

By the Committees on Judiciary; and 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"; creating s. 468.4334, F.S.;
5 providing that a community association manager and a
6 community association management firm are liable for
7 monetary damages to the same extent as an officer or
8 director under certain circumstances; amending s.
9 718.116, F.S.; allowing for reasonable charges to be
10 imposed for collection of a delinquent assessment;
11 requiring a release of lien to be in a specific form;
12 requiring a preforeclosure notice to be in a specific
13 form; amending s. 718.121, F.S.; requiring a prelien
14 notice to be in a specific form; amending s. 719.108,
15 F.S.; allowing for reasonable charges to be imposed
16 for collection of a delinquent assessment; deleting a
17 provision providing for the expiration of certain
18 liens; revising notice requirements; requiring a
19 prelien notice to be in a specific form; providing for
20 the content of a recording notice; requiring a release
21 of lien to be in a specific form; requiring a
22 preforeclosure notice to be in a specific form;
23 providing notice requirements; amending s. 720.3085,
24 F.S.; requiring a release of lien to be in a specific
25 form; allowing for reasonable charges to be imposed
26 for collection of a delinquent assessment; requiring a
27 prelien notice to be in a specific form; requiring a
28 preforeclosure notice to be in a specific form;
29 providing an effective date.

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

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

468.431 Definitions.—As used in this part:

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

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

69 Section 2. Section 468.4334, Florida Statutes, is created
70 to read:

71 468.4334 Liability.—A community association manager and a
72 community association management firm shall be liable for
73 monetary damages to the same extent as an officer or director as
74 provided in s. 617.0834 if the community association manager or
75 community association management firm breached or failed to
76 perform his, her, or its duties and the breach of, or failure to
77 perform, his, her, or its duties:

78 (1) Constitutes a violation of criminal law as provided in
79 s. 617.0834(1)(b)1.;

80 (2) Constitutes a transaction from which the community
81 association manager or community association management firm
82 derived an improper personal benefit, either directly or
83 indirectly; or

84 (3) Constitutes recklessness or an act or omission that was
85 in bad faith, with malicious purpose, or in a manner exhibiting
86 wanton and willful disregard of human rights, safety, or
87 property.

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88 Section 3. Subsections (3), (5), and (6) of section
89 718.116, Florida Statutes, are amended to read:

90 718.116 Assessments; liability; lien and priority;
91 interest; collection.-

92 (3) Assessments and installments on assessments which are
93 not paid when due bear interest at the rate provided in the
94 declaration, from the due date until paid. The rate may not
95 exceed the rate allowed by law, and, if no rate is provided in
96 the declaration, interest accrues at the rate of 18 percent per
97 year. If provided by the declaration or bylaws, the association
98 may, in addition to such interest, charge an administrative late
99 fee of up to the greater of \$25 or 5 percent of each delinquent
100 installment for which the payment is late. The association may
101 also recover from the unit owner any reasonable charges imposed
102 upon the association under a written contract with its
103 management or bookkeeping company, or collection agent, incurred
104 in connection with collecting a delinquent assessment. Any
105 payment received by an association must be applied first to any
106 interest accrued by the association, then to any administrative
107 late fee, then to any costs and reasonable attorney ~~attorney's~~
108 fees incurred in collection, then to any reasonable costs for
109 collection services contracted by the association, and then to
110 the delinquent assessment. The foregoing is applicable
111 notwithstanding any restrictive endorsement, designation, or
112 instruction placed on or accompanying a payment. A late fee is
113 not subject to chapter 687 or s. 718.303(4).

114 (5) (a) The association has a lien on each condominium
115 parcel to secure the payment of assessments. Except as otherwise
116 provided in subsection (1) and as set forth below, the lien is

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117 effective from and shall relate back to the recording of the
118 original declaration of condominium, or, in the case of lien on
119 a parcel located in a phase condominium, the last to occur of
120 the recording of the original declaration or amendment thereto
121 creating the parcel. However, as to first mortgages of record,
122 the lien is effective from and after recording of a claim of
123 lien in the public records of the county in which the
124 condominium parcel is located. Nothing in this subsection shall
125 be construed to bestow upon any lien, mortgage, or certified
126 judgment of record on April 1, 1992, including the lien for
127 unpaid assessments created herein, a priority which, by law, the
128 lien, mortgage, or judgment did not have before that date.

129 (b) To be valid, a claim of lien must state the description
130 of the condominium parcel, the name of the record owner, the
131 name and address of the association, the amount due, and the due
132 dates. It must be executed and acknowledged by an officer or
133 authorized agent of the association. The lien is not effective 1
134 year after the claim of lien was recorded unless, within that
135 time, an action to enforce the lien is commenced. The 1-year
136 period is automatically extended for any length of time during
137 which the association is prevented from filing a foreclosure
138 action by an automatic stay resulting from a bankruptcy petition
139 filed by the parcel owner or any other person claiming an
140 interest in the parcel. The claim of lien secures all unpaid
141 assessments that are due and that may accrue after the claim of
142 lien is recorded and through the entry of a final judgment, as
143 well as interest, authorized administrative late fees, and all
144 reasonable costs and attorney ~~attorney's~~ fees incurred by the
145 association incident to the collection process, including but

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146 not limited to, any reasonable costs for collection services
147 contracted by the association. Upon payment in full, the person
148 making the payment is entitled to a satisfaction of the lien.

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

153 NOTICE OF CONTEST OF LIEN

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

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

162
163 After notice of contest of lien has been recorded, the clerk of
164 the circuit court shall mail a copy of the recorded notice to
165 the association by certified mail, return receipt requested, at
166 the address shown in the claim of lien or most recent amendment
167 to it and shall certify to the service on the face of the
168 notice. Service is complete upon mailing. After service, the
169 association has 90 days in which to file an action to enforce
170 the lien; and, if the action is not filed within the 90-day
171 period, the lien is void. However, the 90-day period shall be
172 extended for any length of time during which the association is
173 prevented from filing its action because of an automatic stay
174 resulting from the filing of a bankruptcy petition by the unit

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

176 (d) A release of lien must be in substantially the
177 following form:

178
179 RELEASE OF LIEN

180
181 The undersigned lienor, in consideration of the final payment in
182 the amount of \$...., hereby waives and releases its lien and
183 right to claim a lien for unpaid assessments through,
184 ...(year)..., recorded in Official Records Book at Page
185, of the public records of County, Florida, for the
186 following described real property:

187
188 UNIT NO. OF (NAME OF CONDOMINIUM), A CONDOMINIUM
189 AS SET FORTH IN THE DECLARATION OF CONDOMINIUM AND THE
190 EXHIBITS ANNEXED THERETO AND FORMING A PART THEREOF,
191 RECORDED IN OFFICIAL RECORDS BOOK, PAGE, OF
192 THE PUBLIC RECORDS OF COUNTY, FLORIDA. THE ABOVE
193 DESCRIPTION INCLUDES, BUT IS NOT LIMITED TO, ALL
194 APPURTENANCES TO THE CONDOMINIUM UNIT ABOVE DESCRIBED,
195 INCLUDING THE UNDIVIDED INTEREST IN THE COMMON
196 ELEMENTS OF SAID CONDOMINIUM.

197
198 ...(signature of witness)... ...(signature of authorized
199 agent)...

200 Print name: Print name:

201
202 ...(signature of witness)...

203 Print name:

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204
205 Sworn to (or affirmed) and subscribed before me this day of
206, ...(year)..., by ...(name of person making statement)....
207 ...(Signature of Notary Public)...
208 ...(Print, type, or stamp commissioned name of Notary Public)...
209 Personally Known.... OR Produced.... as identification.

210 (6) (a) The association may bring an action in its name to
211 foreclose a lien for assessments in the manner a mortgage of
212 real property is foreclosed and may also bring an action to
213 recover a money judgment for the unpaid assessments without
214 waiving any claim of lien. The association is entitled to
215 recover its reasonable attorney's fees incurred in either a lien
216 foreclosure action or an action to recover a money judgment for
217 unpaid assessments.

218 (b) No foreclosure judgment may be entered until at least
219 30 days after the association gives written notice to the unit
220 owner of its intention to foreclose its lien to collect the
221 unpaid assessments. The notice must be in substantially the
222 following form:

223
224 DELINQUENT ASSESSMENT

225
226 This letter is to inform you that a Claim of Lien has been filed
227 against your property because you have not paid the
228 assessment to Association. The Association intends to
229 foreclose the lien and collect the unpaid amount within 30 days
230 of this letter being provided to you.

231
232 You owe the interest accruing from (month/year) to the present.

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233 As of the date of this letter, the total amount due with
234 interest is \$..... All costs of any action and interest from
235 this day forward will also be charged to your account.

236
237 Any questions concerning this matter should be directed to
238 ...(insert name, addresses and telephone numbers of Association
239 representative)....

240

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

260 (c) If the unit owner remains in possession of the unit
261 after a foreclosure judgment has been entered, the court, in its

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262 discretion, may require the unit owner to pay a reasonable
263 rental for the unit. If the unit is rented or leased during the
264 pendency of the foreclosure action, the association is entitled
265 to the appointment of a receiver to collect the rent. The
266 expenses of the receiver shall be paid by the party which does
267 not prevail in the foreclosure action.

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

271 Section 4. Subsection (4) of section 718.121, Florida
272 Statutes, is amended to read:

273 718.121 Liens.—

274 (4) Except as otherwise provided in this chapter, no lien
275 may be filed by the association against a condominium unit until
276 30 days after the date on which a notice of intent to file a
277 lien has been delivered to the owner by registered or certified
278 mail, return receipt requested, and by first-class United States
279 mail to the owner at his or her last address as reflected in the
280 records of the association, if the address is within the United
281 States, and delivered to the owner at the address of the unit if
282 the owner's address as reflected in the records of the
283 association is not the unit address. If the address reflected in
284 the records is outside the United States, sending the notice to
285 that address and to the unit address by first-class United
286 States mail is sufficient. Delivery of the notice shall be
287 deemed given upon mailing as required by this subsection. The
288 notice must be in substantially the following form:

289
290 NOTICE OF INTENT TO RECORD A CLAIM OF LIEN

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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 5. Subsections (3) through (5) 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 provided in the cooperative documents, accrues at 18 percent per annum. If the cooperative documents or bylaws so provide, the

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320 association may charge an administrative late fee in addition to
321 such interest, not to exceed the greater of \$25 or 5 percent of
322 each installment of the assessment for each delinquent
323 installment that the payment is late. The association may also
324 recover from the unit owner any reasonable charges imposed upon
325 the association under a written contract with its management or
326 bookkeeping company, or collection agent, incurred in connection
327 with collecting a delinquent assessment. Any payment received by
328 an association must be applied first to any interest accrued by
329 the association, then to any administrative late fee, then to
330 any costs and reasonable attorney ~~attorney's~~ fees incurred in
331 collection, then to any reasonable costs for collection services
332 contracted for by the association, and then to the delinquent
333 assessment. The foregoing applies notwithstanding any
334 restrictive endorsement, designation, or instruction placed on
335 or accompanying a payment. A late fee is not subject to chapter
336 687 or s. 719.303(4).

337 (4) The association has a lien on each cooperative parcel
338 for any unpaid rents and assessments, plus interest, authorized
339 administrative late fees and any reasonable costs for collection
340 services contracted for by the association ~~and any authorized~~
341 ~~administrative late fees.~~ If authorized by the cooperative
342 documents, the lien also secures reasonable attorney ~~attorney's~~
343 fees incurred by the association and all reasonable collection
344 costs incident to the collection of the rents and assessments or
345 enforcement of such lien. The lien is effective from and after
346 recording a claim of lien in the public records in the county in
347 which the cooperative parcel is located which states the
348 description of the cooperative parcel, the name of the unit

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349 ~~owner, the amount due, and the due dates. The lien expires if a~~
 350 ~~claim of lien is not filed within 1 year after the date the~~
 351 ~~assessment was due, and the lien does not continue for longer~~
 352 ~~than 1 year after the claim of lien has been recorded unless,~~
 353 ~~within that time, an action to enforce the lien is commenced.~~
 354 Except as otherwise provided in this chapter, a lien may not be
 355 filed by the association against a cooperative parcel until 30
 356 days after the date on which a notice of intent to file a lien
 357 has been delivered to the owner.

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

361
 362 NOTICE OF INTENT TO RECORD A CLAIM OF LIEN

363
 364 Re: Unit of ...(name of cooperative)...

365
 366 The following amounts are currently due on your account to
 367 Association, and must be paid within thirty (30) days after your
 368 receipt of this letter. This letter shall serve as the
 369 Association's notice of intent to record a Claim of Lien against
 370 your property after thirty (30) days from your receipt of this
 371 letter, unless you pay in full the amounts set forth below:

372

373 <u>Maintenance due ...(dates)...</u>	<u>\$....</u>
374 <u>Late fee, if applicable</u>	<u>\$....</u>
375 <u>Interest through *</u>	<u>\$....</u>
376 <u>Certified mail charges</u>	<u>\$....</u>
377 <u>Other costs</u>	<u>\$....</u>

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TOTAL OUTSTANDING \$....

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

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

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

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

(b) A notice that is sent pursuant to this subsection is deemed delivered upon mailing. A claim of lien 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 rents and assessments that are due and that may accrue after the claim of lien is recorded and

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407 through the entry of a final judgment, as well as interest and
408 all reasonable costs and attorney's fees incurred by the
409 association incident to the collection process. Upon payment in
410 full, the person making the payment is entitled to a
411 satisfaction of the lien.

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

416
417 NOTICE OF CONTEST OF LIEN
418

419 TO: ...(Name and address of association)... You are
420 notified that the undersigned contests the claim of lien filed
421 by you on, ...(year)..., and recorded in Official Records
422 Book at Page, of the public records of County,
423 Florida, and that the time within which you may file suit to
424 enforce your lien is limited to 90 days from the date of service
425 of this notice. Executed this day of, ...(year)....
426 Signed: ...(Owner or Attorney)...
427

428 After notice of contest of lien has been recorded, the clerk of
429 the circuit court shall mail a copy of the recorded notice to
430 the association by certified mail, return receipt requested, at
431 the address shown in the claim of lien or most recent amendment
432 to it and shall certify to the service on the face of the
433 notice. Service is complete upon mailing. After service, the
434 association has 90 days in which to file an action to enforce
435 the lien; and, if the action is not filed within the 90-day

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436 period, the lien is void. However, the 90-day period shall be
437 extended for any length of time during which the association is
438 prevented from filing its action because of an automatic stay
439 resulting from the filing of a bankruptcy petition by the unit
440 owner or by any other person claiming an interest in the parcel.

441 (d) A release of lien must be in substantially the
442 following form:

443
444 RELEASE OF LIEN
445

446 The undersigned lienor, in consideration of the final payment in
447 the amount of \$...., hereby waives and releases its lien and
448 right to claim a lien for unpaid assessments through,
449 ...(year)..., recorded in Official Records Book at Page
450, of the public records of County, Florida, for the
451 following described real property:

452
453 THAT COOPERATIVE PARCEL WHICH INCLUDES UNIT NO.
454 OF (NAME OF COOPERATIVE), A COOPERATIVE AS SET FORTH
455 IN THE COOPERATIVE DOCUMENTS AND THE EXHIBITS ANNEXED
456 THERE TO AND FORMING A PART THEREOF, RECORDED IN
457 OFFICIAL RECORDS BOOK, PAGE, OF THE PUBLIC
458 RECORDS OF COUNTY, FLORIDA.

459
460 ...(signature of witness)... (signature of authorized
461 agent)...

462 Print name: Print name:

463
464 ...(signature of witness)...

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465 Print name:

466

467 Sworn to (or affirmed) and subscribed before me this day of
 468, ...(year)..., by ...(name of person making statement)....
 469 ...(Signature of Notary Public)...
 470 ...(Print, type, or stamp commissioned name of Notary Public)...
 471 Personally Known.... OR Produced.... as identification.

472 (5) Liens for rents and assessments may be foreclosed by
 473 suit brought in the name of the association, in like manner as a
 474 foreclosure of a mortgage on real property. In any foreclosure,
 475 the unit owner shall pay a reasonable rental for the cooperative
 476 parcel, if so provided in the cooperative documents, and the
 477 plaintiff in the foreclosure is entitled to the appointment of a
 478 receiver to collect the rent. The association has the power,
 479 unless prohibited by the cooperative documents, to bid on the
 480 cooperative parcel at the foreclosure sale and to acquire and
 481 hold, lease, mortgage, or convey it. Suit to recover a money
 482 judgment for unpaid rents and assessments may be maintained
 483 without waiving the lien securing them. A foreclosure judgment
 484 may not be entered until at least 30 days after the association
 485 gives written notice to the unit owner of its intention to
 486 foreclose its lien to collect the unpaid assessments. The notice
 487 must be in substantially the following form:

488

489 DELINQUENT ASSESSMENT

490

491 This letter is to inform you a Claim of Lien has been filed
 492 against your property because you have not paid the
 493 assessment to Association. The Association intends to

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494 foreclose the lien and collect the unpaid amount within 30 days
495 after this letter is provided to you.

496

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

501

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

505

506 If this notice is not given at least 30 days before the
507 foreclosure action is filed, and if the unpaid assessments,
508 including those coming due after the claim of lien is recorded,
509 are paid before the entry of a final judgment of foreclosure,
510 the association does not recover attorney fees or costs. The
511 notice must be given by delivery of a copy of it to the unit
512 owner or by certified or registered mail, return receipt
513 requested, addressed to the unit owner at his or her last known
514 address; and, upon such mailing, the notice shall be deemed to
515 have been given, and the court shall proceed with the
516 foreclosure action and may award attorney fees and costs as
517 permitted by law. The notice requirements of this subsection are
518 satisfied if the unit owner records a notice of contest of lien
519 as provided in subsection (4). The notice requirements of this
520 subsection do not apply if an action to foreclose a mortgage on
521 the cooperative unit is pending before any court; if the rights
522 of the association would be affected by such foreclosure; and if

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523 actual, constructive, or substitute service of process has been
524 made on the unit owner.

525 Section 6. Subsections (1), (3), (4), and (5) of section
526 720.3085, Florida Statutes, are amended to read:

527 720.3085 Payment for assessments; lien claims.—

528 (1) When authorized by the governing documents, the
529 association has a lien on each parcel to secure the payment of
530 assessments and other amounts provided for by this section.
531 Except as otherwise set forth in this section, the lien is
532 effective from and shall relate back to the date on which the
533 original declaration of the community was recorded. However, as
534 to first mortgages of record, the lien is effective from and
535 after recording of a claim of lien in the public records of the
536 county in which the parcel is located. This subsection does not
537 bestow upon any lien, mortgage, or certified judgment of record
538 on July 1, 2008, including the lien for unpaid assessments
539 created in this section, a priority that, by law, the lien,
540 mortgage, or judgment did not have before July 1, 2008.

541 (a) To be valid, a claim of lien must state the description
542 of the parcel, the name of the record owner, the name and
543 address of the association, the assessment amount due, and the
544 due date. The claim of lien secures all unpaid assessments that
545 are due and that may accrue subsequent to the recording of the
546 claim of lien and before entry of a certificate of title, as
547 well as interest, late charges, and reasonable collection costs
548 and attorney ~~attorney's~~ fees incurred by the association
549 incident to the collection process. The person making payment is
550 entitled to a satisfaction of the lien upon payment in full.

551 (b) By recording a notice in substantially the following

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552 form, a parcel owner or the parcel owner's agent or attorney may
553 require the association to enforce a recorded claim of lien
554 against his or her parcel:

555 NOTICE OF CONTEST OF LIEN

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

557 You are notified that the undersigned contests the claim of lien
558 filed by you on, ...(year)..., and recorded in Official
559 Records Book at page, of the public records of
560 County, Florida, and that the time within which you may file
561 suit to enforce your lien is limited to 90 days following the
562 date of service of this notice. Executed this day of,
563 ...(year)....

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

565

566 After the notice of a contest of lien has been recorded, the
567 clerk of the circuit court shall mail a copy of the recorded
568 notice to the association by certified mail, return receipt
569 requested, at the address shown in the claim of lien or the most
570 recent amendment to it and shall certify to the service on the
571 face of the notice. Service is complete upon mailing. After
572 service, the association has 90 days in which to file an action
573 to enforce the lien and, if the action is not filed within the
574 90-day period, the lien is void. However, the 90-day period
575 shall be extended for any length of time that the association is
576 prevented from filing its action because of an automatic stay
577 resulting from the filing of a bankruptcy petition by the parcel
578 owner or by any other person claiming an interest in the parcel.

579 (c) The association may bring an action in its name to
580 foreclose a lien for assessments in the same manner in which a

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581 mortgage of real property is foreclosed and may also bring an
 582 action to recover a money judgment for the unpaid assessments
 583 without waiving any claim of lien. The association is entitled
 584 to recover its reasonable attorney's fees incurred in an action
 585 to foreclose a lien or an action to recover a money judgment for
 586 unpaid assessments.

587 (d) A release of lien must be in substantially the
 588 following form:

590 RELEASE OF LIEN

591
 592 The undersigned lienor, in consideration of the final payment in
 593 the amount of \$...., hereby waives and releases its lien and
 594 right to claim a lien for unpaid assessments through,
 595 ...(year)..., recorded in Official Records Book at Page
 596, of the public records of County, Florida, for the
 597 following described real property:

598
 599 ...(PARCEL NO. OR LOT AND BLOCK)... OF
 600 SUBDIVISION AS SHOWN IN THE PLAT THEREOF, RECORDED AT
 601 PLAT BOOK, PAGE, OF THE OFFICIAL RECORDS OF
 602 COUNTY, FLORIDA.

603
 604 ...(or insert appropriate metes and bounds description
 605 here)...

606
 607 ...(signature of witness)... ..(signature of authorized
 608 agent)...

609

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610 ...(signature of witness)...

611
 612 Sworn to (or affirmed) and subscribed before me this day of
 613, ...(year)..., by ...(name of person making statement)....
 614 ...(Signature of Notary Public)...
 615 ...(Print, type, or stamp commissioned name of Notary Public)...
 616 Personally Known.... OR Produced.... as identification.

617
 618 (e)~~(d)~~ If the parcel owner remains in possession of the
 619 parcel after a foreclosure judgment has been entered, the court
 620 may require the parcel owner to pay a reasonable rent for the
 621 parcel. If the parcel is rented or leased during the pendency of
 622 the foreclosure action, the association is entitled to the
 623 appointment of a receiver to collect the rent. The expenses of
 624 the receiver must be paid by the party who does not prevail in
 625 the foreclosure action.

626 (f)~~(e)~~ The association may purchase the parcel at the
 627 foreclosure sale and hold, lease, mortgage, or convey the
 628 parcel.

629 (3) Assessments and installments on assessments that are
 630 not paid when due bear interest from the due date until paid at
 631 the rate provided in the declaration of covenants or the bylaws
 632 of the association, which rate may not exceed the rate allowed
 633 by law. If no rate is provided in the declaration or bylaws,
 634 interest accrues at the rate of 18 percent per year.

635 (a) If the declaration or bylaws so provide, the
 636 association may also charge an administrative late fee not to
 637 exceed the greater of \$25 or 5 percent of the amount of each
 638 installment that is paid past the due date. The association may

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639 also recover from the parcel owner any reasonable charges
 640 imposed upon the association under a written contract with its
 641 management or bookkeeping company, or collection agent, incurred
 642 in connection with collecting a delinquent assessment.

643 (b) Any payment received by an association and accepted
 644 shall be applied first to any interest accrued, then to any
 645 administrative late fee, then to any costs and reasonable
 646 attorney attorney's fees incurred in collection, then to any
 647 reasonable costs for collection services contracted for by the
 648 association, and then to the delinquent assessment. This
 649 paragraph applies notwithstanding any restrictive endorsement,
 650 designation, or instruction placed on or accompanying a payment.
 651 A late fee is not subject to the provisions of chapter 687 and
 652 is not a fine.

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

658 (a) Provide the owner with 45 days following the date the
 659 notice is deposited in the mail to make payment for all amounts
 660 due, including, but not limited to, any attorney's fees and
 661 actual costs associated with the preparation and delivery of the
 662 written demand. The notice must be in substantially the
 663 following form:

664
 665 NOTICE OF INTENT TO RECORD A CLAIM OF LIEN

666
 667 Re: Parcel or (lot/block) of ...(name of association)...

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The following amounts are currently due on your account to Association, and must be paid within forty-five (45) 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 forty-five (45) days from your receipt of this letter, unless you pay in full the amounts set forth below:

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

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

(b) Be sent by registered or certified mail, return receipt requested, and by first-class United States mail to the parcel owner at his or her last address as reflected in the records of the association, if the address is within the United States, and to the parcel owner subject to the demand at the address of the parcel if the owner's address as reflected in the records of the association is not the parcel address. If the address reflected in the records is outside the United States, then sending the notice to that address and to the parcel address by first-class United States mail is sufficient.

(5) The association may bring an action in its name to foreclose a lien for unpaid assessments secured by a lien in the

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697 same manner that a mortgage of real property is foreclosed and
698 may also bring an action to recover a money judgment for the
699 unpaid assessments without waiving any claim of lien. The action
700 to foreclose the lien may not be brought until 45 days after the
701 parcel owner has been provided notice of the association's
702 intent to foreclose and collect the unpaid amount. The notice
703 must be given in the manner provided in paragraph (4) (b), and
704 the notice may not be provided until the passage of the 45 days
705 required in paragraph (4) (a). The notice must be in
706 substantially the following form:

707
708 DELINQUENT ASSESSMENT

709
710 This letter is to inform you a Claim of Lien has been filed
711 against your property because you have not paid the
712 assessment to Association. The Association intends to
713 foreclose the lien and collect the unpaid amount within 45 days
714 of this letter being provided to you.

715
716 You owe the interest accruing from (month/year) to the present.
717 As of the date of this letter, the total amount due with
718 interest is \$..... All costs of any action and interest from
719 this day forward will also be charged to your account.

720
721 Any questions concerning this matter should be directed to
722 ...(insert name, addresses and telephone numbers of Association
723 representative)....

724 (a) The association may recover any interest, late charges,
725 costs, and reasonable attorney's fees incurred in a lien

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726 foreclosure action or in an action to recover a money judgment
727 for the unpaid assessments.

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

732 Section 7. This act shall take effect July 1, 2014.