagee's rights to foreclose its lien



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1204 or that otherwise materially affect the rights and interests of  
 1205 the mortgagees.

1206 (b) As to mortgages recorded before July 1, 2013, any  
 1207 existing provisions in the association's cooperative documents  
 1208 requiring mortgagee consent are enforceable.

1209 (c) In securing consent or joinder, the association is  
 1210 entitled to rely upon the public records to identify the holders  
 1211 of outstanding mortgages. The association may use the address  
 1212 provided in the original recorded mortgage document, unless  
 1213 there is a different address for the holder of the mortgage in a  
 1214 recorded assignment or modification of the mortgage, which  
 1215 recorded assignment or modification must reference the official  
 1216 records book and page on which the original mortgage was  
 1217 recorded. Once the association has identified the recorded  
 1218 mortgages of record, the association shall, in writing, request  
 1219 of each unit owner whose unit is encumbered by a mortgage of  
 1220 record any information that the owner has in his or her  
 1221 possession regarding the name and address of the person to whom  
 1222 mortgage payments are currently being made. Notice shall be sent  
 1223 to such person if the address provided in the original recorded  
 1224 mortgage document is different from the name and address of the  
 1225 mortgagee or assignee of the mortgage as shown by the public  
 1226 record. The association is deemed to have complied with this  
 1227 requirement by making the written request of the unit owners  
 1228 required under this paragraph. Any notices required to be sent  
 1229 to the mortgagees under this paragraph shall be sent to all  
 1230 available addresses provided to the association.



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1231 (d) Any notice to the mortgagees required under paragraph  
1232 (c) may be sent by a method that establishes proof of delivery,  
1233 and any mortgagee who fails to respond within 60 days after the  
1234 date of mailing is deemed to have consented to the amendment.

1235 (e) For those amendments requiring mortgagee consent on or  
1236 after July 1, 2013, in the event mortgagee consent is provided  
1237 other than by properly recorded joinder, such consent shall be  
1238 evidenced by affidavit of the association recorded in the public  
1239 records of the county in which the declaration is recorded.

1240 (f) Any amendment adopted without the required consent of  
1241 a mortgagee is voidable only by a mortgagee who was entitled to  
1242 notice and an opportunity to consent. An action to void an  
1243 amendment is subject to the statute of limitations beginning 5  
1244 years after the date of discovery as to the amendments described  
1245 in paragraph (a) and 5 years after the date of recordation of  
1246 the certificate of amendment for all other amendments. This  
1247 paragraph applies to all mortgages, regardless of the date of  
1248 recordation of the mortgage.

1249 Section 12. Paragraphs (c), (d), and (f) of subsection (1)  
1250 of section 719.106, Florida Statutes, are amended to read:

1251 719.106 Bylaws; cooperative ownership.—

1252 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative  
1253 documents shall provide for the following, and if they do not,  
1254 they shall be deemed to include the following:

1255 (c) Board of administration meetings.—Meetings of the  
1256 board of administration at which a quorum of the members is  
1257 present shall be open to all unit owners. Any unit owner may  
1258 tape record or videotape meetings of the board of



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1259 administration. The right to attend such meetings includes the  
1260 right to speak at such meetings with reference to all designated  
1261 agenda items. The division shall adopt reasonable rules  
1262 governing the tape recording and videotaping of the meeting. The  
1263 association may adopt reasonable written rules governing the  
1264 frequency, duration, and manner of unit owner statements.  
1265 Adequate notice of all meetings shall be posted in a conspicuous  
1266 place upon the cooperative property at least 48 continuous hours  
1267 preceding the meeting, except in an emergency. Any item not  
1268 included on the notice may be taken up on an emergency basis by  
1269 at least a majority plus one of the members of the board. Such  
1270 emergency action shall be noticed and ratified at the next  
1271 regular meeting of the board. However, written notice of any  
1272 meeting at which nonemergency special assessments, or at which  
1273 amendment to rules regarding unit use, will be considered shall  
1274 be mailed, delivered, or electronically transmitted to the unit  
1275 owners and posted conspicuously on the cooperative property not  
1276 less than 14 days before ~~prior to~~ the meeting. Evidence of  
1277 compliance with this 14-day notice shall be made by an affidavit  
1278 executed by the person providing the notice and filed among the  
1279 official records of the association. Upon notice to the unit  
1280 owners, the board shall by duly adopted rule designate a  
1281 specific location on the cooperative property upon which all  
1282 notices of board meetings shall be posted. In lieu of or in  
1283 addition to the physical posting of notice of any meeting of the  
1284 board of administration on the cooperative property, the  
1285 association may, by reasonable rule, adopt a procedure for  
1286 conspicuously posting and repeatedly broadcasting the notice and



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1287 the agenda on a closed-circuit cable television system serving  
 1288 the cooperative association. However, if broadcast notice is  
 1289 used in lieu of a notice posted physically on the cooperative  
 1290 property, the notice and agenda must be broadcast at least four  
 1291 times every broadcast hour of each day that a posted notice is  
 1292 otherwise required under this section. When broadcast notice is  
 1293 provided, the notice and agenda must be broadcast in a manner  
 1294 and for a sufficient continuous length of time so as to allow an  
 1295 average reader to observe the notice and read and comprehend the  
 1296 entire content of the notice and the agenda. Notice of any  
 1297 meeting in which regular assessments against unit owners are to  
 1298 be considered for any reason shall specifically contain a  
 1299 statement that assessments will be considered and the nature of  
 1300 any such assessments. Meetings of a committee to take final  
 1301 action on behalf of the board or to make recommendations to the  
 1302 board regarding the association budget are subject to the  
 1303 provisions of this paragraph. Meetings of a committee that does  
 1304 not take final action on behalf of the board or make  
 1305 recommendations to the board regarding the association budget  
 1306 are subject to the provisions of this section, unless those  
 1307 meetings are exempted from this section by the bylaws of the  
 1308 association. Notwithstanding any other law to the contrary, the  
 1309 requirement that board meetings and committee meetings be open  
 1310 to the unit owners does not apply ~~is inapplicable~~ to board or  
 1311 committee meetings held for the purpose of discussing personnel  
 1312 matters or meetings between the board or a committee and the  
 1313 association's attorney, with respect to proposed or pending  
 1314 litigation, if ~~when~~ the meeting is held for the purpose of



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1315 seeking or rendering legal advice.

1316 (d) Shareholder meetings.—There shall be an annual meeting  
1317 of the shareholders. All members of the board of administration  
1318 shall be elected at the annual meeting unless the bylaws provide  
1319 for staggered election terms or for their election at another  
1320 meeting. Any unit owner desiring to be a candidate for board  
1321 membership must comply with subparagraph 1. The bylaws must  
1322 provide the method for calling meetings, including annual  
1323 meetings. Written notice, which must incorporate an  
1324 identification of agenda items, shall be given to each unit  
1325 owner at least 14 days before the annual meeting and posted in a  
1326 conspicuous place on the cooperative property at least 14  
1327 continuous days preceding the annual meeting. Upon notice to the  
1328 unit owners, the board must by duly adopted rule designate a  
1329 specific location on the cooperative property upon which all  
1330 notice of unit owner meetings are posted. In lieu of or in  
1331 addition to the physical posting of the meeting notice, the  
1332 association may, by reasonable rule, adopt a procedure for  
1333 conspicuously posting and repeatedly broadcasting the notice and  
1334 the agenda on a closed-circuit cable television system serving  
1335 the cooperative association. However, if broadcast notice is  
1336 used in lieu of a posted notice, the notice and agenda must be  
1337 broadcast at least four times every broadcast hour of each day  
1338 that a posted notice is otherwise required under this section.  
1339 If broadcast notice is provided, the notice and agenda must be  
1340 broadcast in a manner and for a sufficient continuous length of  
1341 time to allow an average reader to observe the notice and read  
1342 and comprehend the entire content of the notice and the agenda.





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1343 Unless a unit owner waives in writing the right to receive  
1344 notice of the annual meeting, the notice of the annual meeting  
1345 must be sent by mail, hand delivered, or electronically  
1346 transmitted to each unit owner. An officer of the association  
1347 must provide an affidavit or United States Postal Service  
1348 certificate of mailing, to be included in the official records  
1349 of the association, affirming that notices of the association  
1350 meeting were mailed, hand delivered, or electronically  
1351 transmitted, in accordance with this provision, to each unit  
1352 owner at the address last furnished to the association.

1353 1. The board of administration shall be elected by written  
1354 ballot or voting machine. A proxy may not be used in electing  
1355 the board of administration in general elections or elections to  
1356 fill vacancies caused by recall, resignation, or otherwise  
1357 unless otherwise provided in this chapter.

1358 a. At least 60 days before a scheduled election, the  
1359 association shall mail, deliver, or transmit, whether by  
1360 separate association mailing, delivery, or electronic  
1361 transmission or included in another association mailing,  
1362 delivery, or electronic transmission, including regularly  
1363 published newsletters, to each unit owner entitled to vote, a  
1364 first notice of the date of the election. Any unit owner or  
1365 other eligible person desiring to be a candidate for the board  
1366 of administration must give written notice to the association at  
1367 least 40 days before a scheduled election. Together with the  
1368 written notice and agenda as set forth in this section, the  
1369 association shall mail, deliver, or electronically transmit a  
1370 second notice of election to all unit owners entitled to vote,



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1371 together with a ballot that ~~which~~ lists all candidates. Upon  
1372 request of a candidate, the association shall include an  
1373 information sheet, no larger than 8 1/2 inches by 11 inches,  
1374 which must be furnished by the candidate at least 35 days before  
1375 the election, to be included with the mailing, delivery, or  
1376 electronic transmission of the ballot, with the costs of  
1377 mailing, delivery, or transmission and copying to be borne by  
1378 the association. The association is not liable for the contents  
1379 of the information sheets provided by the candidates. In order  
1380 to reduce costs, the association may print or duplicate the  
1381 information sheets on both sides of the paper. The division  
1382 shall by rule establish voting procedures consistent with this  
1383 subparagraph, including rules establishing procedures for giving  
1384 notice by electronic transmission and rules providing for the  
1385 secrecy of ballots. Elections shall be decided by a plurality of  
1386 those ballots cast. There is no quorum requirement. However, at  
1387 least 20 percent of the eligible voters must cast a ballot in  
1388 order to have a valid election. A unit owner may not permit any  
1389 other person to vote his or her ballot, and any such ballots  
1390 improperly cast are invalid. A unit owner who needs assistance  
1391 in casting the ballot for the reasons stated in s. 101.051 may  
1392 obtain assistance in casting the ballot. Any unit owner  
1393 violating this provision may be fined by the association in  
1394 accordance with s. 719.303. The regular election must occur on  
1395 the date of the annual meeting. This subparagraph does not apply  
1396 to timeshare cooperatives. Notwithstanding this subparagraph, an  
1397 election and balloting are not required unless more candidates  
1398 file a notice of intent to run or are nominated than vacancies



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1399 exist on the board. Any challenge to the election process must  
1400 be commenced within 60 days after the election results are  
1401 announced.

1402 b. Within 90 days after being elected or appointed to the  
1403 board, each new director shall certify in writing to the  
1404 secretary of the association that he or she has read the  
1405 association's bylaws, articles of incorporation, proprietary  
1406 lease, and current written policies; that he or she will work to  
1407 uphold such documents and policies to the best of his or her  
1408 ability; and that he or she will faithfully discharge his or her  
1409 fiduciary responsibility to the association's members. Within 90  
1410 days after being elected or appointed to the board, in lieu of  
1411 this written certification, the newly elected or appointed  
1412 director may submit a certificate of having satisfactorily  
1413 completed the educational curriculum administered by an  
1414 education provider as approved by the division pursuant to the  
1415 requirements established in chapter 718 within 1 year before or  
1416 90 days after the date of election or appointment. The  
1417 educational certificate is valid and does not have to be  
1418 resubmitted as long as the director serves on the board without  
1419 interruption. A director who fails to timely file the written  
1420 certification or educational certificate is suspended from  
1421 service on the board until he or she complies with this sub-  
1422 subparagraph. The board may temporarily fill the vacancy during  
1423 the period of suspension. The secretary of the association shall  
1424 cause the association to retain a director's written  
1425 certification or educational certificate for inspection by the  
1426 members for 5 years after a director's election or the duration



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1427 of the director's uninterrupted tenure, whichever is longer.  
1428 Failure to have such written certification or educational  
1429 certificate on file does not affect the validity of any board  
1430 action.

1431 2. Any approval by unit owners called for by this chapter,  
1432 or the applicable cooperative documents, must be made at a duly  
1433 noticed meeting of unit owners and is subject to this chapter or  
1434 the applicable cooperative documents relating to unit owner  
1435 decisionmaking, except that unit owners may take action by  
1436 written agreement, without meetings, on matters for which action  
1437 by written agreement without meetings is expressly allowed by  
1438 the applicable cooperative documents or law which provides for  
1439 the unit owner action.

1440 3. Unit owners may waive notice of specific meetings if  
1441 allowed by the applicable cooperative documents or law. If  
1442 authorized by the bylaws, notice of meetings of the board of  
1443 administration, shareholder meetings, except shareholder  
1444 meetings called to recall board members under paragraph (f), and  
1445 committee meetings may be given by electronic transmission to  
1446 unit owners who consent to receive notice by electronic  
1447 transmission.

1448 4. Unit owners have the right to participate in meetings  
1449 of unit owners with reference to all designated agenda items.  
1450 However, the association may adopt reasonable rules governing  
1451 the frequency, duration, and manner of unit owner participation.

1452 5. Any unit owner may tape record or videotape meetings of  
1453 the unit owners subject to reasonable rules adopted by the  
1454 division.



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1455 |           6. Unless otherwise provided in the bylaws, a vacancy  
1456 | occurring on the board before the expiration of a term may be  
1457 | filled by the affirmative vote of the majority of the remaining  
1458 | directors, even if the remaining directors constitute less than  
1459 | a quorum, or by the sole remaining director. In the alternative,  
1460 | a board may hold an election to fill the vacancy, in which case  
1461 | the election procedures must conform to the requirements of  
1462 | subparagraph 1. unless the association has opted out of the  
1463 | statutory election process, in which case the bylaws of the  
1464 | association control. Unless otherwise provided in the bylaws, a  
1465 | board member appointed or elected under this subparagraph shall  
1466 | fill the vacancy for the unexpired term of the seat being  
1467 | filled. Filling vacancies created by recall is governed by  
1468 | paragraph (f) and rules adopted by the division.

1469 |  
1470 | Notwithstanding subparagraphs (b)2. and (d)1., an association  
1471 | may, by the affirmative vote of a majority of the total voting  
1472 | interests, provide for a different voting and election procedure  
1473 | in its bylaws, which vote may be by a proxy specifically  
1474 | delineating the different voting and election procedures. The  
1475 | different voting and election procedures may provide for  
1476 | elections to be conducted by limited or general proxy.

1477 |           (f) Recall of board members.—Subject to ~~the provisions of~~  
1478 | s. 719.301, any member of the board of administration may be  
1479 | recalled and removed from office with or without cause by the  
1480 | vote or agreement in writing by a majority of all the voting  
1481 | interests. A special meeting of the voting interests to recall  
1482 | any member of the board of administration may be called by 10



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1483 percent of the unit owners giving notice of the meeting as  
1484 required for a meeting of unit owners, and the notice shall  
1485 state the purpose of the meeting. Electronic transmission may  
1486 not be used as a method of giving notice of a meeting called in  
1487 whole or in part for this purpose.

1488 1. If the recall is approved by a majority of all voting  
1489 interests by a vote at a meeting, the recall shall be effective  
1490 as provided in this paragraph herein. The board shall duly  
1491 notice and hold a board meeting within 5 full business days  
1492 after ~~of~~ the adjournment of the unit owner meeting to recall one  
1493 or more board members. At the meeting, the board shall either  
1494 certify the recall, in which case such member or members shall  
1495 be recalled effective immediately and shall turn over to the  
1496 board within 5 full business days any and all records and  
1497 property of the association in their possession, or shall  
1498 proceed as set forth in subparagraph 3.

1499 2. If the proposed recall is by an agreement in writing by  
1500 a majority of all voting interests, the agreement in writing or  
1501 a copy thereof shall be served on the association by certified  
1502 mail or by personal service in the manner authorized by chapter  
1503 48 and the Florida Rules of Civil Procedure. The board of  
1504 administration shall duly notice and hold a meeting of the board  
1505 within 5 full business days after receipt of the agreement in  
1506 writing. At the meeting, the board shall either certify the  
1507 written agreement to recall members of the board, in which case  
1508 such members shall be recalled effective immediately and shall  
1509 turn over to the board, within 5 full business days, any and all  
1510 records and property of the association in their possession, or



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1511 proceed as described in subparagraph 3.

1512           3. If the board determines not to certify the written  
 1513 agreement to recall members of the board, or does not certify  
 1514 the recall by a vote at a meeting, the board shall, within 5  
 1515 full business days after the board meeting, file with the  
 1516 division a petition for binding arbitration pursuant to the  
 1517 procedures of s. 719.1255. For purposes of this paragraph, the  
 1518 unit owners who voted at the meeting or who executed the  
 1519 agreement in writing shall constitute one party under the  
 1520 petition for arbitration. If the arbitrator certifies the recall  
 1521 as to any member of the board, the recall shall be effective  
 1522 upon mailing of the final order of arbitration to the  
 1523 association. If the association fails to comply with the order  
 1524 of the arbitrator, the division may take action pursuant to s.  
 1525 719.501. Any member so recalled shall deliver to the board any  
 1526 and all records and property of the association in the member's  
 1527 possession within 5 full business days after ~~of~~ the effective  
 1528 date of the recall.

1529           4. If the board fails to duly notice and hold a board  
 1530 meeting within 5 full business days after ~~of~~ service of an  
 1531 agreement in writing or within 5 full business days after ~~of~~ the  
 1532 adjournment of the unit owner recall meeting, the recall shall  
 1533 be deemed effective and the board members so recalled shall  
 1534 immediately turn over to the board any and all records and  
 1535 property of the association.

1536           5. If the board fails to duly notice and hold the required  
 1537 meeting or fails to file the required petition, the unit owner  
 1538 representative may file a petition pursuant to s. 719.1255



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1539 challenging the board's failure to act. The petition must be  
1540 filed within 60 days after the expiration of the applicable 5-  
1541 full-business-day period. The review of a petition under this  
1542 subparagraph is limited to the sufficiency of service on the  
1543 board and the facial validity of the written agreement or  
1544 ballots filed.

1545 ~~6.5.~~ If a vacancy occurs on the board as a result of a  
1546 recall and less than a majority of the board members are  
1547 removed, the vacancy may be filled by the affirmative vote of a  
1548 majority of the remaining directors, notwithstanding any  
1549 provision to the contrary contained in this chapter. If  
1550 vacancies occur on the board as a result of a recall and a  
1551 majority or more of the board members are removed, the vacancies  
1552 shall be filled in accordance with procedural rules to be  
1553 adopted by the division, which rules need not be consistent with  
1554 this chapter. The rules must provide procedures governing the  
1555 conduct of the recall election as well as the operation of the  
1556 association during the period after a recall but before ~~prior to~~  
1557 the recall election.

1558 7. A board member who has been recalled may file a  
1559 petition pursuant to s. 719.1255 challenging the validity of the  
1560 recall. The petition must be filed within 60 days after the  
1561 recall is deemed certified. The association and the unit owner  
1562 representative shall be named as the respondents.

1563 8. The division may not accept for filing a recall  
1564 petition, whether filed pursuant to subparagraph 1.,  
1565 subparagraph 2., subparagraph 5., or subparagraph 7. and  
1566 regardless of whether the recall was certified, when there are





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1567 60 or fewer days until the scheduled reelection of the board  
 1568 member sought to be recalled or when 60 or fewer days have not  
 1569 elapsed since the election of the board member sought to be  
 1570 recalled.

1571 Section 13. Paragraph (a) of subsection (3) of section  
 1572 719.303, Florida Statutes, is amended to read:

1573 719.303 Obligations of owners.—

1574 (3) The association may levy reasonable fines for failure  
 1575 of the unit owner or the unit's occupant, licensee, or invitee  
 1576 to comply with any provision of the cooperative documents or  
 1577 reasonable rules of the association. A fine may not become a  
 1578 lien against a unit. A fine may be levied on the basis of each  
 1579 day of a continuing violation, with a single notice and  
 1580 opportunity for hearing. However, the fine may not exceed \$100  
 1581 per violation, or \$1,000 in the aggregate.

1582 (a) An association may suspend, for a reasonable period of  
 1583 time, the right of a unit owner, or a unit owner's tenant,  
 1584 guest, or invitee, to use the common elements, common  
 1585 facilities, or any other association property for failure to  
 1586 comply with any provision of the cooperative documents or  
 1587 reasonable rules of the association. This paragraph does not  
 1588 apply to limited common elements intended to be used only by  
 1589 that unit, common elements needed to access the unit, utility  
 1590 services provided to the unit, parking spaces, or elevators.

1591 Section 14. Paragraph (k) of subsection (1) of section  
 1592 719.501, Florida Statutes, is amended to read:

1593 719.501 Powers and duties of Division of Florida  
 1594 Condominiums, Timeshares, and Mobile Homes.—



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1595 |           (1) The Division of Florida Condominiums, Timeshares, and  
1596 | Mobile Homes of the Department of Business and Professional  
1597 | Regulation, referred to as the "division" in this part, in  
1598 | addition to other powers and duties prescribed by chapter 718,  
1599 | has the power to enforce and ensure compliance with this chapter  
1600 | and adopted rules relating to the development, construction,  
1601 | sale, lease, ownership, operation, and management of residential  
1602 | cooperative units. In performing its duties, the division shall  
1603 | have the following powers and duties:

1604 |           (k) The division shall provide training and educational  
1605 | programs for cooperative association board members and unit  
1606 | owners. The training may, in the division's discretion, include  
1607 | web-based electronic media, and live training and seminars in  
1608 | various locations throughout the state. The division may review  
1609 | and approve education and training programs for board members  
1610 | and unit owners offered by providers and shall maintain a  
1611 | current list of approved programs and providers and make such  
1612 | list available to board members and unit owners in a reasonable  
1613 | and cost-effective manner.

1614 |           Section 15. Subsection (5), paragraphs (a) and (b) of  
1615 | subsection (7), and subsection (10) of section 720.303, Florida  
1616 | Statutes, are amended to read:

1617 |           720.303 Association powers and duties; meetings of board;  
1618 | official records; budgets; financial reporting; association  
1619 | funds; recalls.—

1620 |           (5) INSPECTION AND COPYING OF RECORDS.—The official  
1621 | records shall be maintained within the state and must be open to  
1622 | inspection and available for photocopying by members or their



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1623 authorized agents at reasonable times and places within 10  
1624 business days after receipt of a written request for access.  
1625 This subsection may be complied with by having a copy of the  
1626 official records available for inspection or copying in the  
1627 community. If the association has a photocopy machine available  
1628 where the records are maintained, it must provide parcel owners  
1629 with copies on request during the inspection if the entire  
1630 request is limited to no more than 25 pages. An association  
1631 shall allow a member or his or her authorized representative to  
1632 use a portable device, including a smartphone, tablet, portable  
1633 scanner, or any other technology capable of scanning or taking  
1634 photographs, to make an electronic copy of the official records  
1635 in lieu of the association's providing the member or his or her  
1636 authorized representative with a copy of such records. The  
1637 association may not charge a member or his or her authorized  
1638 representative for the use of a portable device.

1639 (a) The failure of an association to provide access to the  
1640 records within 10 business days after receipt of a written  
1641 request submitted by certified mail, return receipt requested,  
1642 creates a rebuttable presumption that the association willfully  
1643 failed to comply with this subsection.

1644 (b) A member who is denied access to official records is  
1645 entitled to the actual damages or minimum damages for the  
1646 association's willful failure to comply with this subsection.  
1647 The minimum damages are to be \$50 per calendar day up to 10  
1648 days, the calculation to begin on the 11th business day after  
1649 receipt of the written request.

1650 (c) The association may adopt reasonable written rules



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1651 governing the frequency, time, location, notice, records to be  
1652 inspected, and manner of inspections, but may not require a  
1653 parcel owner to demonstrate any proper purpose for the  
1654 inspection, state any reason for the inspection, or limit a  
1655 parcel owner's right to inspect records to less than one 8-hour  
1656 business day per month. The association may impose fees to cover  
1657 the costs of providing copies of the official records,  
1658 including, without limitation, the costs of copying. The  
1659 association may charge up to 50 cents per page for copies made  
1660 on the association's photocopier. If the association does not  
1661 have a photocopy machine available where the records are kept,  
1662 or if the records requested to be copied exceed 25 pages in  
1663 length, the association may have copies made by an outside  
1664 vendor or association management company personnel and may  
1665 charge the actual cost of copying, including any reasonable  
1666 costs involving personnel fees and charges at an hourly rate for  
1667 vendor or employee time to cover administrative costs to the  
1668 vendor or association. The association shall maintain an  
1669 adequate number of copies of the recorded governing documents,  
1670 to ensure their availability to members and prospective members.  
1671 Notwithstanding this paragraph, the following records are not  
1672 accessible to members or parcel owners:

1673       1. Any record protected by the lawyer-client privilege as  
1674 described in s. 90.502 and any record protected by the work-  
1675 product privilege, including, but not limited to, a record  
1676 prepared by an association attorney or prepared at the  
1677 attorney's express direction which reflects a mental impression,  
1678 conclusion, litigation strategy, or legal theory of the attorney



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1679 or the association and which was prepared exclusively for civil  
 1680 or criminal litigation or for adversarial administrative  
 1681 proceedings or which was prepared in anticipation of such  
 1682 litigation or proceedings until the conclusion of the litigation  
 1683 or proceedings.

1684 2. Information obtained by an association in connection  
 1685 with the approval of the lease, sale, or other transfer of a  
 1686 parcel.

1687 3. Personnel records of association or management company  
 1688 ~~the association's~~ employees, including, but not limited to,  
 1689 disciplinary, payroll, health, and insurance records. For  
 1690 purposes of this subparagraph, the term "personnel records" does  
 1691 not include written employment agreements with an association or  
 1692 management company employee or budgetary or financial records  
 1693 that indicate the compensation paid to an association or  
 1694 management company employee.

1695 4. Medical records of parcel owners or community  
 1696 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



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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  
 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  
 1723 required 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.



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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  
 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



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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.

1770 3. A report of cash receipts and disbursement must  
 1771 disclose the amount of receipts by accounts and receipt  
 1772 classifications and the amount of expenses by accounts and  
 1773 expense classifications, including, but not limited to, the  
 1774 following, as applicable: costs for security, professional, and  
 1775 management fees and expenses; taxes; costs for recreation  
 1776 facilities; expenses for refuse collection and utility services;  
 1777 expenses for lawn care; costs for building maintenance and  
 1778 repair; 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  
 1782 contained in the governing documents, subject to the provisions  
 1783 of s. 720.307 regarding transition of association control, any  
 1784 member of the board of directors may be recalled and removed  
 1785 from office with or without cause by a majority of the total  
 1786 voting interests.

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





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1791 recall 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  
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.



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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  
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 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



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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  
 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



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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  
 1882 required meeting or fails to file the required petition, the  
 1883 unit owner representative may file a petition pursuant to s.  
 1884 718.1255 challenging the board's failure to act. The petition  
 1885 must be filed within 60 days after the expiration of the  
 1886 applicable 5-full-business-day period. The review of a petition  
 1887 under this paragraph is limited to the sufficiency of service on  
 1888 the board and the facial validity of the written agreement or  
 1889 ballots filed.

1890 (h)~~(g)~~ If a director who is removed fails to relinquish  
 1891 his 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



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1903 | rejected, the minutes must identify the parcel number and the  
 1904 | specific reason for each such rejection.

1905 |       ~~(j)~~<sup>(i)</sup> 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.

1915 |       (l) 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  
 1927 | \$100 per violation against any member or any member's tenant,  
 1928 | guest, or invitee for the failure of the owner of the parcel or  
 1929 | its occupant, licensee, or invitee to comply with any provision  
 1930 | of the declaration, the association bylaws, or reasonable rules



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1931 of 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  
 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



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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  
 1971 mortgagee consent to amendments that do not affect the rights or  
 1972 interests of mortgagees is an unreasonable and substantial  
 1973 logistical and financial burden on the parcel owners and that  
 1974 there is a compelling state interest in enabling the members of  
 1975 an association to approve amendments to the association's  
 1976 governing documents through legal means. Accordingly, and  
 1977 notwithstanding 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



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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  
 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.





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2013 |       4. Any notice to the mortgagees required under  
 2014 | subparagraph 3. may be sent by a method that establishes proof  
 2015 | of delivery, and any mortgagee who fails to respond within 60  
 2016 | days after the date of mailing is deemed to have consented to  
 2017 | the amendment.

2018 |       5. For those amendments requiring mortgagee consent on or  
 2019 | after July 1, 2013, in the event mortgagee consent is provided  
 2020 | other than by properly recorded joinder, such consent shall be  
 2021 | evidenced by affidavit of the association recorded in the public  
 2022 | records of the county in which the declaration is recorded.

2023 |       6. Any amendment adopted without the required consent of a  
 2024 | mortgagee is voidable only by a mortgagee who was entitled to  
 2025 | notice and an opportunity to consent. An action to void an  
 2026 | amendment is subject to the statute of limitations beginning 5  
 2027 | years after the date of discovery as to the amendments described  
 2028 | in subparagraph 1. and 5 years after the date of recordation of  
 2029 | the certificate of amendment for all other amendments. This  
 2030 | subparagraph applies to all mortgages, regardless of the date of  
 2031 | recordation of the mortgage.

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



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2041 reasonable rules governing the frequency, duration, and other  
2042 manner of member and parcel owner statements, which rules must  
2043 be consistent with this subsection.

2044 (9) ~~(a)~~ ELECTIONS AND BOARD VACANCIES.—

2045 (a) Elections of directors must be conducted in accordance  
2046 with the procedures set forth in the governing documents of the  
2047 association. All members of the association are eligible to  
2048 serve on the board of directors, and a member may nominate  
2049 himself or herself as a candidate for the board at a meeting  
2050 where the election is to be held or, if the election process  
2051 allows voting by absentee ballot, in advance of the balloting.  
2052 Except as otherwise provided in the governing documents, boards  
2053 of directors must be elected by a plurality of the votes cast by  
2054 eligible voters. Any challenge to the election process must be  
2055 commenced within 60 days after the election results are  
2056 announced.

2057 Section 18. This act shall take effect July 1, 2013.