

By the Committee on Regulated Industries; and Senators Lee and Evers

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1                                   A bill to be entitled  
2       An act relating to residential communities; amending  
3       s. 468.431, F.S.; revising the term "community  
4       association management"; amending s. 718.116, F.S.;  
5       allowing for reasonable charges to be imposed for  
6       collection of a delinquent assessment; requiring a  
7       claim of lien on a condominium parcel to be in a  
8       specific form; requiring a release of lien to be in a  
9       specific form; requiring a preforeclosure notice to be  
10      in a specific form; amending s. 718.121, F.S.;  
11      requiring a prelien notice to be in a specific form;  
12      amending s. 719.108, F.S.; allowing for reasonable  
13      charges to be imposed for collection of a delinquent  
14      assessment; deleting a provision providing for the  
15      expiration of certain liens; revising notice  
16      requirements; requiring a prelien notice to be in a  
17      specific form; requiring a claim of lien on a  
18      cooperative parcel to be in a specific form; providing  
19      for the content of a recording notice; requiring a  
20      release of lien to be in a specific form; amending s.  
21      720.3085, F.S.; requiring a claim of lien on a parcel  
22      within a homeowners' association to be in a specific  
23      form; requiring a release of lien to be in a specific  
24      form; allowing for reasonable charges to be imposed  
25      for collection of a delinquent assessment; requiring a  
26      prelien notice to be in a specific form; requiring a  
27      preforeclosure notice to be in a specific form;  
28      providing an effective date.  
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30 Be It Enacted by the Legislature of the State of Florida:

31  
32 Section 1. Subsection (2) of section 468.431, Florida  
33 Statutes, is amended to read:

34 468.431 Definitions.—As used in this part:

35 (2) "Community association management" means any of the  
36 following practices requiring substantial specialized knowledge,  
37 judgment, and managerial skill when done for remuneration and  
38 when the association or associations served contain more than 10  
39 units or have an annual budget or budgets in excess of \$100,000:  
40 controlling or disbursing funds of a community association,  
41 preparing budgets or other financial documents for a community  
42 association, assisting in the noticing or conduct of community  
43 association meetings, determining the number of days required  
44 for statutory notices, determining amounts due to the  
45 association, collecting amounts due to the association before  
46 filing of a civil action, calculating the votes required for a  
47 quorum or to approve a proposition or amendment, completing  
48 forms related to the management of a community association that  
49 have been created by statute or by a state agency, drafting  
50 meeting notices and agendas, calculating and preparing  
51 certificates of assessment and estoppel certificates, responding  
52 to requests for certificates of assessment and estoppel  
53 certificates, negotiating monetary or performance terms of a  
54 contract subject to approval by an association, drafting  
55 prearbitration demands, coordinating or performing maintenance  
56 for real or personal property and other related routine services  
57 involved in the operation of a community association, and  
58 complying with the association's governing documents and the

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59 requirements of law as necessary to perform such practices and  
60 ~~coordinating maintenance for the residential development and~~  
61 ~~other day-to-day services involved with the operation of a~~  
62 ~~community association.~~ A person who performs clerical or  
63 ministerial functions under the direct supervision and control  
64 of a licensed manager or who is charged only with performing the  
65 maintenance of a community association and who does not assist  
66 in any of the management services described in this subsection  
67 is not required to be licensed under this part.

68 Section 2. Subsections (3), (5), and (6) of section  
69 718.116, Florida Statutes, are amended to read:

70 718.116 Assessments; liability; lien and priority;  
71 interest; collection.—

72 (3) Assessments and installments on assessments which are  
73 not paid when due bear interest at the rate provided in the  
74 declaration, from the due date until paid. The rate may not  
75 exceed the rate allowed by law, and, if no rate is provided in  
76 the declaration, interest accrues at the rate of 18 percent per  
77 year. If provided by the declaration or bylaws, the association  
78 may, in addition to such interest, charge an administrative late  
79 fee of up to the greater of \$25 or 5 percent of each delinquent  
80 installment for which the payment is late. The association may  
81 also recover from the unit owner any reasonable charges imposed  
82 upon the association under a contract with its management or  
83 bookkeeping company, or collection agent, incurred in connection  
84 with collecting a delinquent assessment. Any payment received by  
85 an association must be applied first to any interest accrued by  
86 the association, then to any administrative late fee, then to  
87 any costs and reasonable attorney ~~attorney's~~ fees incurred in

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88 collection, then to any reasonable costs for collection services  
89 contracted by the association, and then to the delinquent  
90 assessment. The foregoing is applicable notwithstanding any  
91 restrictive endorsement, designation, or instruction placed on  
92 or accompanying a payment. A late fee is not subject to chapter  
93 687 or s. 718.303(4).

94 (5) (a) The association has a lien on each condominium  
95 parcel to secure the payment of assessments. Except as otherwise  
96 provided in subsection (1) and as set forth below, the lien is  
97 effective from and shall relate back to the recording of the  
98 original declaration of condominium, or, in the case of lien on  
99 a parcel located in a phase condominium, the last to occur of  
100 the recording of the original declaration or amendment thereto  
101 creating the parcel. However, as to first mortgages of record,  
102 the lien is effective from and after recording of a claim of  
103 lien in the public records of the county in which the  
104 condominium parcel is located. Nothing in this subsection shall  
105 be construed to bestow upon any lien, mortgage, or certified  
106 judgment of record on April 1, 1992, including the lien for  
107 unpaid assessments created herein, a priority which, by law, the  
108 lien, mortgage, or judgment did not have before that date.

109 (b) ~~To be valid,~~ A claim of lien must be in substantially  
110 the following form:

111  
112 CLAIM OF LIEN  
113

114 Before me, the undersigned notary public, personally appeared  
115 ...(name)..., who was duly sworn and says that he/she is the  
116 authorized agent of the lienor, ...(name of association)...,

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117 whose address is ...(address)..., and that in accordance with  
 118 the Condominium Act and the declaration of ...(name of  
 119 condominium)..., a condominium, and the articles of  
 120 incorporation and bylaws of the association, the association  
 121 makes this claim of lien for ...(basis for claim of lien and  
 122 date(s) of delinquency)..., for the following described real  
 123 property upon which the association asserts this lien:

124  
 125 UNIT NO. .... OF ...(NAME OF CONDOMINIUM)..., A  
 126 CONDOMINIUM AS SET FORTH IN THE DECLARATION OF  
 127 CONDOMINIUM AND THE EXHIBITS ANNEXED THERETO AND  
 128 FORMING A PART THEREOF, RECORDED IN OFFICIAL RECORDS  
 129 BOOK ....., PAGE ....., OF THE PUBLIC RECORDS OF ....  
 130 COUNTY, FLORIDA. THE ABOVE DESCRIPTION INCLUDES, BUT  
 131 IS NOT LIMITED TO, ALL APPURTENANCES TO THE  
 132 CONDOMINIUM UNIT ABOVE DESCRIBED, INCLUDING THE  
 133 UNDIVIDED INTEREST IN THE COMMON ELEMENTS OF SAID  
 134 CONDOMINIUM.

135  
 136 The property is owned by ...(name of debtor)..., Debtor. There  
 137 remains unpaid to the association, the sum of \$..... This lien  
 138 secures these amounts, as well as any unpaid assessments and  
 139 monetary obligations, interest thereon, and costs of collection  
 140 that may accrue in the future and any other amounts that a lien  
 141 may secure pursuant to Chapter 718, Florida Statutes.

142  
 143 ...(signature of witness)... ..(signature of authorized  
 144 agent)...

145 Print name: .... Print name: ....

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...(signature of witness)...

Print name: ....

Sworn to (or affirmed) and subscribed before me this .... day of

...., ...(year)...., by ...(name of person making statement)....

...(Signature of Notary Public)...

...(Print, type, or stamp commissioned name of Notary Public)...

Personally Known.... OR Produced.... as identification.

~~must state the description of the condominium parcel, the name of the record owner, the name and address of the association, the amount due, and the due dates.~~ It must be executed and acknowledged by an officer or authorized agent of the association. The lien is not effective 1 year after the claim of lien was recorded unless, within that time, an action to enforce the lien is commenced. The 1-year period is automatically extended for any length of time during which the association is prevented from filing a foreclosure action by an automatic stay resulting from a bankruptcy petition filed by the parcel owner or any other person claiming an interest in the parcel. The claim of lien secures all unpaid assessments that are due and that may accrue after the claim of lien is recorded and through the entry of a final judgment, as well as interest, authorized administrative late fees, and all reasonable costs and attorney ~~attorney's~~ fees incurred by the association incident to the collection process, including, but not limited to, any reasonable costs for collection services contracted by the association. Upon payment in full, the person making the payment

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175 is entitled to a satisfaction of the lien.

176 (c) By recording a notice in substantially the following  
177 form, a unit owner or the unit owner's agent or attorney may  
178 require the association to enforce a recorded claim of lien  
179 against his or her condominium parcel:

181 NOTICE OF CONTEST OF LIEN  
182

183 TO: ...(Name and address of association)... You are  
184 notified that the undersigned contests the claim of lien filed  
185 by you on ....., ...(year)..., and recorded in Official Records  
186 Book .... at Page ....., of the public records of .... County,  
187 Florida, and that the time within which you may file suit to  
188 enforce your lien is limited to 90 days from the date of service  
189 of this notice. Executed this .... day of ....., ...(year)....

190 Signed: ...(Owner or Attorney)...  
191

192 After notice of contest of lien has been recorded, the clerk of  
193 the circuit court shall mail a copy of the recorded notice to  
194 the association by certified mail, return receipt requested, at  
195 the address shown in the claim of lien or most recent amendment  
196 to it and shall certify to the service on the face of the  
197 notice. Service is complete upon mailing. After service, the  
198 association has 90 days in which to file an action to enforce  
199 the lien; and, if the action is not filed within the 90-day  
200 period, the lien is void. However, the 90-day period shall be  
201 extended for any length of time during which the association is  
202 prevented from filing its action because of an automatic stay  
203 resulting from the filing of a bankruptcy petition by the unit

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204 owner or by any other person claiming an interest in the parcel.

205 (d) A release of lien must be in substantially the  
 206 following form:

207  
 208 RELEASE OF LIEN

209  
 210 The undersigned lienor, in consideration of the final payment in  
 211 the amount of \$...., hereby waives and releases its lien and  
 212 right to claim a lien for unpaid assessments through ....,  
 213 ...(year)..., recorded in Official Records Book .... at Page  
 214 ...., of the public records of .... County, Florida, for the  
 215 following described real property:

216  
 217 UNIT NO. .... OF ... (NAME OF CONDOMINIUM)...., A  
 218 CONDOMINIUM AS SET FORTH IN THE DECLARATION OF  
 219 CONDOMINIUM AND THE EXHIBITS ANNEXED THERETO AND  
 220 FORMING A PART THEREOF, RECORDED IN OFFICIAL RECORDS  
 221 BOOK ...., PAGE ...., OF THE PUBLIC RECORDS OF ....  
 222 COUNTY, FLORIDA. THE ABOVE DESCRIPTION INCLUDES, BUT  
 223 IS NOT LIMITED TO, ALL APPURTENANCES TO THE  
 224 CONDOMINIUM UNIT ABOVE DESCRIBED, INCLUDING THE  
 225 UNDIVIDED INTEREST IN THE COMMON ELEMENTS OF SAID  
 226 CONDOMINIUM.

227  
 228 ...(signature of witness)... ..(signature of authorized  
 229 agent)...

230 Print name: .... Print name: ....

231  
 232 ...(signature of witness)...



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233 Print name: ....

234

235 Sworn to (or affirmed) and subscribed before me this .... day of  
 236 ...., ...(year)..., by ...(name of person making statement)....  
 237 ...(Signature of Notary Public)...  
 238 ...(Print, type, or stamp commissioned name of Notary Public)...  
 239 Personally Known.... OR Produced.... as identification.

240

241 (6) (a) The association may bring an action in its name to  
 242 foreclose a lien for assessments in the manner a mortgage of  
 243 real property is foreclosed and may also bring an action to  
 244 recover a money judgment for the unpaid assessments without  
 245 waiving any claim of lien. The association is entitled to  
 246 recover its reasonable attorney's fees incurred in either a lien  
 247 foreclosure action or an action to recover a money judgment for  
 248 unpaid assessments.

249 (b) No foreclosure judgment may be entered until at least  
 250 30 days after the association gives written notice to the unit  
 251 owner of its intention to foreclose its lien to collect the  
 252 unpaid assessments. The notice must be in substantially the  
 253 following form:

254

255 DELINQUENT ASSESSMENT

256

257 This letter is to inform you a claim of lien has been filed  
 258 against your property because you have not paid the ....  
 259 assessment to .... Association. The Association intends to  
 260 foreclose the lien and collect the unpaid amount within 30 days  
 261 of this letter being provided to you.

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You owe the interest accruing from (month/year) to the present.  
As of the date of this letter, the total amount due with  
interest is \$..... All costs of any action and interest from  
this day forward will also be charged to your account.

Any questions concerning this matter should be directed to  
...(insert name, addresses and phone numbers of Association  
representative)....

If this notice is not given at least 30 days before the  
foreclosure action is filed, and if the unpaid assessments,  
including those coming due after the claim of lien is recorded,  
are paid before the entry of a final judgment of foreclosure,  
the association shall not recover attorney's fees or costs. The  
notice must be given by delivery of a copy of it to the unit  
owner or by certified or registered mail, return receipt  
requested, addressed to the unit owner at his or her last known  
address; and, upon such mailing, the notice shall be deemed to  
have been given, and the court shall proceed with the  
foreclosure action and may award attorney's fees and costs as  
permitted by law. The notice requirements of this subsection are  
satisfied if the unit owner records a notice of contest of lien  
as provided in subsection (5). The notice requirements of this  
subsection do not apply if an action to foreclose a mortgage on  
the condominium unit is pending before any court; if the rights  
of the association would be affected by such foreclosure; and if  
actual, constructive, or substitute service of process has been  
made on the unit owner.

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291 (c) If the unit owner remains in possession of the unit  
292 after a foreclosure judgment has been entered, the court, in its  
293 discretion, may require the unit owner to pay a reasonable  
294 rental for the unit. If the unit is rented or leased during the  
295 pendency of the foreclosure action, the association is entitled  
296 to the appointment of a receiver to collect the rent. The  
297 expenses of the receiver shall be paid by the party which does  
298 not prevail in the foreclosure action.

299 (d) The association has the power to purchase the  
300 condominium parcel at the foreclosure sale and to hold, lease,  
301 mortgage, or convey it.

302 Section 3. Subsection (4) of section 718.121, Florida  
303 Statutes, is amended to read:

304 718.121 Liens.—

305 (4) Except as otherwise provided in this chapter, no lien  
306 may be filed by the association against a condominium unit until  
307 30 days after the date on which a notice of intent to file a  
308 lien has been delivered to the owner by registered or certified  
309 mail, return receipt requested, and by first-class United States  
310 mail to the owner at his or her last address as reflected in the  
311 records of the association, if the address is within the United  
312 States, and delivered to the owner at the address of the unit if  
313 the owner's address as reflected in the records of the  
314 association is not the unit address. If the address reflected in  
315 the records is outside the United States, sending the notice to  
316 that address and to the unit address by first-class United  
317 States mail is sufficient. Delivery of the notice shall be  
318 deemed given upon mailing as required by this subsection. The  
319 notice must be in substantially the following form:

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NOTICE OF INTENT TO RECORD A CLAIM OF LIEN

Re: Unit .... of ...(name of association)...

The following amounts are currently due on your account to .... Association and must be paid within thirty (30) days after your receipt of this letter. This letter shall serve as the Association's notice of intent to record a claim of lien against your property after thirty (30) days from your receipt of this letter, unless you pay in full the amounts set forth below:

<u>Maintenance due ...(dates)...</u>	<u>\$....</u>
<u>Late fee, if applicable</u>	<u>\$....</u>
<u>Interest through *</u>	<u>\$....</u>
<u>Certified mail charges</u>	<u>\$....</u>
<u>Other costs</u>	<u>\$....</u>
<u>TOTAL OUTSTANDING</u>	<u>\$....</u>

\*Interest accrues at the rate of \$.... per day.

Section 4. Subsections (3) and (4) of section 719.108, Florida Statutes, are amended to read:

719.108 Rents and assessments; liability; lien and priority; interest; collection; cooperative ownership.—

(3) Rents and assessments, and installments on them, not paid when due bear interest at the rate provided in the cooperative documents from the date due until paid. This rate may not exceed the rate allowed by law and, if a rate is not

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349 provided in the cooperative documents, accrues at 18 percent per  
350 annum. If the cooperative documents or bylaws so provide, the  
351 association may charge an administrative late fee in addition to  
352 such interest, not to exceed the greater of \$25 or 5 percent of  
353 each installment of the assessment for each delinquent  
354 installment that the payment is late. The association may also  
355 recover from the unit owner any reasonable charges imposed upon  
356 the association under a contract with its management or  
357 bookkeeping company, or collection agent, incurred in connection  
358 with collecting a delinquent assessment. Any payment received by  
359 an association must be applied first to any interest accrued by  
360 the association, then to any administrative late fee, then to  
361 any costs and reasonable attorney ~~attorney's~~ fees incurred in  
362 collection, then to any reasonable costs for collection services  
363 contracted for by the association, and then to the delinquent  
364 assessment. The foregoing applies notwithstanding any  
365 restrictive endorsement, designation, or instruction placed on  
366 or accompanying a payment. A late fee is not subject to chapter  
367 687 or s. 719.303(4).

368 (4) The association has a lien on each cooperative parcel  
369 for any unpaid rents and assessments, plus interest, any  
370 reasonable costs for collection services contracted for by the  
371 association, and any authorized administrative late fees. If  
372 authorized by the cooperative documents, the lien also secures  
373 reasonable attorney ~~attorney's~~ fees incurred by the association  
374 and all reasonable collection costs incident to the collection  
375 of the rents and assessments or enforcement of such lien. The  
376 lien is effective from and after recording a claim of lien in  
377 the public records in the county in which the cooperative parcel

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378 is located which states the description of the cooperative  
 379 parcel, the name of the unit owner, the amount due, and the due  
 380 dates. ~~The lien expires if a claim of lien is not filed within 1~~  
 381 ~~year after the date the assessment was due, and the lien does~~  
 382 ~~not continue for longer than 1 year after the claim of lien has~~  
 383 ~~been recorded unless, within that time, an action to enforce the~~  
 384 ~~lien is commenced.~~ Except as otherwise provided in this chapter,  
 385 a lien may not be filed by the association against a cooperative  
 386 parcel until 30 days after the date on which a notice of intent  
 387 to file a lien has been delivered to the owner.

388 (a) The notice must be sent to the unit owner at the  
 389 address of the unit by first-class United States mail, and the  
 390 notice must be in substantially the following form:

391  
 392 NOTICE OF INTENT TO RECORD A CLAIM OF LIEN

393  
 394 Re: Unit .... of ...(name of cooperative)...

395  
 396 The following amounts are currently due on your account to ....  
 397 Association and must be paid within thirty (30) days after your  
 398 receipt of this letter. This letter shall serve as the  
 399 Association's notice of intent to record a claim of lien against  
 400 your property after thirty (30) days from your receipt of this  
 401 letter, unless you pay in full the amounts set forth below:

402

403 <u>Maintenance due ...(dates)...</u>	<u>\$....</u>
404 <u>Late fee, if applicable</u>	<u>\$....</u>
405 <u>Interest through *</u>	<u>\$....</u>
406 <u>Certified mail charges</u>	<u>\$....</u>

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407 Other costs \$....

408  
409 TOTAL OUTSTANDING \$....

410  
411 \*Interest accrues at the rate of \$.... per day

412 1. If the most recent address of the unit owner on the  
413 records of the association is the address of the unit, the  
414 notice must be sent by ~~registered~~ or certified mail, return  
415 receipt requested, to the unit owner at the address of the unit.

416 2. If the most recent address of the unit owner on the  
417 records of the association is in the United States, but is not  
418 the address of the unit, the notice must be sent by ~~registered~~  
419 ~~or~~ certified mail, return receipt requested, to the unit owner  
420 at his or her most recent address.

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

425 ~~(b)~~

426 A notice that is sent pursuant to this paragraph ~~subsection~~ is  
427 deemed delivered upon mailing.

428 (b) A claim of lien must be in substantially the following  
429 form:

430  
431 CLAIM OF LIEN

432  
433 Before me, the undersigned notary public, personally appeared  
434 ...(name)... who was duly sworn and says that he/she is the  
435 authorized agent of the lienor, ...(name of association)...,

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436 whose address is ...(address)..., and that in accordance with  
 437 the Cooperative Act and the cooperative documents of ...(name of  
 438 cooperative)..., a cooperative, and the articles of  
 439 incorporation and bylaws of the association, the association  
 440 makes this claim of lien for ...(basis for claim of lien and  
 441 date(s) of delinquency)..., for the following described property  
 442 upon which the association asserts this lien:

443  
 444 THAT COOPERATIVE PARCEL WHICH INCLUDES UNIT NO. ....  
 445 OF ...(NAME OF COOPERATIVE)..., A COOPERATIVE AS SET  
 446 FORTH IN THE COOPERATIVE DOCUMENTS AND THE EXHIBITS  
 447 ANNEXED THERETO AND FORMING A PART THEREOF, RECORDED  
 448 IN OFFICIAL RECORDS BOOK ....., PAGE ....., OF THE  
 449 PUBLIC RECORDS OF .... COUNTY, FLORIDA.

450  
 451 The cooperative parcel is owned by ...(name of debtor)...,  
 452 Debtor. There remains unpaid to the association the sum of  
 453 \$. .... This lien secures these amounts, as well as any other  
 454 amounts that a lien may secure pursuant to Chapter 719, Florida  
 455 Statutes.

456  
 457 ...(signature of witness)... ...(signature of authorized  
 458 agent)...

459 Print name: .... Print name: ....

460  
 461 ...(signature of witness)...

462 Print name: ....

463  
 464 Sworn to (or affirmed) and subscribed before me this .... day of



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465 ...., ...(year)...., by ...(name of person making statement)....  
 466 ...(Signature of Notary Public)...  
 467 ...(Print, type, or stamp commissioned name of Notary Public)...  
 468 Personally Known.... OR Produced.... as identification.

469  
 470 The claim must be executed and acknowledged by an officer or  
 471 authorized agent of the association. The lien is not effective 1  
 472 year after the claim of lien was recorded unless, within that  
 473 time, an action to enforce the lien is commenced. The 1-year  
 474 period is automatically extended for any length of time during  
 475 which the association is prevented from filing a foreclosure  
 476 action by an automatic stay resulting from a bankruptcy petition  
 477 filed by the parcel owner or any other person claiming an  
 478 interest in the parcel. The claim of lien secures all unpaid  
 479 rents and assessments that are due and that may accrue after the  
 480 claim of lien is recorded and through the entry of a final  
 481 judgment, as well as interest and all reasonable costs and  
 482 attorney fees incurred by the association incident to the  
 483 collection process. Upon payment in full, the person making the  
 484 payment is entitled to a satisfaction of the lien.

485 (c) By recording a notice in substantially the following  
 486 form, a unit owner or the unit owner's agent or attorney may  
 487 require the association to enforce a recorded claim of lien  
 488 against his or her cooperative parcel:

489  
 490 NOTICE OF CONTEST OF LIEN

491  
 492 TO: ...(Name and address of association)... You are  
 493 notified that the undersigned contests the claim of lien filed

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494 by you on ...., ...(year)..., and recorded in Official Records  
495 Book .... at Page ...., of the public records of .... County,  
496 Florida, and that the time within which you may file suit to  
497 enforce your lien is limited to 90 days from the date of service  
498 of this notice. Executed this .... day of ...., ...(year)....  
499 Signed: ...(Owner or Attorney)...

500  
501 After notice of contest of lien has been recorded, the clerk of  
502 the circuit court shall mail a copy of the recorded notice to  
503 the association by certified mail, return receipt requested, at  
504 the address shown in the claim of lien or most recent amendment  
505 to it and shall certify to the service on the face of the  
506 notice. Service is complete upon mailing. After service, the  
507 association has 90 days in which to file an action to enforce  
508 the lien, and, if the action is not filed within the 90-day  
509 period, the lien is void. However, the 90-day period shall be  
510 extended for any length of time during which the association is  
511 prevented from filing its action because of an automatic stay  
512 resulting from the filing of a bankruptcy petition by the unit  
513 owner or by any other person claiming an interest in the parcel.

514 (d) A release of lien must be in substantially the  
515 following form:

516  
517 RELEASE OF LIEN  
518

519 The undersigned lienor, in consideration of the final payment in  
520 the amount of \$...., hereby waives and releases its lien and  
521 right to claim a lien for unpaid assessments through ....,  
522 ...(year)..., recorded in Official Records Book .... at Page

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523 ...., of the public records of .... County, Florida, for the  
 524 following described real property:

525  
 526 THAT COOPERATIVE PARCEL WHICH INCLUDES UNIT NO. ....  
 527 OF ... (NAME OF COOPERATIVE) ..., A COOPERATIVE AS SET  
 528 FORTH IN THE COOPERATIVE DOCUMENTS AND THE EXHIBITS  
 529 ANNEXED THERETO AND FORMING A PART THEREOF, RECORDED  
 530 IN OFFICIAL RECORDS BOOK ...., PAGE ...., OF THE  
 531 PUBLIC RECORDS OF .... COUNTY, FLORIDA.

532  
 533 ...(signature of witness)... ..(signature of authorized  
 534 agent)...

535 Print name: .... Print name: ....

536  
 537 ...(signature of witness)...

538 Print name: ....

539  
 540 Sworn to (or affirmed) and subscribed before me this .... day of  
 541 ...., ...(year)...., by ...(name of person making statement)....  
 542 ...(Signature of Notary Public)...

543 ...(Print, type, or stamp commissioned name of Notary Public)...  
 544 Personally Known.... OR Produced.... as identification.

545 Section 5. Subsections (1), (3), (4), and (5) of section  
 546 720.3085, Florida Statutes, are amended to read:

547 720.3085 Payment for assessments; lien claims.—

548 (1) When authorized by the governing documents, the  
 549 association has a lien on each parcel to secure the payment of  
 550 assessments and other amounts provided for by this section.

551 Except as otherwise set forth in this section, the lien is

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552 effective from and shall relate back to the date on which the  
 553 original declaration of the community was recorded. However, as  
 554 to first mortgages of record, the lien is effective from and  
 555 after recording of a claim of lien in the public records of the  
 556 county in which the parcel is located. This subsection does not  
 557 bestow upon any lien, mortgage, or certified judgment of record  
 558 on July 1, 2008, including the lien for unpaid assessments  
 559 created in this section, a priority that, by law, the lien,  
 560 mortgage, or judgment did not have before July 1, 2008.

561 (a) ~~To be valid,~~ A claim of lien must be in substantially  
 562 the following form:

564 CLAIM OF LIEN

566 Before me, the undersigned notary public, personally appeared  
 567 ...(name)... who was duly sworn and says that he/she is the  
 568 authorized agent of the lienor, ...(name of association)...,  
 569 whose address is ...(address)..., and that in accordance with  
 570 Chapter 720, Florida Statutes, and the governing documents of  
 571 ...(name of association)..., a homeowners' association, the  
 572 association makes this claim of lien for ...(basis for claim of  
 573 lien and date(s) of delinquency)..., for the following described  
 574 real property upon which the association asserts this lien:

576 ...(PARCEL NO. .... OR LOT AND BLOCK)... OF ....  
 577 SUBDIVISION AS SHOWN IN THE PLAT THEREOF, RECORDED AT  
 578 PLAT BOOK ...., PAGE ...., OF THE OFFICIAL RECORDS OF  
 579 .... COUNTY, FLORIDA.

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581 ...(or insert appropriate metes and bounds description  
 582 here)...

583  
 584 The property is owned by ...(name of debtor)..., Debtor. There  
 585 remains unpaid to the association the sum of \$..... This lien  
 586 secures these amounts, as well as any other amounts that a lien  
 587 may secure pursuant to Chapter 720, Florida Statutes.

588  
 589 ...(signature of witness)... ...(signature of authorized  
 590 agent)...

591 Print name: .... Print name: ....

592  
 593 ...(signature of witness)...

594 Print name: ....

595  
 596 Sworn to (or affirmed) and subscribed before me this .... day of  
 597 ...., ...(year)..., by ...(name of person making statement)....

598 ...(Signature of Notary Public)...

599 ...(Print, type, or stamp commissioned name of Notary Public)...

600 Personally Known.... OR Produced.... as identification.

601  
 602 ~~must state the description of the parcel, the name of the record~~  
 603 ~~owner, the name and address of the association, the assessment~~  
 604 ~~amount due, and the due date.~~ The claim of lien secures all  
 605 unpaid assessments that are due and that may accrue subsequent  
 606 to the recording of the claim of lien and before entry of a  
 607 certificate of title, as well as interest, late charges, and  
 608 reasonable collection costs and attorney ~~attorney's~~ fees  
 609 incurred by the association incident to the collection process.

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610 The person making payment is entitled to a satisfaction of the  
611 lien upon payment in full.

612 (b) By recording a notice in substantially the following  
613 form, a parcel owner or the parcel owner's agent or attorney may  
614 require the association to enforce a recorded claim of lien  
615 against his or her parcel:

616

617 NOTICE OF CONTEST OF LIEN

618

619 TO: ...(Name and address of association)...

620 You are notified that the undersigned contests the claim of lien  
621 filed by you on ....., ...(year)...., and recorded in Official  
622 Records Book .... at page ....., of the public records of ....  
623 County, Florida, and that the time within which you may file  
624 suit to enforce your lien is limited to 90 days following the  
625 date of service of this notice. Executed this .... day of .....,  
626 ...(year)....

627 Signed: ...(Owner or Attorney)...

628

629 After the notice of a contest of lien has been recorded, the  
630 clerk of the circuit court shall mail a copy of the recorded  
631 notice to the association by certified mail, return receipt  
632 requested, at the address shown in the claim of lien or the most  
633 recent amendment to it and shall certify to the service on the  
634 face of the notice. Service is complete upon mailing. After  
635 service, the association has 90 days in which to file an action  
636 to enforce the lien and, if the action is not filed within the  
637 90-day period, the lien is void. However, the 90-day period  
638 shall be extended for any length of time that the association is

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639 prevented from filing its action because of an automatic stay  
 640 resulting from the filing of a bankruptcy petition by the parcel  
 641 owner or by any other person claiming an interest in the parcel.

642 (c) The association may bring an action in its name to  
 643 foreclose a lien for assessments in the same manner in which a  
 644 mortgage of real property is foreclosed and may also bring an  
 645 action to recover a money judgment for the unpaid assessments  
 646 without waiving any claim of lien. The association is entitled  
 647 to recover its reasonable attorney's fees incurred in an action  
 648 to foreclose a lien or an action to recover a money judgment for  
 649 unpaid assessments.

650 (d) A release of lien must be in substantially the  
 651 following form:

652  
 653 RELEASE OF LIEN

654  
 655 The undersigned lienor, in consideration of the final payment in  
 656 the amount of \$...., hereby waives and releases its lien and  
 657 right to claim a lien for unpaid assessments through ....,  
 658 ...(year)..., recorded in Official Records Book .... at Page  
 659 ...., of the public records of .... County, Florida, for the  
 660 following described real property:

661  
 662 ...(PARCEL NO. .... OR LOT AND BLOCK)... OF ....  
 663 SUBDIVISION AS SHOWN IN THE PLAT THEREOF, RECORDED AT  
 664 PLAT BOOK ...., PAGE ...., OF THE OFFICIAL RECORDS OF  
 665 .... COUNTY, FLORIDA.

666  
 667 ...(or insert appropriate metes and bounds description

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668 here)...

669

670 ...(signature of witness)... ..(signature of authorized  
671 agent)...

672

673 ...(signature of witness)...

674

675 Sworn to (or affirmed) and subscribed before me this .... day of  
676 ..., ..(year)..., by ...(name of person making statement)....  
677 ...(Signature of Notary Public)...

678 ...(Print, type, or stamp commissioned name of Notary Public)...

679 Personally Known.... OR Produced.... as identification.

680

681 (e)~~(d)~~ If the parcel owner remains in possession of the  
682 parcel after a foreclosure judgment has been entered, the court  
683 may require the parcel owner to pay a reasonable rent for the  
684 parcel. If the parcel is rented or leased during the pendency of  
685 the foreclosure action, the association is entitled to the  
686 appointment of a receiver to collect the rent. The expenses of  
687 the receiver must be paid by the party who does not prevail in  
688 the foreclosure action.

689 (f)~~(e)~~ The association may purchase the parcel at the  
690 foreclosure sale and hold, lease, mortgage, or convey the  
691 parcel.

692 (3) Assessments and installments on assessments that are  
693 not paid when due bear interest from the due date until paid at  
694 the rate provided in the declaration of covenants or the bylaws  
695 of the association, which rate may not exceed the rate allowed  
696 by law. If no rate is provided in the declaration or bylaws,



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697 interest accrues at the rate of 18 percent per year.

698 (a) If the declaration or bylaws so provide, the  
699 association may also charge an administrative late fee not to  
700 exceed the greater of \$25 or 5 percent of the amount of each  
701 installment that is paid past the due date. The association may  
702 also recover from the parcel owner any reasonable charges  
703 imposed upon the association under a contract with its  
704 management or bookkeeping company, or collection agent, incurred  
705 in connection with collecting a delinquent assessment.

706 (b) Any payment received by an association and accepted  
707 shall be applied first to any interest accrued, then to any  
708 administrative late fee, then to any costs and reasonable  
709 attorney ~~attorney's~~ fees incurred in collection, then to any  
710 reasonable costs for collection services contracted for by the  
711 association, and then to the delinquent assessment. This  
712 paragraph applies notwithstanding any restrictive endorsement,  
713 designation, or instruction placed on or accompanying a payment.  
714 A late fee is not subject to the provisions of chapter 687 and  
715 is not a fine.

716 (4) A homeowners' association may not file a record of lien  
717 against a parcel for unpaid assessments unless a written notice  
718 or demand for past due assessments as well as any other amounts  
719 owed to the association pursuant to its governing documents has  
720 been made by the association. The written notice or demand must:

721 (a) Provide the owner with 45 days following the date the  
722 notice is deposited in the mail to make payment for all amounts  
723 due, including, but not limited to, any attorney's fees and  
724 actual costs associated with the preparation and delivery of the  
725 written demand. The notice must be in substantially the

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726 following form:

727

728 NOTICE OF INTENT TO RECORD A CLAIM OF LIEN

729

730 Re: Parcel or (lot/block) .... of ...(name of association)...

731

732 The following amounts are currently due on your account to ....

733 Association, and must be paid within forty-five (45) days after

734 your receipt of this letter. This letter shall serve as the

735 Association's notice of intent to record a claim of lien against

736 your property after forty-five (45) days from your receipt of

737 this letter, unless you pay in full the amounts set forth below:

738

739 Maintenance due ...(dates)... \$....

740 Late fee, if applicable \$....

741 Interest through \* \$....

742 Certified mail charges \$....

743 Other costs \$....

744

745 TOTAL OUTSTANDING \$....

746

747 \*Interest accrues at the rate of \$.... per day.

748 (b) Be sent by registered or certified mail, return receipt

749 requested, and by first-class United States mail to the parcel

750 owner at his or her last address as reflected in the records of

751 the association, if the address is within the United States, and

752 to the parcel owner subject to the demand at the address of the

753 parcel if the owner's address as reflected in the records of the

754 association is not the parcel address. If the address reflected

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755 in the records is outside the United States, then sending the  
756 notice to that address and to the parcel address by first-class  
757 United States mail is sufficient.

758 (5) The association may bring an action in its name to  
759 foreclose a lien for unpaid assessments secured by a lien in the  
760 same manner that a mortgage of real property is foreclosed and  
761 may also bring an action to recover a money judgment for the  
762 unpaid assessments without waiving any claim of lien. The action  
763 to foreclose the lien may not be brought until 45 days after the  
764 parcel owner has been provided notice of the association's  
765 intent to foreclose and collect the unpaid amount. The notice  
766 must be given in the manner provided in paragraph (4) (b), and  
767 the notice may not be provided until the passage of the 45 days  
768 required in paragraph (4) (a). The notice must be in  
769 substantially the following form:

770  
771 DELINQUENT ASSESSMENT

772  
773 This letter is to inform you a claim of lien has been filed  
774 against your property because you have not paid the ....  
775 assessment to .... Association. The Association intends to  
776 foreclose the lien and collect the unpaid amount within 45 days  
777 of this letter being provided to you.

778  
779 You owe the interest accruing from (month/year) to the present.  
780 As of the date of this letter, the total amount due with  
781 interest is \$..... All costs of any action and interest from  
782 this day forward will also be charged to your account.

783

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784 Any questions concerning this matter should be directed to  
785 ...(insert name, addresses and phone numbers of Association  
786 representative)....

787 (a) The association may recover any interest, late charges,  
788 costs, and reasonable attorney ~~attorney's~~ fees incurred in a  
789 lien foreclosure action or in an action to recover a money  
790 judgment for the unpaid assessments.

791 (b) The time limitations in this subsection do not apply if  
792 the parcel is subject to a foreclosure action or forced sale of  
793 another party, or if an owner of the parcel is a debtor in a  
794 bankruptcy proceeding.

795 Section 6. This act shall take effect July 1, 2014.