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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2015	.	
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The Committee on Judiciary (Ring) recommended the following:

Senate Amendment (with title amendment)

Delete lines 645 - 2912
and insert:
allowed by the applicable bylaws or declaration or any law. ~~¶~~
~~authorized by the bylaws,~~ Notice of meetings of the board of
administration, unit owner meetings, except unit owner meetings
called to recall board members under paragraph (j), and
committee meetings may be given by electronic transmission to
unit owners who consent to receive notice by electronic
transmission.



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

16 8. A unit owner may tape record or videotape a meeting of
17 the unit owners subject to reasonable rules adopted by the
18 division; however, a unit owner may not post the recording on
19 any website or other media that can readily be viewed by persons
20 who are not members of the association.

21 9. Unless otherwise provided in the bylaws, any vacancy
22 occurring on the board before the expiration of a term may be
23 filled by the affirmative vote of the majority of the remaining
24 directors, even if the remaining directors constitute less than
25 a quorum, or by the sole remaining director. In the alternative,
26 a board may hold an election to fill the vacancy, in which case
27 the election procedures must conform to sub-subparagraph 4.a.
28 unless the association governs 10 units or fewer and has opted
29 out of the statutory election process, in which case the bylaws
30 of the association control. Unless otherwise provided in the
31 bylaws, a board member appointed or elected under this section
32 shall fill the vacancy for the unexpired term of the seat being
33 filled. Filling vacancies created by recall is governed by
34 paragraph (j) and rules adopted by the division.

35 10. This chapter does not limit the use of general or
36 limited proxies, require the use of general or limited proxies,
37 or require the use of a written ballot or voting machine for any
38 agenda item or election at any meeting of a timeshare
39 condominium association or nonresidential condominium
40 association.



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41
42 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
43 association of 10 or fewer units may, by affirmative vote of a
44 majority of the total voting interests, provide for different
45 voting and election procedures in its bylaws, which may be by a
46 proxy specifically delineating the different voting and election
47 procedures. The different voting and election procedures may
48 provide for elections to be conducted by limited or general
49 proxy.

50 (f) Annual budget.—

51 1. The proposed annual budget of estimated revenues and
52 expenses must be detailed and must show the amounts budgeted by
53 accounts and expense classifications, including, at a minimum,
54 any if applicable, ~~but not limited to,~~ those expenses listed in
55 s. 718.504(21). A multicondominium association shall adopt a
56 separate budget of common expenses for each condominium the
57 association operates and shall adopt a separate budget of common
58 expenses for the association. In addition, if the association
59 maintains limited common elements with the cost to be shared
60 only by those entitled to use the limited common elements as
61 provided for in s. 718.113(1), the budget or a schedule attached
62 to it must show the amount budgeted for this maintenance. If,
63 after turnover of control of the association to the unit owners,
64 any of the expenses listed in s. 718.504(21) are not applicable,
65 they need not be listed.

66 2.a. In addition to annual operating expenses, the budget
67 must include reserve accounts for capital expenditures and
68 deferred maintenance. These accounts must include, but are not
69 limited to, roof replacement, building painting, and pavement



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70 resurfacing, regardless of the amount of deferred maintenance
71 expense or replacement cost, and ~~for~~ any other item that has a
72 deferred maintenance expense or replacement cost that exceeds
73 \$10,000. The amount to be reserved must be computed using a
74 formula based upon estimated remaining useful life and estimated
75 replacement cost or deferred maintenance expense of each reserve
76 item. The association may adjust replacement reserve assessments
77 annually to take into account any changes in estimates or
78 extension of the useful life of a reserve item caused by
79 deferred maintenance. This subsection does not apply to an
80 adopted budget in which the members of an association have
81 determined, by a majority vote at a duly called meeting of the
82 association, to provide no reserves or less reserves than
83 required by this subsection.

84 b. Before ~~However, prior to~~ turnover of control of an
85 association by a developer to unit owners other than a developer
86 pursuant to s. 718.301, the developer may vote the voting
87 interests allocated to its units to waive the reserves or reduce
88 the funding of reserves through the period expiring at the end
89 of the second fiscal year after the fiscal year in which the
90 certificate of a surveyor and mapper is recorded pursuant to s.
91 718.104(4)(e) or an instrument that transfers title to a unit in
92 the condominium which is not accompanied by a recorded
93 assignment of developer rights in favor of the grantee of such
94 unit is recorded, whichever occurs first, after which time
95 reserves may be waived or reduced only upon the vote of a
96 majority of all nondeveloper voting interests voting in person
97 or by limited proxy at a duly called meeting of the association.
98 If a meeting of the unit owners has been called to determine



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99 whether to waive or reduce the funding of reserves, and no such
100 result is achieved or a quorum is not attained, the reserves
101 included in the budget shall go into effect. After the turnover,
102 the developer may vote its voting interest to waive or reduce
103 the funding of reserves.

104 3. Reserve funds and any interest accruing thereon shall
105 remain in the reserve account or accounts, and may be used only
106 for authorized reserve expenditures unless their use for other
107 purposes is approved in advance by a majority vote at a duly
108 called meeting of the association. Before ~~Prior to~~ turnover of
109 control of an association by a developer to unit owners other
110 than the developer pursuant to s. 718.301, the developer-
111 controlled association may ~~shall~~ not vote to use reserves for
112 purposes other than those ~~that~~ for which they were intended
113 without the approval of a majority of all nondeveloper voting
114 interests, voting in person or by limited proxy at a duly called
115 meeting of the association.

116 4. The only voting interests that are eligible to vote on
117 questions that involve waiving or reducing the funding of
118 reserves, or using existing reserve funds for purposes other
119 than purposes for which the reserves were intended, are the
120 voting interests of the units subject to assessment to fund the
121 reserves in question. Proxy questions relating to waiving or
122 reducing the funding of reserves or using existing reserve funds
123 for purposes other than purposes for which the reserves were
124 intended must ~~shall~~ contain the following statement in
125 capitalized, bold letters in a font size larger than any other
126 used on the face of the proxy ballot: WAIVING OF RESERVES, IN
127 WHOLE OR IN PART, OR ALLOWING ALTERNATIVE USES OF EXISTING



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128 RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF
129 UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

130 Section 6. Subsection (7) of section 718.113, Florida
131 Statutes, is amended to read:

132 718.113 Maintenance; limitation upon improvement; display
133 of flag; hurricane shutters and protection; display of religious
134 decorations.-

135 (7) Notwithstanding the provisions of this section or the
136 condominium governing documents of a condominium or a
137 multicondominium association, the board of administration may,
138 without any requirement for approval of the unit owners, install
139 upon or within the common elements or association property solar
140 collectors, clotheslines, or other energy-efficient devices
141 based on renewable resources for the benefit of the unit owners.

142 Section 7. Paragraphs (a) and (b) of subsection (1),
143 subsection (3), and paragraph (b) of subsection (5) of section
144 718.116, Florida Statutes, are amended to read:

145 718.116 Assessments; liability; lien and priority;
146 interest; collection.-

147 (1) (a) A unit owner, regardless of how the unit owner has
148 acquired his or her title has been acquired, including, but not
149 limited to, by purchase at a foreclosure sale or by deed in lieu
150 of foreclosure, is liable for all assessments that which come
151 due while he or she is the unit owner, including any special
152 assessments or installments on special assessments coming due
153 during the period of ownership, regardless of when the special
154 assessment was levied. Additionally, a unit owner is jointly and
155 severally liable with the previous unit owner for all unpaid
156 monthly and special assessments, interest and late fees on both



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157 unpaid assessments and unpaid special assessments, and costs and
158 reasonable attorney fees incurred by the association in an
159 attempt to collect all such amounts that came due up to the time
160 of transfer of title. This joint and several liability of a
161 subsequent unit owner does not apply to an owner who acquires
162 title through purchase of a tax deed and is without prejudice to
163 any right the present unit owner may have to recover from the
164 previous unit owner the amounts paid by the present unit owner.
165 For the purposes of this section paragraph, the term "previous
166 unit owner" does not include an association that acquires title
167 to a unit delinquent property through foreclosure or by deed in
168 lieu of foreclosure. A present unit owner's liability for unpaid
169 assessments, interest, late fees, and costs and reasonable
170 attorney fees is limited to any unpaid assessments, interest,
171 late fees, and costs and reasonable attorney fees that accrued
172 before the association acquired title to the unit delinquent
173 property through foreclosure or by deed in lieu of foreclosure.

174 (b)1. The liability of a first mortgagee or its successor
175 or assignees who acquire title to a unit by foreclosure or by
176 deed in lieu of foreclosure for the unpaid assessments,
177 interest, late fees, costs and reasonable attorney fees, and any
178 other fee, cost, or expense incurred by or on behalf of the
179 association in the collection process which ~~that~~ became due
180 before the mortgagee's acquisition of title is limited to the
181 lesser of:

182 a. The unit's unpaid common expenses and regular periodic
183 assessments which accrued or came due during the 12 months
184 immediately preceding the acquisition of title and for which
185 payment in full has not been received by the association; or



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186 b. One percent of the original mortgage debt. The
187 provisions of this paragraph apply only if the first mortgagee
188 joined the association as a defendant in the foreclosure action.
189 Joinder of the association is not required if, on the date the
190 complaint is filed, the association was dissolved or did not
191 maintain an office or agent for service of process at a location
192 which was known to or reasonably discoverable by the mortgagee.

193 2. An association, or its successor or assignee, that
194 acquires title to a unit through the foreclosure of its lien for
195 assessments is not liable for any unpaid assessments, late fees,
196 interest, or reasonable attorney ~~attorney's~~ fees and costs that
197 came due before the association's acquisition of title in favor
198 of any other association, as defined in s. 718.103(2) or s.
199 720.301(9), which holds a superior lien interest on the unit.
200 This subparagraph is intended to clarify existing law.

201 (3) Assessments and installments on assessments which are
202 not paid when due bear interest at the rate provided in the
203 declaration, from the due date until paid. The rate may not
204 exceed the rate allowed by law, and, if no rate is provided in
205 the declaration, interest accrues at the rate of 18 percent per
206 year. If provided by the declaration or bylaws, the association
207 may, in addition to such interest, charge an administrative late
208 fee of up to the greater of \$25 or 5 percent of each delinquent
209 installment for which the payment is late. The association may
210 also recover from the unit owner any reasonable charges imposed
211 upon the association under a written contract with its
212 management or bookkeeping company or collection agent which are
213 incurred in connection with collecting a delinquent assessment.
214 Such charges must be based on the actual time expended



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215 performing necessary, nonduplicative services. Fees for
216 collection are not recoverable for the period after referral of
217 the matter to an association's legal counsel. Any payment
218 received by an association must be applied first to any interest
219 accrued by the association, then to any administrative late fee,
220 then to any costs and reasonable attorney ~~attorney's~~ fees
221 incurred in collection, then to any reasonable costs for
222 collection services contracted by the association, and then to
223 the delinquent assessment. The foregoing is applicable
224 notwithstanding s. 673.3111, any purported accord and
225 satisfaction, or any restrictive endorsement, designation, or
226 instruction placed on or accompanying a payment. The preceding
227 sentence is intended to clarify existing law. A late fee is not
228 subject to chapter 687 or s. 718.303(4).

229 (5)

230 (b) To be valid, a claim of lien must state the description
231 of the condominium parcel, the name of the record owner, the
232 name and address of the association, the amount due, and the due
233 dates. It must be executed and acknowledged by an officer or
234 authorized agent of the association. The lien is not effective 1
235 year after the claim of lien was recorded unless, within that
236 time, an action to enforce the lien is commenced. The 1-year
237 period is automatically extended for any length of time during
238 which the association is prevented from filing a foreclosure
239 action by an automatic stay resulting from a bankruptcy petition
240 filed by the parcel owner or any other person claiming an
241 interest in the parcel. The claim of lien secures all unpaid
242 assessments that are due and that may accrue after the claim of
243 lien is recorded and through the entry of a final judgment, as



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244 well as interest, authorized administrative late fees, and all
245 reasonable costs and attorney attorney's fees incurred by the
246 association incident to the collection process, including, but
247 not limited to, any reasonable costs for collection services
248 contracted for by the association. Upon payment in full, the
249 person making the payment is entitled to a satisfaction of the
250 lien.

251 Section 8. Section 718.128, Florida Statutes, is created to
252 read:

253 718.128 Electronic voting.—The association may conduct
254 elections and other unit owner votes through an Internet-based
255 online voting system if a unit owner consents in writing to
256 online voting and if the following requirements are met:

257 (1) The association provides each unit owner with:

258 (a) A method to authenticate the unit owner's identity to
259 the online voting system.

260 (b) For elections of the board, a method to transmit an
261 electronic ballot to the online voting system that ensures the
262 secrecy and integrity of each ballot.

263 (c) A method to confirm, at least 14 days before the voting
264 deadline, that the unit owner's electronic device can
265 successfully communicate with the online voting system.

266 (2) The association uses an online voting system that is:

267 (a) Able to authenticate the unit owner's identity.

268 (b) Able to authenticate the validity of each electronic
269 vote to ensure that the vote is not altered in transit.

270 (c) Able to transmit a receipt from the online voting
271 system to each unit owner who casts an electronic vote.

272 (d) For elections of the board of administration, able to



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273 permanently separate any authentication or identifying
274 information from the electronic election ballot, rendering it
275 impossible to tie an election ballot to a specific unit owner.

276 (e) Able to store and keep electronic votes accessible to
277 election officials for recount, inspection, and review purposes.

278 (3) A unit owner voting electronically pursuant to this
279 section shall be counted as being in attendance at the meeting
280 for purposes of determining a quorum. A substantive vote of the
281 unit owners may not be taken on any issue other than the issues
282 specifically identified in the electronic vote when a quorum is
283 established based on unit owners voting electronically pursuant
284 to this section.

285 (4) This section applies to an association that provides
286 for and authorizes an online voting system pursuant to this
287 section by a board resolution. The board resolution must provide
288 that unit owners receive notice of the opportunity to vote
289 through an online voting system, must establish reasonable
290 procedures and deadlines for unit owners to consent in writing
291 to online voting, and must establish reasonable procedures and
292 deadlines for unit owners to opt out of online voting after
293 giving consent. Written notice of a meeting at which the
294 resolution will be considered must be mailed, delivered, or
295 electronically transmitted to the unit owners and posted
296 conspicuously on the condominium property or association
297 property at least 14 days before the meeting. Evidence of
298 compliance with the 14-day notice requirement must be made by an
299 affidavit executed by the person providing the notice and filed
300 with the official records of the association.

301 (5) A unit owner's consent to online voting is valid until



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302 the unit owner opts out of online voting according to the
303 procedures established by the board of administration pursuant
304 to paragraph (4).

305 (6) This section may apply to any matter that requires a
306 vote of the unit owners.

307 Section 9. Subsections (1) and (4) of section 718.301,
308 Florida Statutes, are amended to read:

309 718.301 Transfer of association control; claims of defect
310 by association.—

311 (1) If unit owners other than the developer own 15 percent
312 or more of the units ~~in a condominium~~ that ultimately will be
313 operated ~~ultimately~~ by an association, as provided in the
314 declaration, articles of incorporation, or bylaws as originally
315 recorded, the unit owners other than the developer are entitled
316 to elect at least one-third of the members of the board of
317 administration of the association. Unit owners other than the
318 developer are entitled to elect at least a majority of the
319 members of the board of administration of an association, ~~upon~~
320 ~~the first to occur of any~~ of the following events that occur:

321 (a) Three years after 50 percent of the units that
322 ultimately will be operated ~~ultimately~~ by the association, as
323 provided in the declaration, articles of incorporation, or
324 bylaws as originally recorded, have been conveyed to
325 purchasers. ~~†~~

326 (b) Three months after 90 percent of the units that
327 ultimately will be operated ~~ultimately~~ by the association, as
328 provided in the declaration, articles of incorporation, or
329 bylaws as originally recorded, have been conveyed to
330 purchasers. ~~†~~



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331 (c) When all the units that ultimately will be operated
332 ~~ultimately~~ by the association, as provided in the declaration,
333 articles of incorporation, or bylaws as originally recorded,
334 have been completed, some of them have been conveyed to
335 purchasers, and none of the others is ~~are~~ being offered for sale
336 by the developer in the ordinary course of business.~~†~~

337 (d) When some of the units have been conveyed to purchasers
338 and none of the others is ~~are~~ being constructed or offered for
339 sale by the developer in the ordinary course of business.~~†~~

340 (e) When the developer files a petition seeking protection
341 in bankruptcy.~~†~~

342 (f) When a bulk-unit purchaser who owns a majority of the
343 units that ultimately will be operated by the association, as
344 provided in the declaration, articles of incorporation, or
345 bylaws as originally recorded, files a petition seeking
346 protection in bankruptcy.

347 ~~(g)-(f)~~ When a receiver for the developer is appointed by a
348 circuit court and is not discharged within 30 days after such
349 appointment, unless the court determines within 30 days after
350 appointment of the receiver that transfer of control would be
351 detrimental to the association or its members.~~† or~~

352 (h) When a receiver for a bulk-unit purchaser who owns a
353 majority of the units that ultimately will be operated by the
354 association, as provided in the declaration, articles of
355 incorporation, or bylaws as originally recorded, is appointed by
356 a circuit court and is not discharged within 30 days after such
357 appointment, unless the court determines within 30 days after
358 appointment of the receiver that transfer of control would be
359 detrimental to the association or its members.



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360 (i) Five years after the date of recording of the first
361 conveyance to a bulk-unit purchaser who owns a majority of the
362 units that ultimately will be operated by the association, as
363 provided in the declaration, articles of incorporation, or
364 bylaws as originally recorded. Notwithstanding that unit owners
365 other than the developer are entitled to elect a majority of the
366 members of the board of administration and notwithstanding s.
367 718.112(2)(f)2., 5 years after the date of recording of the
368 first conveyance of a unit to a bulk-unit purchaser who owns a
369 majority of the units, the bulk-unit purchaser may exercise the
370 right to vote for each unit owned by the bulk-unit purchaser in
371 the same manner as any other unit owner except for the purposes
372 of reacquiring control of the association or electing or
373 appointing a majority of the members of the board of
374 administration.

375 (j)~~(g)~~ Seven years after the date of the recording of the
376 certificate of a surveyor and mapper pursuant to s.
377 718.104(4)(e) or the recording of an instrument that transfers
378 title to a unit in the condominium which is not accompanied by a
379 recorded assignment of developer rights in favor of the grantee
380 of such unit, whichever occurs first; or, in the case of an
381 association that ~~may~~ ultimately may operate more than one
382 condominium, 7 years after the date of the recording of the
383 certificate of a surveyor and mapper pursuant to s.
384 718.104(4)(e) or the recording of an instrument that transfers
385 title to a unit which is not accompanied by a recorded
386 assignment of developer rights in favor of the grantee of such
387 unit, whichever occurs first, for the first condominium it
388 operates; or, in the case of an association operating a phase



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389 condominium created pursuant to s. 718.403, 7 years after the
390 date of the recording of the certificate of a surveyor and
391 mapper pursuant to s. 718.104(4)(e) or the recording of an
392 instrument that transfers title to a unit which is not
393 accompanied by a recorded assignment of developer rights in
394 favor of the grantee of such unit, whichever occurs first.

395

396 The developer is entitled to elect at least one member of the
397 board of administration of an association as long as the
398 developer holds for sale in the ordinary course of business at
399 least 5 percent, in condominiums with fewer than 500 units, and
400 2 percent, in condominiums with more than 500 units, of the
401 units in a condominium operated by the association. After the
402 developer relinquishes control of the association, the developer
403 may exercise the right to vote any developer-owned units in the
404 same manner as any other unit owner except for purposes of
405 reacquiring control of the association or selecting a the
406 majority of the members of the board of administration.

407 (4) At the time that unit owners other than the developer
408 elect a majority of the members of the board of administration
409 of an association, the developer or bulk-unit purchaser shall
410 relinquish control of the association, and the unit owners shall
411 accept control. Simultaneously, or for the purposes of paragraph
412 (c) not more than 90 days thereafter, the developer or bulk-unit
413 purchaser shall deliver to the association, at the developer's
414 or bulk-unit purchaser's expense, all property of the unit
415 owners and of the association which is held or controlled by the
416 developer or bulk-unit purchaser, including, but not limited to,
417 the following items, if applicable, as to each condominium



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418 operated by the association:

419 (a)1. The original or a photocopy of the recorded
420 declaration of condominium and all amendments thereto. If a
421 photocopy is provided, it must be certified by affidavit of the
422 developer, a bulk-unit purchaser, or an officer or agent of the
423 developer or bulk-unit purchaser as being a complete copy of the
424 actual recorded declaration.

425 2. A certified copy of the articles of incorporation of the
426 association or, if the association was created before ~~prior to~~
427 the effective date of this act and it is not incorporated,
428 copies of the documents creating the association.

429 3. A copy of the bylaws.

430 4. The minute books, including all minutes, and other books
431 and records of the association, if any.

432 5. Any house rules and regulations that have been adopted
433 ~~promulgated~~.

434 (b) Resignations of officers and members of the board of
435 administration who are required to resign because the developer
436 or bulk-unit purchaser is required to relinquish control of the
437 association.

438 (c) The financial records, including financial statements
439 of the association, and source documents from the incorporation
440 of the association through the date of turnover. The records
441 must be audited for the period from the incorporation of the
442 association or from the period covered by the last audit, if an
443 audit has been performed for each fiscal year since
444 incorporation, by an independent certified public accountant.
445 All financial statements must be prepared in accordance with
446 generally accepted accounting principles and must be audited in



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447 accordance with generally accepted auditing standards, as
448 prescribed by the Florida Board of Accountancy, pursuant to
449 chapter 473. The accountant performing the audit shall examine
450 to the extent necessary supporting documents and records,
451 including the cash disbursements and related paid invoices, to
452 determine whether ~~if~~ expenditures were for association purposes
453 and the billings, cash receipts, and related records to
454 determine whether ~~that~~ the developer or bulk-unit purchaser was
455 charged and paid the proper amounts of assessments.

456 (d) Association funds or control thereof.

457 (e) All tangible personal property that is property of the
458 association, which is represented by the developer or bulk-unit
459 purchaser to be part of the common elements or which is
460 ostensibly part of the common elements, and an inventory of that
461 property.

462 (f) A copy of the plans and specifications used ~~utilized~~ in
463 the construction or remodeling of improvements and the supplying
464 of equipment to the condominium and in the construction and
465 installation of all mechanical components serving the
466 improvements and the site with a certificate in affidavit form
467 of the developer, the bulk-unit purchaser, or the developer's or
468 bulk-unit purchaser's agent or an architect or engineer
469 authorized to practice in this state that such plans and
470 specifications represent, to the best of his or her knowledge
471 and belief, the actual plans and specifications used ~~utilized~~ in
472 the construction and improvement of the condominium property and
473 for the construction and installation of the mechanical
474 components serving the improvements. If the condominium property
475 has been declared a condominium more than 3 years after the



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476 completion of construction or remodeling of the improvements,
477 ~~the requirements of~~ this paragraph does ~~de~~ not apply.

478 (g) A list of the names and addresses of all contractors,
479 subcontractors, and suppliers used ~~utilized~~ in the construction
480 or remodeling of the improvements and in the landscaping of the
481 condominium or association property which the developer or bulk-
482 unit purchaser had knowledge of at any time in the development
483 of the condominium.

484 (h) Insurance policies.

485 (i) Copies of any certificates of occupancy that may have
486 been issued for the condominium property.

487 (j) Any other permits applicable to the condominium
488 property which have been issued by governmental bodies and are
489 in force or were issued within 1 year before ~~prior to~~ the date
490 the unit owners other than the developer or bulk-unit purchaser
491 took control of the association.

492 (k) All written warranties of the contractor,
493 subcontractors, suppliers, and manufacturers, if any, that are
494 still effective.

495 (l) A roster of unit owners and their addresses and
496 telephone numbers, if known, as shown on the developer's or
497 bulk-unit purchaser's records.

498 (m) Leases of the common elements and other leases to which
499 the association is a party.

500 (n) Employment contracts or service contracts in which the
501 association is one of the contracting parties or service
502 contracts in which the association or the unit owners have an
503 obligation or responsibility, directly or indirectly, to pay
504 some or all of the fee or charge of the person or persons



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505 performing the service.

506 (o) All other contracts to which the association is a
507 party.

508 (p) A report included in the official records, under seal
509 of an architect or engineer authorized to practice in this
510 state, attesting to required maintenance, useful life, and
511 replacement costs of the following applicable common elements
512 comprising a turnover inspection report:

- 513 1. Roof.
- 514 2. Structure.
- 515 3. Fireproofing and fire protection systems.
- 516 4. Elevators.
- 517 5. Heating and cooling systems.
- 518 6. Plumbing.
- 519 7. Electrical systems.
- 520 8. Swimming pool or spa and equipment.
- 521 9. Seawalls.
- 522 10. Pavement and parking areas.
- 523 11. Drainage systems.
- 524 12. Painting.
- 525 13. Irrigation systems.

526 (q) A copy of the certificate of a surveyor and mapper
527 recorded pursuant to s. 718.104(4)(e) or the recorded instrument
528 that transfers title to a unit in the condominium which is not
529 accompanied by a recorded assignment of developer or bulk-unit
530 purchaser rights in favor of the grantee of such unit, whichever
531 occurred first.

532 Section 10. Subsections (1) through (4) of section 718.302,
533 Florida Statutes, are amended to read:



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534 718.302 Agreements entered into by the association.-

535 (1) A ~~Any~~ grant or reservation made by a declaration,
536 lease, or other document, and a ~~any~~ contract made by an
537 association ~~before~~ ~~prior to~~ assumption of control of the
538 association by unit owners other than the developer, a bulk-unit
539 purchaser, or a lender-unit purchaser, which ~~that~~ provides for
540 operation, maintenance, or management of a condominium
541 association or property serving the unit owners of a condominium
542 must ~~shall~~ be fair and reasonable, and such grant, reservation,
543 or contract may be canceled by unit owners other than the
544 developer or a bulk-unit purchaser. A lender-unit purchaser may
545 not vote on cancellation of a grant, reservation, or contract
546 made by the association while the association is under control
547 of that lender-unit purchaser.÷

548 (a) If the association operates only one condominium and
549 the unit owners other than the developer, a bulk-unit purchaser,
550 or a lender-unit purchaser have assumed control of the
551 association, or if the unit owners other than the developer, a
552 bulk-unit purchaser, or a lender-unit purchaser own at least ~~not~~
553 ~~less than~~ 75 percent of the voting interests in the condominium,
554 the cancellation shall be by concurrence of the owners of at
555 least ~~not less than~~ 75 percent of the voting interests other
556 than the voting interests owned by the developer, a bulk-unit
557 purchaser, or a lender-unit purchaser. If a grant, reservation,
558 or contract is so canceled and the unit owners other than the
559 developer or a bulk-unit purchaser have not assumed control of
560 the association, the association shall make a new contract or
561 otherwise provide for maintenance, management, or operation in
562 lieu of the canceled obligation, at the direction of the owners



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563 of ~~not less than~~ a majority of the voting interests in the
564 condominium other than the voting interests owned by the
565 developer, a bulk-unit purchaser, or a lender-unit purchaser.

566 (b) If the association operates more than one condominium
567 and the unit owners other than the developer, a bulk-unit
568 purchaser, or a lender-unit purchaser have not assumed control
569 of the association, and if the unit owners other than the
570 developer or a bulk-unit purchaser own at least 75 percent of
571 the voting interests in a condominium operated by the
572 association, any grant, reservation, or contract for
573 maintenance, management, or operation of buildings containing
574 the units in that condominium or of improvements used only by
575 the unit owners of that condominium may be canceled by
576 concurrence of the owners of at least 75 percent of the voting
577 interests in the condominium other than the voting interests
578 owned by the developer or a bulk-unit purchaser. A ~~no~~ grant,
579 reservation, or contract for maintenance, management, or
580 operation of recreational areas or any other property serving
581 more than one condominium, and operated by more than one
582 association, may not be canceled except pursuant to paragraph
583 (d).

584 (c) If the association operates more than one condominium
585 and the unit owners other than the developer, a bulk-unit
586 purchaser, or a lender-unit purchaser have assumed control of
587 the association, the cancellation shall be by concurrence of the
588 owners of at least ~~not less than~~ 75 percent of the total number
589 of voting interests in all condominiums operated by the
590 association other than the voting interests owned by the
591 developer or a bulk-unit purchaser.



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592 (d) If the owners of units in a condominium have the right
593 to use property in common with owners of units in other
594 condominiums and those condominiums are operated by more than
595 one association, a no grant, reservation, or contract for
596 maintenance, management, or operation of the property serving
597 more than one condominium may not be canceled until the unit
598 owners other than the developer, a bulk-unit purchaser, or a
599 lender-unit purchaser have assumed control of all of the
600 associations operating the condominiums that are to be served by
601 the recreational area or other property, after which
602 cancellation may be effected by concurrence of the owners of at
603 least not less than 75 percent of the total number of voting
604 interests in those condominiums other than voting interests
605 owned by the developer, a bulk-unit purchaser, or a lender-unit
606 purchaser.

607 (2) A Any grant or reservation made by a declaration,
608 lease, or other document, or a any contract made by the
609 developer or association before ~~prior to the time when~~ unit
610 owners other than the developer or a bulk-unit purchaser elect a
611 majority of the board of administration, which grant,
612 reservation, or contract requires the association to purchase
613 condominium property or to lease condominium property to another
614 party, shall be deemed ratified unless rejected by a majority of
615 the voting interests of the unit owners other than the developer
616 or a bulk-unit purchaser within 18 months after the unit owners
617 other than the developer or a bulk-unit purchaser elect a
618 majority of the board of administration. A lender-unit purchaser
619 may not vote on cancellation of a grant, reservation, or
620 contract made by the association while the association is under



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621 control of that lender-unit purchaser. This subsection does not
622 apply to a any grant or reservation made by a declaration under
623 which ~~whereby~~ persons other than the developer or the
624 developer's or bulk-unit purchaser's heirs, assigns, affiliates,
625 directors, officers, or employees are granted the right to use
626 the condominium property, if so long as such persons are
627 obligated to pay at least, ~~at a minimum~~, a proportionate share
628 of the cost associated with such property.

629 (3) A Any grant or reservation made by a declaration,
630 lease, or other document, and a any contract made by an
631 association, whether before or after assumption of control of
632 the association by unit owners other than the developer, a bulk-
633 unit purchaser, or a lender-unit purchaser, which ~~that~~ provides
634 for operation, maintenance, or management of a condominium
635 association or property serving the unit owners of a condominium
636 may shall not ~~be in~~ conflict with the powers and duties of the
637 association or the rights of the unit owners as provided in this
638 chapter. This subsection is intended only as a clarification of
639 existing law.

640 (4) A Any grant or reservation made by a declaration,
641 lease, or other document, and a any contract made by an
642 association before ~~prior to~~ assumption of control of the
643 association by unit owners other than the developer, a bulk-unit
644 purchaser, or a lender-unit purchaser, must shall be fair and
645 reasonable.

646 Section 11. Subsections (3), (4), and (5) of section
647 718.303, Florida Statutes, are amended, and subsection (7) is
648 added to that section, to read:

649 718.303 Obligations of owners and occupants; remedies.-



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650 (3) The association may levy reasonable fines for the
651 failure of the owner of the unit or its occupant, licensee, or
652 invitee to comply with any provision of the declaration, the
653 association bylaws, or reasonable rules of the association. A
654 fine may not become a lien against a unit. A fine may be levied
655 by the board or its authorized designee on the basis of each day
656 of a continuing violation, with a single notice and opportunity
657 for hearing before an impartial committee as provided in
658 paragraph (b). However, the fine may not exceed \$100 per
659 violation, or \$1,000 in the aggregate.

660 (a) An association may suspend, for a reasonable period of
661 time, the right of a unit owner, or a unit owner's tenant,
662 guest, or invitee, to use the common elements, common
663 facilities, or any other association property for failure to
664 comply with any provision of the declaration, the association
665 bylaws, or reasonable rules of the association. This paragraph
666 does not apply to limited common elements intended to be used
667 only by that unit, common elements needed to access the unit,
668 utility services provided to the unit, parking spaces, or
669 elevators.

670 (b) A fine or suspension levied by the board of
671 administration or its authorized designee may not be imposed
672 unless the board ~~association~~ first provides at least 14 days'
673 written notice and an opportunity for a hearing to the unit
674 owner and, if applicable, its occupant, licensee, or invitee.
675 The hearing must be held before an impartial ~~a~~ committee of
676 other unit owners who are neither board members, ~~nor~~ persons
677 residing in a board member's household, the board's authorized
678 designee, nor persons residing in the household of the board's



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679 authorized designee. The role of the impartial committee is
680 limited to determining whether to confirm or reject the fine or
681 suspension levied by the board. If the impartial committee does
682 not agree, the fine or suspension may not be imposed.

683 (4) If a unit owner is more than 90 days delinquent in
684 paying a fee, fine, or other monetary obligation due to the
685 association, the association may suspend the right of the unit
686 owner or the unit's occupant, licensee, or invitee to use common
687 elements, common facilities, or any other association property
688 until the fee, fine, or other monetary obligation is paid in
689 full. This subsection does not apply to limited common elements
690 intended to be used only by that unit, common elements needed to
691 access the unit, utility services provided to the unit, parking
692 spaces, or elevators. The notice and hearing requirements under
693 subsection (3) do not apply to suspensions imposed under this
694 subsection.

695 (5) An association may suspend the voting rights of a unit
696 or member due to nonpayment of any fee, fine, or other monetary
697 obligation due to the association which is more than 90 days
698 delinquent. A voting interest or consent right allocated to a
699 unit or member which has been suspended by the association shall
700 be subtracted from ~~may not be counted towards~~ the total number
701 of voting interests in the association, which shall be reduced
702 by the number of suspended voting interests when calculating the
703 total percentage or number of all voting interests available to
704 take or approve any action, and the suspended voting interests
705 may not be considered for any purpose, including, but not
706 limited to, the percentage or number of voting interests
707 necessary to constitute a quorum, the percentage or number of



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708 voting interests required to conduct an election, or the
709 percentage or number of voting interests required to approve an
710 action under this chapter or pursuant to the declaration,
711 articles of incorporation, or bylaws. The suspension ends upon
712 full payment of all obligations currently due or overdue the
713 association. The notice and hearing requirements under
714 subsection (3) do not apply to a suspension imposed under this
715 subsection.

716 (7) The suspensions permitted by paragraph (3) (a) and
717 subsections (4) and (5) apply to a member and, when appropriate,
718 the member's tenants, guests, or invitees, even if the
719 delinquency or failure that resulted in the suspension arose
720 from less than all of the multiple units owned by the member.

721 Section 12. Subsection (1) of section 718.501, Florida
722 Statutes, is amended to read:

723 718.501 Authority, responsibility, and duties of Division
724 of Florida Condominiums, Timeshares, and Mobile Homes.—

725 (1) The division may enforce and ensure compliance with ~~the~~
726 ~~provisions~~ of this chapter and rules relating to the
727 development, construction, sale, lease, ownership, operation,
728 and management of residential condominium units. In performing
729 its duties, the division has complete jurisdiction to
730 investigate complaints and enforce compliance with respect to
731 associations that are still under the control of the developer,
732 the control of a bulk-unit purchaser or lender-unit purchaser,
733 or the control of a bulk assignee or bulk buyer pursuant to part
734 VII of this chapter and complaints against developers, bulk-unit
735 purchasers, lender-unit purchasers, bulk assignees, or bulk
736 buyers involving improper turnover or failure to turnover,



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737 pursuant to s. 718.301. However, after turnover has occurred,
738 the division has jurisdiction to investigate only complaints
739 related ~~only~~ to financial issues, elections, and unit owner
740 access to association records pursuant to s. 718.111(12).

741 (a)1. The division may make necessary public or private
742 investigations within or outside this state to determine whether
743 any person has violated this chapter or any rule or order
744 hereunder, to aid in the enforcement of this chapter, or to aid
745 in the adoption of rules or forms.

746 2. The division may submit any official written report,
747 worksheet, or other related paper, or a duly certified copy
748 thereof, compiled, prepared, drafted, or otherwise made by and
749 duly authenticated by a financial examiner or analyst to be
750 admitted as competent evidence in any hearing in which the
751 financial examiner or analyst is available for cross-examination
752 and attests under oath that such documents were prepared as a
753 result of an examination or inspection conducted pursuant to
754 this chapter.

755 (b) The division may require or permit any person to file a
756 statement in writing, under oath or otherwise, as the division
757 determines, as to the facts and circumstances concerning a
758 matter to be investigated.

759 (c) For the purpose of any investigation under this
760 chapter, the division director or any officer or employee
761 designated by the division director may administer oaths or
762 affirmations, subpoena witnesses and compel their attendance,
763 take evidence, and require the production of any matter that
764 ~~which~~ is relevant to the investigation, including the existence,
765 description, nature, custody, condition, and location of any



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766 books, documents, or other tangible things and the identity and
767 location of persons having knowledge of relevant facts or any
768 other matter reasonably calculated to lead to the discovery of
769 material evidence. Upon the failure of ~~by~~ a person to obey a
770 subpoena or to answer questions propounded by the investigating
771 officer and upon reasonable notice to all affected persons, the
772 division may apply to the circuit court for an order compelling
773 compliance.

774 (d) Notwithstanding any remedies available to unit owners
775 and associations, if the division has reasonable cause to
776 believe that a violation of ~~any provision of~~ this chapter or a
777 related rule has occurred, the division may institute
778 enforcement proceedings in its own name against any developer,
779 bulk-unit purchaser, lender-unit purchaser, bulk assignee, bulk
780 buyer, association, officer, or member of the board of
781 administration, or his or her ~~its~~ assignees or agents, as
782 follows:

783 1. The division may permit a person whose conduct or
784 actions may be under investigation to waive formal proceedings
785 and enter into a consent proceeding under which ~~whereby~~ orders,
786 rules, or letters of censure or warning, whether formal or
787 informal, may be entered against the person.

788 2. The division may issue an order requiring the developer,
789 bulk-unit purchaser, lender-unit purchaser, bulk assignee, bulk
790 buyer, association, developer-designated officer, or developer-
791 designated member of the board of administration, or his or her
792 ~~developer-designated~~ assignees or agents, the ~~bulk assignee-~~
793 ~~designated assignees or agents, bulk buyer-designated assignees~~
794 ~~or agents,~~ community association manager, or the ~~community~~



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795 ~~association~~ management firm to cease and desist from the
796 unlawful practice and take such affirmative action as in the
797 judgment of the division to carry out the purposes of this
798 chapter. If the division finds that a developer, bulk-unit
799 purchaser, lender-unit purchaser, bulk assignee, bulk buyer,
800 association, officer, or member of the board of administration,
801 or his or her ~~its~~ assignees or agents, is violating or is about
802 to violate ~~any provision of~~ this chapter, any rule adopted or
803 order issued by the division, or any written agreement entered
804 into with the division, ~~and~~ the violation presents an immediate
805 danger to the public requiring an immediate final order, it may
806 issue an emergency cease and desist order reciting with
807 particularity the facts underlying such findings. The emergency
808 cease and desist order is effective for 90 days. If the division
809 begins nonemergency cease and desist proceedings, the emergency
810 cease and desist order remains effective until the conclusion of
811 the proceedings under ss. 120.569 and 120.57.

812 3. If a developer, bulk-unit purchaser, lender-unit
813 purchaser, bulk assignee, or bulk buyer, ~~and~~ fails to pay ~~any~~
814 restitution determined by the division to be owed ~~and, plus~~ any
815 accrued interest charged at the highest rate permitted by law,
816 within 30 days after expiration of any appellate time period of
817 a final order requiring payment of restitution or the conclusion
818 of any appeal thereof, ~~whichever is later,~~ the division shall
819 ~~must~~ bring an action in circuit or county court on behalf of any
820 association, class of unit owners, lessees, or purchasers for
821 restitution, declaratory relief, injunctive relief, or any other
822 available remedy. The division may also temporarily revoke its
823 acceptance of the filing for the developer, bulk-unit purchaser,



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824 or lender-unit purchaser, to which the restitution relates until
825 payment of restitution is made.

826 4. The division may petition the court for appointment of a
827 receiver or conservator who, if appointed, ~~the receiver or~~
828 ~~conservator~~ may take action to implement the court order to
829 ensure the performance of the order and to remedy any breach
830 thereof. In addition to all other means provided by law for the
831 enforcement of an injunction or temporary restraining order, the
832 circuit court may impound or sequester the property of a party
833 defendant, including books, papers, documents, and related
834 records, and allow the examination and use of the property by
835 the division and a court-appointed receiver or conservator.

836 5. The division may apply to the circuit court for an order
837 of restitution under which ~~whereby~~ the defendant in an action
838 brought pursuant to subparagraph 4. is ordered to make
839 restitution of those sums shown by the division to have been
840 obtained by the defendant in violation of this chapter. At the
841 option of the court, such restitution is payable to the
842 conservator or receiver appointed pursuant to subparagraph 4. or
843 directly to the persons whose funds or assets were obtained in
844 violation of this chapter.

845 6. The division may impose a civil penalty against a
846 developer, bulk-unit purchaser, lender-unit purchaser, bulk
847 assignee, ~~or~~ bulk buyer, or association, or its assignee or
848 agent, for a ~~any~~ violation of this chapter or a related rule.
849 The division may impose a civil penalty individually against an
850 officer or board member who willfully and knowingly violates ~~a~~
851 ~~provision of~~ this chapter, an adopted rule, or a final order of
852 the division; may order the removal of such individual as an



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853 officer or from the board of administration or as an officer of
854 the association; and may prohibit such individual from serving
855 as an officer or on the board of a community association for a
856 period of time. The term "willfully and knowingly" means that
857 the division informed the officer or board member that his or
858 her action or intended action violates this chapter, a rule
859 adopted under this chapter, or a final order of the division and
860 that the officer or board member refused to comply with ~~the~~
861 ~~requirements of~~ this chapter, a rule adopted under this chapter,
862 or a final order of the division. ~~The division,~~ Before
863 initiating formal agency action under chapter 120, the division
864 must afford the officer or board member an opportunity to
865 voluntarily comply, and an officer or board member who complies
866 within 10 days is not subject to a civil penalty. A penalty may
867 be imposed on the basis of each day of continuing violation, but
868 the penalty for any offense may not exceed \$5,000. ~~By January 1,~~
869 ~~1998,~~ The division shall adopt, by rule, penalty guidelines
870 applicable to possible violations or to categories of violations
871 of this chapter or rules adopted by the division. The guidelines
872 must specify a meaningful range of civil penalties for each such
873 violation of the statute and rules and must be based upon the
874 harm caused by the violation, the repetition of the violation,
875 and upon such other factors deemed relevant by the division. ~~For~~
876 ~~example,~~ The division may consider whether the violations were
877 committed by a developer, bulk-unit purchaser, lender-unit
878 purchaser, bulk assignee, or bulk buyer, or owner-controlled
879 association, the size of the association, and other factors. The
880 guidelines must designate the possible mitigating or aggravating
881 circumstances that justify a departure from the range of



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882 penalties provided by the rules. It is the legislative intent
883 that minor violations be distinguished from those that ~~which~~
884 endanger the health, safety, or welfare of ~~the~~ condominium
885 residents or other persons and that such guidelines provide
886 reasonable and meaningful notice to the public of likely
887 penalties that may be imposed for proscribed conduct. This
888 subsection does not limit the ability of the division to
889 informally dispose of administrative actions or complaints by
890 stipulation, agreed settlement, or consent order. All amounts
891 collected shall be deposited with the Chief Financial Officer to
892 the credit of the Division of Florida Condominiums, Timeshares,
893 and Mobile Homes Trust Fund. If a developer, bulk-unit
894 purchaser, lender-unit purchaser, bulk assignee, or bulk buyer
895 fails to pay the civil penalty and the amount deemed to be owed
896 to the association, the division shall issue an order directing
897 that such developer, bulk-unit purchaser, lender-unit purchaser,
898 bulk assignee, or bulk buyer cease and desist from further
899 operation until such time as the civil penalty is paid or may
900 pursue enforcement of the penalty in a court of competent
901 jurisdiction. If an association fails to pay the civil penalty,
902 the division shall pursue enforcement in a court of competent
903 jurisdiction, and the order imposing the civil penalty or the
904 cease and desist order is not effective until 20 days after the
905 date of such order. Any action commenced by the division shall
906 be brought in the county in which the division has its executive
907 offices or in the county where the violation occurred.

908 7. If a unit owner presents the division with proof that
909 the unit owner has requested access to official records in
910 writing by certified mail, and that after 10 days the unit owner



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911 again made the same request for access to official records in
912 writing by certified mail, and that more than 10 days has
913 elapsed since the second request and the association has still
914 failed or refused to provide access to official records as
915 required by this chapter, the division shall issue a subpoena
916 requiring production of the requested records where the records
917 are kept pursuant to s. 718.112.

918 8. In addition to subparagraph 6., the division may seek
919 the imposition of a civil penalty through the circuit court for
920 any violation for which the division may issue a notice to show
921 cause under paragraph (r). The civil penalty shall be at least
922 \$500 but no more than \$5,000 for each violation. The court may
923 also award to the prevailing party court costs and reasonable
924 attorney ~~attorney's~~ fees and, if the division prevails, may also
925 award reasonable costs of investigation.

926 (e) The division may prepare and disseminate a prospectus
927 and other information to assist prospective owners, purchasers,
928 lessees, and developers of residential condominiums in assessing
929 the rights, privileges, and duties pertaining thereto.

930 (f) The division may adopt rules to administer and enforce
931 ~~the provisions of~~ this chapter.

932 (g) The division shall establish procedures for providing
933 notice to an association and the developer, bulk-unit purchaser,
934 lender-unit purchaser, bulk assignee, or bulk buyer during the
935 period in which the developer, bulk-unit purchaser, lender-unit
936 purchaser, bulk assignee, or bulk buyer controls the association
937 if the division is considering the issuance of a declaratory
938 statement with respect to the declaration of condominium or any
939 related document governing such condominium community.



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940 (h) The division shall furnish each association that pays
941 the fees required by paragraph (2) (a) a copy of this chapter, as
942 amended, and the rules adopted thereto on an annual basis.

943 (i) The division shall annually provide each association
944 with a summary of declaratory statements and formal legal
945 opinions relating to the operations of condominiums which were
946 rendered by the division during the previous year.

947 (j) The division shall provide training and educational
948 programs for condominium association board members and unit
949 owners. The training may, at ~~in~~ the division's discretion,
950 include web-based electronic media, ~~and~~ live training and
951 seminars in various locations throughout the state. The division
952 may review and approve education and training programs for board
953 members and unit owners offered by providers, ~~and~~ shall maintain
954 a current list of approved programs and providers, and shall
955 make such list available to board members and unit owners in a
956 reasonable and cost-effective manner.

957 (k) The division shall maintain a toll-free telephone
958 number accessible to condominium unit owners.

959 (l) The division shall develop a program to certify both
960 volunteer and paid mediators to provide mediation of condominium
961 disputes. Upon request, the division shall provide, ~~upon~~
962 ~~request,~~ a list of such mediators to any association, unit
963 owner, or other participant in arbitration proceedings under s.
964 718.1255 requesting a copy of the list. The division shall
965 include on the list of volunteer mediators only the names of
966 individuals ~~persons~~ who have received at least 20 hours of
967 training in mediation techniques or who have mediated at least
968 20 disputes. In order to become initially certified by the



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969 division, paid mediators must be certified by the Supreme Court
970 to mediate court cases in county or circuit courts. However, the
971 division may adopt, by rule, additional factors for the
972 certification of paid mediators, which must be related to
973 experience, education, or background. In order to continue to be
974 certified, an individual ~~Any person~~ initially certified as a
975 paid mediator by the division must, ~~in order to continue to be~~
976 ~~certified,~~ comply with the factors or requirements adopted by
977 rule.

978 (m) If a complaint is made, the division shall ~~must~~ conduct
979 its inquiry with due regard for the interests of the affected
980 parties. Within 30 days after receipt of a complaint, the
981 division shall acknowledge the complaint in writing and notify
982 the complainant as to whether the complaint is within the
983 jurisdiction of the division and whether additional information
984 is needed by the division from the complainant. The division
985 shall conduct its investigation and, within 90 days after
986 receipt of the original complaint or of timely requested
987 additional information, take action upon the complaint. However,
988 the failure to complete the investigation within 90 days does
989 not prevent the division from continuing the investigation,
990 accepting or considering evidence obtained or received after 90
991 days, or taking administrative action if reasonable cause exists
992 to believe that a violation of this chapter or a rule has
993 occurred. If an investigation is not completed within the time
994 limits established in this paragraph, the division shall, on a
995 monthly basis, notify the complainant in writing of the status
996 of the investigation. When reporting its action to the
997 complainant, the division shall inform the complainant of any



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998 right to a hearing pursuant to ss. 120.569 and 120.57.

999 (n) Condominium association directors, officers, and
1000 employees; condominium developers; bulk-unit purchasers, lender-
1001 unit purchasers, bulk assignees, bulk buyers, and community
1002 association managers; and community association management firms
1003 have an ongoing duty to reasonably cooperate with the division
1004 in any investigation pursuant to this section. The division
1005 shall refer to local law enforcement authorities any person who
1006 ~~whom~~ the division believes has altered, destroyed, concealed, or
1007 removed any record, document, or thing required to be kept or
1008 maintained by this chapter with the purpose to impair its verity
1009 or availability in the department's investigation.

1010 (o) The division may:

- 1011 1. Contract with agencies in this state or other
1012 jurisdictions to perform investigative functions; or
1013 2. Accept grants-in-aid from any source.

1014 (p) The division shall cooperate with similar agencies in
1015 other jurisdictions to establish uniform filing procedures and
1016 forms, public offering statements, advertising standards, and
1017 rules and common administrative practices.

1018 (q) The division shall consider notice to a developer,
1019 bulk-unit purchaser, lender-unit purchaser, bulk assignee, or
1020 bulk buyer to be complete when it is delivered to the address of
1021 the developer, bulk-unit purchaser, lender-unit purchaser, bulk
1022 assignee, or bulk buyer currently on file with the division.

1023 (r) In addition to its enforcement authority, the division
1024 may issue a notice to show cause, which must provide for a
1025 hearing, upon written request, in accordance with chapter 120.

1026 (s) The division shall submit to the Governor, the



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1027 President of the Senate, the Speaker of the House of
1028 Representatives, and the chairs of the legislative
1029 appropriations committees an annual report that includes, but
1030 need not be limited to, the number of training programs provided
1031 for condominium association board members and unit owners;; the
1032 number of complaints received, by type;; the number and percent
1033 of complaints acknowledged in writing within 30 days and the
1034 number and percent of investigations acted upon within 90 days
1035 in accordance with paragraph (m);; and the number of
1036 investigations exceeding the 90-day requirement. The annual
1037 report must also include an evaluation of the division's core
1038 business processes and make recommendations for improvements,
1039 including statutory changes. The report shall be submitted by
1040 September 30 following the end of the fiscal year.

1041 Section 13. Section 718.709, Florida Statutes, is created
1042 to read:

1043 718.709 Applicability.—Sections 718.701-718.708, relating
1044 to the Distressed Condominium Relief Act, apply to title to
1045 units acquired on or after July 1, 2010, but before July 1,
1046 2016.

1047 Section 14. Part VIII of chapter 718, Florida Statutes,
1048 consisting of sections 718.801-718.813, is created to read:

1049 PART VIII

1050 BULK-UNIT PURCHASERS AND LENDER-UNIT PURCHASERS

1051 718.801 Legislative intent.—The Legislature declares that
1052 it is the public policy of this state to protect the interests
1053 of developers, lenders, unit owners, and condominium
1054 associations with regard to bulk-unit purchasers or lender-unit
1055 purchasers of condominium units and that there is a need to



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1056 balance such interests by limiting the applicability of the
1057 Distressed Condominium Relief Act. Notwithstanding the
1058 limitation, the Distressed Condominium Relief Act applies to
1059 title acquired on or after July 1, 2010, but before July 1,
1060 2016.

1061 718.802 Definitions.—As used in this part, the term:

1062 (1) "Bulk assignee" means a person who is not a bulk buyer
1063 and who:

1064 (a) Acquires more than seven condominium parcels in a
1065 single condominium;

1066 (b) Receives an assignment of any of the developer rights,
1067 other than or in addition to those rights described in
1068 subsection (3), as set forth in the declaration of condominium
1069 or this chapter:

1070 1. By a written instrument recorded as part of or as an
1071 exhibit of the deed;

1072 2. By a separate instrument recorded in the public records
1073 of the county in which the condominium is located; or

1074 3. Pursuant to a final judgment or certificate of title
1075 issued in favor of a purchaser at a foreclosure sale; and

1076 (c) Acquired condominium parcels on or after July 1, 2010,
1077 but before July 1, 2016. The date of such acquisition shall be
1078 determined by the date of recording a deed or other instrument
1079 of conveyance for such parcels in the public records of the
1080 county in which the condominium is located, or by the date of
1081 issuing a certificate of title in a foreclosure proceeding with
1082 respect to such condominium parcels.

1083
1084 A mortgagee or its assignee may not be deemed a bulk assignee or



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1085 developer by reason of the acquisition of condominium units and
1086 receipt of an assignment of some or all of a developer's rights
1087 unless the mortgage or its assignee exercises any of the
1088 developer rights other than those described in subsection (3).

1089 (2) "Bulk-unit purchaser" means a person who acquires title
1090 to the greater of at least eight units or 20 percent of the
1091 units that ultimately will be operated by the same association,
1092 as provided in the declaration, articles of incorporation, or
1093 bylaws as originally recorded. Multiple bulk-unit purchasers may
1094 be members of an association simultaneously or successively.
1095 There may be one or more bulk-unit purchasers while the
1096 developer still owns units operated by the association. A person
1097 who acquires title to units or timeshare interests in a
1098 condominium, which units or timeshare interests are or
1099 ultimately will be included in a timeshare plan governed by
1100 chapter 721, may elect to be a bulk-unit purchaser pursuant to
1101 s. 718.813. The term does not include a lender-unit purchaser.
1102 Further, the term does not include an acquirer of units if any
1103 transfer of title to the acquirer is made:

1104 (a) With intent to defraud or materially harm a purchaser,
1105 a unit owner, or the association;

1106 (b) Where the acquirer is a person or limited liability
1107 company that would be an insider, as defined in s. 726.102, of
1108 the bulk-unit purchaser or of the developer; or

1109 (c) As a fraudulent transfer under chapter 726.

1110 (3) "Bulk buyer" means a person who acquired condominium
1111 parcels on or after July 1, 2010, but before July 1, 2016, and
1112 the date of acquisition shall be determined in the same manner
1113 as in subsection (1). Further, the term means a person who



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1114 acquires more than seven condominium parcels in a single
1115 condominium but who does not receive an assignment of any
1116 developer rights or receives only some or all of the following
1117 rights:

1118 (a) The right to conduct sales, leasing, and marketing
1119 activities within the condominium.

1120 (b) The right to be exempt from the payment of working
1121 capital contributions to the condominium association arising out
1122 of, or in connection with, the bulk buyer's acquisition of the
1123 units.

1124 (c) The right to be exempt from any rights of first refusal
1125 which may be held by the condominium association and would
1126 otherwise be applicable to subsequent transfers of title from
1127 the bulk buyer to a third-party purchaser concerning one or more
1128 units.

1129 (4) "Lender-unit purchaser" means a person, or the person's
1130 successors, assigns, or wholly owned subsidiaries, who holds a
1131 mortgage from a developer or from a bulk-unit purchaser on the
1132 greater of at least eight units or 20 percent of the units that,
1133 as provided in the declaration, articles of incorporation, or
1134 bylaws as originally recorded, ultimately will be operated by
1135 the same association; who subsequently obtains title to such
1136 units through foreclosure or deed in lieu of foreclosure; and
1137 who makes the election to become a lender-unit purchaser
1138 pursuant to 718.808(4). However, a mortgagee or its wholly owned
1139 subsidiary that acquires and sells units to one or more bulk-
1140 unit purchasers is not a developer or a lender-unit purchaser
1141 with respect to the sale.

1142 718.803 Exercise of rights.-



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1143 (1) A bulk-unit purchaser may exercise only the following
1144 developer rights, provided such rights are contained in the
1145 declaration:

1146 (a) The right to conduct sales, leasing, and marketing
1147 activities within the condominium, including the use of the
1148 sales and leasing office.

1149 (b) The right to assign limited common elements and use
1150 rights to common elements and association property which were
1151 not assigned before the bulk-unit purchaser acquired title to
1152 the units. Such rights may include, without limitation, the
1153 rights to garages, parking spaces, storage areas, and cabanas.
1154 If there is more than one bulk-unit purchaser, this right must
1155 be established in a written assignment from the developer which
1156 specifies the bulk-unit purchaser who has such a right as to
1157 specified limited common elements, common elements, and
1158 association property.

1159 (c) For a phase condominium, the right to add phases.

1160 (2) If the initial purchaser of a unit from the developer
1161 is required to make a working capital contribution to the
1162 association, a bulk-unit purchaser shall pay a working capital
1163 contribution to the association, which must be calculated in the
1164 same manner for each unit acquired, upon the earlier of:

1165 (a) Sale of a unit by the bulk-unit purchaser to a third
1166 party other than the bulk-unit purchaser; or

1167 (b) Five years from the date of acquisition of title to a
1168 unit by the bulk-unit purchaser.

1169 (3) If a bulk-unit purchaser exercises developer rights
1170 other than those specified in subsection (1), he or she is no
1171 longer deemed to be a bulk-unit purchaser, and this part does



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1172 not apply to such person.

1173 (4) Except as set forth in this part, a lender-unit
1174 purchaser may exercise any developer rights that the lender-unit
1175 purchaser acquires.

1176 718.804 Compliance.—A bulk-unit purchaser and a lender-unit
1177 purchaser shall comply with all applicable requirements of s.
1178 718.202 and part V of this chapter in connection with any units
1179 that they own or sell.

1180 718.805 Voting rights.—

1181 (1) For the first 2 fiscal years following the first
1182 conveyance of a unit to a bulk-unit purchaser or lender-unit
1183 purchaser, the bulk-unit purchaser or lender-unit purchaser may
1184 vote the voting interests allocated to his or her units to waive
1185 reserves or reduce the funding of reserves. After these 2 fiscal
1186 years, the bulk-unit purchaser or lender-unit purchaser may not
1187 vote his or her voting interests to waive reserves or reduce the
1188 funding of reserves until the bulk-unit purchaser or lender-unit
1189 purchaser holds less than a majority of the voting interests in
1190 the association.

1191 (2) A bulk-unit purchaser or lender-unit purchaser may not
1192 transfer his or her right to vote to waive reserves or reduce
1193 the funding of reserves to other bulk-unit purchasers or lender-
1194 unit purchasers to extend the time period in subsection (1).

1195 718.806 Assessment liability; election of directors.—

1196 (1) BULK-UNIT PURCHASER ASSESSMENT LIABILITY.—A bulk-unit
1197 purchaser is liable for all assessments on his or her units
1198 which become due while the bulk-unit purchaser holds title to
1199 such units. Additionally, the bulk-unit purchaser is jointly and
1200 severally liable with the previous owner for all unpaid regular



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1201 periodic assessments and special assessments that became due
1202 before the acquisition of title, for all other monetary
1203 obligations accrued which are secured by the association's lien,
1204 and for all costs advanced by the association for the
1205 maintenance and repair of the units acquired by the bulk-unit
1206 purchaser.

1207 (2) LENDER-UNIT PURCHASER ASSESSMENT LIABILITY.—The
1208 liability of a lender-unit purchaser or his or her successors or
1209 assignees for the units that the lender-unit purchaser owns is
1210 limited to the lesser of:

1211 (a) The units' unpaid common expenses and the regular
1212 periodic assessments that accrued or became due during the 12
1213 months immediately preceding the lender-unit purchaser's
1214 acquisition of title and for which payment in full has not been
1215 received by the association; or

1216 (b) One percent of the original mortgage debt.

1217
1218 The lender-unit purchaser acquiring title must comply with s.
1219 718.116(1)(c).

1220 (3) DIRECTOR ELECTED BY BULK-UNIT PURCHASER.—A director who
1221 has been elected or appointed by a bulk-unit purchaser is
1222 automatically suspended from board service for 30 days following
1223 the failure of the bulk-unit purchaser to timely pay monetary
1224 obligations on a unit the bulk-unit purchaser owns. The
1225 remaining directors may temporarily fill the vacancy created by
1226 the suspension. Once the bulk-unit purchaser has cured all
1227 outstanding delinquencies on the unit, the suspended director
1228 shall replace the temporary appointee and resume service on the
1229 board for the unexpired term.



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1230 718.807 Amendments and material alterations.-
1231 (1) The following amendments or alterations may not go into
1232 effect unless approved by a majority vote of unit owners other
1233 than the developer, a bulk-unit purchaser, or a lender-unit
1234 purchaser:
1235 (a) An amendment described in s. 718.110(4) or (8).
1236 (b) An amendment creating, changing, or terminating leasing
1237 restrictions.
1238 (c) An amendment of the declaration pertaining to the
1239 condominium's status as housing for older persons.
1240 (d) An amendment pursuant to s. 718.110(14) or an amendment
1241 that otherwise reclassifies a portion of the common elements as
1242 a limited common element or that authorizes the association to
1243 change the limited common elements assigned to any unit.
1244 (e) Material alterations or substantial additions to the
1245 common elements or association property any time one of the
1246 following owns a percentage of voting interests equal to or
1247 greater than the percentage required to approve the amendment:
1248 1. A bulk-unit purchaser;
1249 2. A lender-unit purchaser;
1250 3. The developer and a bulk-unit purchaser;
1251 4. The developer and a lender-unit purchaser; or
1252 5. A bulk-unit purchaser and a lender-unit purchaser.
1253 (2) Notwithstanding subsection (1), consent of the
1254 developer, a bulk-unit purchaser, or a lender-unit purchaser is
1255 required for an amendment that would otherwise require the
1256 approval of such voting interests based upon the requirements of
1257 the declaration, articles of incorporation, or bylaws or s.
1258 718.110 or s. 718.113.



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1259 718.808 Warranties and disclosures.-

1260 (1) As the seller, a bulk-unit purchaser or lender-unit
1261 purchaser is deemed to have granted an implied warranty of
1262 fitness and merchantability to a purchaser of each unit sold for
1263 a period of 3 years, which begins on the date of the completion
1264 of repairs or improvements that the bulk-unit purchaser or
1265 lender-unit purchaser makes to the unit, common elements, or
1266 limited common elements. The bulk-unit purchaser or lender-unit
1267 purchaser is not deemed to have granted a warranty on
1268 improvements, repairs, or alterations to the condominium which
1269 he or she did not undertake.

1270 (2) The statute of limitations in s. 718.203 is tolled
1271 while the bulk-unit purchaser begins the process of appointing
1272 or electing a majority of the board of administration.

1273 (3) As the seller, the bulk-unit purchaser shall include
1274 the following disclosure to purchasers in conspicuous type on
1275 the first page of the sales contract:

1276
1277 SELLER IS A BULK-UNIT PURCHASER UNDER THE CONDOMINIUM ACT.
1278 SELLER IS NOT THE DEVELOPER OF THE CONDOMINIUM FOR ANY PURPOSE
1279 UNDER THE CONDOMINIUM ACT.

1280
1281 (4) A mortgagee who acquires units may elect to become a
1282 lender-unit purchaser by providing written notice of the
1283 election to the association addressed to the registered agent at
1284 the address specified in the records of the Department of State.
1285 The notice shall be delivered within the time period ending upon
1286 the earliest of:

1287 (a) The date on which the mortgagee exercises any developer



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1288 rights other than the developer rights described in s.
1289 718.803(1) (a);
1290 (b) Before the sale of a unit by the mortgagee; or
1291 (c) One hundred eighty days after the recording of the
1292 certificate of title or of the deed in lieu of foreclosure if
1293 the mortgagee acquired the units by foreclosure or by deed in
1294 lieu of foreclosure.
1295 (5) As the seller, the lender-unit purchaser shall include
1296 the following disclosure to purchasers in conspicuous type on
1297 the first page of the sales contract:
1298
1299 SELLER IS A LENDER-UNIT PURCHASER UNDER THE CONDOMINIUM ACT.
1300 SELLER IS NOT THE DEVELOPER OF THE CONDOMINIUM FOR ANY PURPOSE
1301 UNDER THE CONDOMINIUM ACT. SELLER TOOK TITLE TO THE UNIT(S)
1302 BEING SOLD TO PURCHASER BY FORECLOSURE OR DEED IN LIEU OF
1303 FORECLOSURE.
1304
1305 (6) (a) At or before the signing of a contract to sell a
1306 unit, the bulk-unit purchaser and the lender-unit purchaser must
1307 provide a condition report that complies with s. 718.616(2) and
1308 (3) and this section to the prospective purchaser and must
1309 obtain verification of delivery of such condition report. A
1310 condition report is not required in connection with a sale to a
1311 bulk-unit purchaser or in connection with a deed in lieu of
1312 foreclosure to a lender-unit purchaser. A mortgagee is not
1313 required to deliver to a bulk-unit purchaser a condition report
1314 even if the mortgagee acquires and transfers developer rights to
1315 such bulk-unit purchaser.
1316 (b) The condition report must include a reasonably detailed



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1317 description of the repairs or replacements necessary to cure
1318 defective construction identified in the condition report.

1319 (c) If, during the course of preparing the condition
1320 report, the architect or engineer becomes aware of a component
1321 that violates an applicable building code or federal or state
1322 law or that deviates from the building plans approved by the
1323 permitting authority, the architect or engineer shall disclose
1324 such information in the condition report. The architect or
1325 engineer shall make written inquiry to the applicable local
1326 government authority of any building code violations and shall
1327 include in the condition report any of the authority's responses
1328 or its failure to respond.

1329 (d) The condition report shall be prepared before the bulk-
1330 unit purchaser or the lender-unit purchaser enters into his or
1331 her first sales contract, but the condition report may not be
1332 prepared more than 6 months before the first sales contract is
1333 agreed upon. If the bulk-unit purchaser or lender-unit purchaser
1334 remains engaged in selling units, the condition report shall be
1335 updated no later than 1 year after the closing of the first
1336 sales contract and each year thereafter.

1337 (e) If a bulk-unit purchaser or lender-unit purchaser fails
1338 to provide the condition report in accordance with this section,
1339 the bulk-unit purchaser or lender-unit purchaser is deemed to
1340 grant implied warranties of fitness and merchantability which
1341 are not limited to the construction, improvements, or repairs
1342 that he or she undertakes to the units, common elements, or
1343 limited common elements.

1344 718.809 Joint and several liability.—For purposes of this
1345 chapter, if there are multiple bulk-unit purchasers within the



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1346 same association, the units owned by the multiple bulk-unit
1347 purchasers and the rights of the bulk-unit purchasers shall be
1348 aggregated as if there were only one bulk-unit purchaser. Each
1349 bulk-unit purchaser is jointly and severally liable with his or
1350 her predecessor bulk-unit purchasers for compliance with this
1351 chapter.

1352 718.810 Construction disputes.—A board of administration
1353 composed of a majority of directors elected or appointed by a
1354 bulk-unit purchaser may not resolve a construction dispute that
1355 is subject to chapter 558 unless such resolution is approved by
1356 a majority of the voting interests of the unit owners other than
1357 the developer and a bulk-unit purchaser.

1358 718.811 Noncompliance.—A bulk-unit purchaser or a lender-
1359 unit purchaser who fails to substantially comply with the
1360 requirements of this chapter pertaining to the obligations and
1361 rights of bulk-unit purchasers and lender-unit purchasers
1362 forfeits all protections or exemptions provided under the
1363 Condominium Act.

1364 718.812 Documents to be delivered upon turnover.—If a bulk-
1365 unit purchaser elects a majority of the board of administration
1366 and the unit owners other than the bulk-unit purchaser elect a
1367 majority, the bulk-unit purchaser must deliver all of the items
1368 specified in s. 718.301(4) to the association. However, the
1369 bulk-unit purchaser is not required to deliver items that were
1370 never in the possession of the bulk-unit purchaser. In
1371 conjunction with the acquisition of units, the bulk-unit
1372 purchaser shall undertake a good faith effort to obtain the
1373 items specified in s. 718.301(4) which must be delivered to the
1374 association. If the bulk-unit purchaser cannot obtain such



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1375 items, the bulk-unit purchaser must deliver a certificate in
1376 writing to the association which names or describes items that
1377 were not obtainable by the bulk-unit purchaser and which
1378 describes the good faith efforts that were undertaken to obtain
1379 the items. Delivery of the certificate relieves the bulk-unit
1380 purchaser of his or her responsibility under s. 718.301 to
1381 deliver the documents and materials referenced in the
1382 certificate. The responsibility of the bulk-unit purchaser to
1383 conduct the audit required by s. 718.301(4)(c) begins on the
1384 date the bulk-unit purchaser elects or appoints a majority of
1385 the members of the board of administration and ends on the date
1386 the bulk-unit purchaser no longer controls the board.

1387 718.813 Timeshare Condominiums.—With respect to the
1388 acquisition of title to units or timeshare interests in a
1389 condominium, which units or timeshare interests are or
1390 ultimately will be included in a timeshare plan governed by
1391 chapter 721:

1392 (1) Any person otherwise qualified to be a bulk-unit
1393 purchaser pursuant to s. 718.802 is not a bulk-unit purchaser
1394 unless that person makes an election to become a bulk-unit
1395 purchaser by providing notice to the association addressed to
1396 the registered agent at the address specified in the records of
1397 the Department of State. The notice shall be delivered within
1398 the time period ending upon the earliest of:

1399 (a) The date on which the person exercises any developer
1400 rights other than the developer rights described in s.
1401 718.803(1)(a);

1402 (b) The sale of any unit or timeshare interest by the
1403 person; or



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1404 (c) One hundred eighty days after the recording of the deed
1405 or other instrument of conveyance by which the person acquired
1406 the units or timeshare interests.

1407 (2) If a person has made an election to be a bulk-unit
1408 purchaser pursuant to subsection (1), the bulk-unit purchaser,
1409 when selling units or timeshare interests, shall include the
1410 following disclosure to purchasers in conspicuous type on the
1411 first page of the contract for sale of units or timeshare
1412 interests:

1413
1414 SELLER IS A BULK-UNIT PURCHASER UNDER THE CONDOMINIUM ACT.
1415 SELLER IS NOT THE DEVELOPER OF THE CONDOMINIUM FOR ANY PURPOSE
1416 UNDER THE CONDOMINIUM.

1417
1418 Section 15. Paragraph (a) of subsection (2) of section
1419 719.104, Florida Statutes, is amended to read:

1420 719.104 Cooperatives; access to units; records; financial
1421 reports; assessments; purchase of leases.-

1422 (2) OFFICIAL RECORDS.-

1423 (a) From the inception of the association, the association
1424 shall maintain a copy of each of the following, where
1425 applicable, which shall constitute the official records of the
1426 association:

1427 1. The plans, permits, warranties, and other items provided
1428 by the developer pursuant to s. 719.301(4).

1429 2. A photocopy of the cooperative documents.

1430 3. A copy of the current rules of the association.

1431 4. A book or books containing the minutes of all meetings
1432 of the association, of the board of directors, and of the unit



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1433 owners, which minutes shall be retained for a period of not less
1434 than 7 years.

1435 5. A current roster of all unit owners and their mailing
1436 addresses, unit identifications, voting certifications, and, if
1437 known, telephone numbers. The association shall also maintain
1438 the electronic mailing addresses and the numbers designated by
1439 unit owners for receiving notice sent by electronic transmission
1440 of those unit owners consenting to receive notice by electronic
1441 transmission. The electronic mailing addresses and numbers
1442 provided by unit owners to receive notice by electronic
1443 transmission shall be removed from association records when
1444 consent to receive notice by electronic transmission is revoked.
1445 However, the association is not liable for an erroneous
1446 disclosure of the electronic mail address or the number for
1447 receiving electronic transmission of notices.

1448 6. All current insurance policies of the association.

1449 7. A current copy of any management agreement, lease, or
1450 other contract to which the association is a party or under
1451 which the association or the unit owners have an obligation or
1452 responsibility.

1453 8. Bills of sale or transfer for all property owned by the
1454 association.

1455 9. Accounting records for the association and separate
1456 accounting records for each unit it operates, according to good
1457 accounting practices. All accounting records shall be maintained
1458 for a period of not less than 7 years. The accounting records
1459 shall include, but not be limited to:

1460 a. Accurate, itemized, and detailed records of all receipts
1461 and expenditures.



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1462 b. A current account and a monthly, bimonthly, or quarterly
1463 statement of the account for each unit designating the name of
1464 the unit owner, the due date and amount of each assessment, the
1465 amount paid upon the account, and the balance due.

1466 c. All audits, reviews, accounting statements, and
1467 financial reports of the association.

1468 d. All contracts for work to be performed. Bids for work to
1469 be performed shall also be considered official records and shall
1470 be maintained for a period of 1 year.

1471 10. Ballots, sign-in sheets, voting proxies, and all other
1472 papers relating to voting by unit owners, which shall be
1473 maintained for a period of 1 year after the date of the
1474 election, vote, or meeting to which the document relates.

1475 11. All rental records where the association is acting as
1476 agent for the rental of units.

1477 12. A copy of the current question and answer sheet as
1478 described in s. 719.504.

1479 13. All other written records of the association not
1480 specifically included in the foregoing which are related to the
1481 operation of the association.

1482 Section 16. Paragraphs (c) and (d) of subsection (1) of
1483 section 719.106, Florida Statutes, are amended to read:

1484 719.106 Bylaws; cooperative ownership.—

1485 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
1486 documents shall provide for the following, and if they do not,
1487 they shall be deemed to include the following:

1488 (c) *Board of administration meetings.*—Meetings of the board
1489 of administration at which a quorum of the members is present
1490 shall be open to all unit owners. Any unit owner may tape record



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1491 or videotape meetings of the board of administration; however, a
1492 unit owner may not post the recordings on any website or other
1493 media that can readily be viewed by persons who are not members
1494 of the association. The right to attend such meetings includes
1495 the right to speak at such meetings with reference to all
1496 designated agenda items. The division shall adopt reasonable
1497 rules governing the tape recording and videotaping of the
1498 meeting. The association may adopt reasonable written rules
1499 governing the frequency, duration, and manner of unit owner
1500 statements. Adequate notice of all meetings shall be posted in a
1501 conspicuous place upon the cooperative property at least 48
1502 continuous hours preceding the meeting, except in an emergency.
1503 Any item not included on the notice may be taken up on an
1504 emergency basis by at least a majority plus one of the members
1505 of the board. Such emergency action shall be noticed and
1506 ratified at the next regular meeting of the board. However,
1507 written notice of any meeting at which nonemergency special
1508 assessments, or at which amendment to rules regarding unit use,
1509 will be considered shall be mailed, delivered, or electronically
1510 transmitted to the unit owners and posted conspicuously on the
1511 cooperative property not less than 14 days before the meeting.
1512 Evidence of compliance with this 14-day notice shall be made by
1513 an affidavit executed by the person providing the notice and
1514 filed among the official records of the association. Upon notice
1515 to the unit owners, the board shall by duly adopted rule
1516 designate a specific location on the cooperative property upon
1517 which all notices of board meetings shall be posted. In lieu of
1518 or in addition to the physical posting of notice of any meeting
1519 of the board of administration on the cooperative property, the



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1520 association may, by reasonable rule, adopt a procedure for
1521 conspicuously posting and repeatedly broadcasting the notice and
1522 the agenda on a closed-circuit cable television system serving
1523 the cooperative association. However, if broadcast notice is
1524 used in lieu of a notice posted physically on the cooperative
1525 property, the notice and agenda must be broadcast at least four
1526 times every broadcast hour of each day that a posted notice is
1527 otherwise required under this section. When broadcast notice is
1528 provided, the notice and agenda must be broadcast in a manner
1529 and for a sufficient continuous length of time so as to allow an
1530 average reader to observe the notice and read and comprehend the
1531 entire content of the notice and the agenda. Notice of any
1532 meeting in which regular assessments against unit owners are to
1533 be considered for any reason shall specifically contain a
1534 statement that assessments will be considered and the nature of
1535 any such assessments. Meetings of a committee to take final
1536 action on behalf of the board or to make recommendations to the
1537 board regarding the association budget are subject to the
1538 provisions of this paragraph. Meetings of a committee that does
1539 not take final action on behalf of the board or make
1540 recommendations to the board regarding the association budget
1541 are subject to the provisions of this section, unless those
1542 meetings are exempted from this section by the bylaws of the
1543 association. Notwithstanding any other law to the contrary, the
1544 requirement that board meetings and committee meetings be open
1545 to the unit owners does not apply to board or committee meetings
1546 held for the purpose of discussing personnel matters or meetings
1547 between the board or a committee and the association's attorney,
1548 with respect to proposed or pending litigation, if the meeting



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1549 is held for the purpose of seeking or rendering legal advice.
1550 (d) *Shareholder meetings.*—There shall be an annual meeting
1551 of the shareholders. All members of the board of administration
1552 shall be elected at the annual meeting unless the bylaws provide
1553 for staggered election terms or for their election at another
1554 meeting. Any unit owner desiring to be a candidate for board
1555 membership must comply with subparagraph 1. The bylaws must
1556 provide the method for calling meetings, including annual
1557 meetings. Written notice, which must incorporate an
1558 identification of agenda items, shall be given to each unit
1559 owner at least 14 days before the annual meeting and posted in a
1560 conspicuous place on the cooperative property at least 14
1561 continuous days preceding the annual meeting. Upon notice to the
1562 unit owners, the board must by duly adopted rule designate a
1563 specific location on the cooperative property upon which all
1564 notice of unit owner meetings are posted. In lieu of or in
1565 addition to the physical posting of the meeting notice, the
1566 association may, by reasonable rule, adopt a procedure for
1567 conspicuously posting and repeatedly broadcasting the notice and
1568 the agenda on a closed-circuit cable television system serving
1569 the cooperative association. However, if broadcast notice is
1570 used in lieu of a posted notice, the notice and agenda must be
1571 broadcast at least four times every broadcast hour of each day
1572 that a posted notice is otherwise required under this section.
1573 If broadcast notice is provided, the notice and agenda must be
1574 broadcast in a manner and for a sufficient continuous length of
1575 time to allow an average reader to observe the notice and read
1576 and comprehend the entire content of the notice and the agenda.
1577 Unless a unit owner waives in writing the right to receive



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1578 notice of the annual meeting, the notice of the annual meeting
1579 must be sent by mail, hand delivered, or electronically
1580 transmitted to each unit owner. An officer of the association
1581 must provide an affidavit or United States Postal Service
1582 certificate of mailing, to be included in the official records
1583 of the association, affirming that notices of the association
1584 meeting were mailed, hand delivered, or electronically
1585 transmitted, in accordance with this provision, to each unit
1586 owner at the address last furnished to the association.

1587 1. The board of administration shall be elected by written
1588 ballot or voting machine. A proxy may not be used in electing
1589 the board of administration in general elections or elections to
1590 fill vacancies caused by recall, resignation, or otherwise
1591 unless otherwise provided in this chapter.

1592 a. At least 60 days before a scheduled election, the
1593 association shall mail, deliver, or transmit, whether by
1594 separate association mailing, delivery, or electronic
1595 transmission or included in another association mailing,
1596 delivery, or electronic transmission, including regularly
1597 published newsletters, to each unit owner entitled to vote, a
1598 first notice of the date of the election. Any unit owner or
1599 other eligible person desiring to be a candidate for the board
1600 of administration must give written notice to the association at
1601 least 40 days before a scheduled election. Together with the
1602 written notice and agenda as set forth in this section, the
1603 association shall mail, deliver, or electronically transmit a
1604 second notice of election to all unit owners entitled to vote,
1605 together with a ballot that lists all candidates. Upon request
1606 of a candidate, the association shall include an information



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1607 sheet, no larger than 8 1/2 inches by 11 inches, which must be
1608 furnished by the candidate at least 35 days before the election,
1609 to be included with the mailing, delivery, or electronic
1610 transmission of the ballot, with the costs of mailing, delivery,
1611 or transmission and copying to be borne by the association. The
1612 association is not liable for the contents of the information
1613 sheets provided by the candidates. In order to reduce costs, the
1614 association may print or duplicate the information sheets on
1615 both sides of the paper. The division shall by rule establish
1616 voting procedures consistent with this subparagraph, including
1617 rules establishing procedures for giving notice by electronic
1618 transmission and rules providing for the secrecy of ballots.
1619 Elections shall be decided by a plurality of those ballots cast.
1620 There is no quorum requirement. However, at least 20 percent of
1621 the eligible voters must cast a ballot in order to have a valid
1622 election. A unit owner may not permit any other person to vote
1623 his or her ballot, and any such ballots improperly cast are
1624 invalid. A unit owner who needs assistance in casting the ballot
1625 for the reasons stated in s. 101.051 may obtain assistance in
1626 casting the ballot. Any unit owner violating this provision may
1627 be fined by the association in accordance with s. 719.303. The
1628 regular election must occur on the date of the annual meeting.
1629 This subparagraph does not apply to timeshare cooperatives.
1630 Notwithstanding this subparagraph, an election and balloting are
1631 not required unless more candidates file a notice of intent to
1632 run or are nominated than vacancies exist on the board. Any
1633 challenge to the election process must be commenced within 60
1634 days after the election results are announced.

1635 b. Within 90 days after being elected or appointed to the



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1636 board, each new director shall certify in writing to the
1637 secretary of the association that he or she has read the
1638 association's bylaws, articles of incorporation, proprietary
1639 lease, and current written policies; that he or she will work to
1640 uphold such documents and policies to the best of his or her
1641 ability; and that he or she will faithfully discharge his or her
1642 fiduciary responsibility to the association's members. Within 90
1643 days after being elected or appointed to the board, in lieu of
1644 this written certification, the newly elected or appointed
1645 director may submit a certificate of having satisfactorily
1646 completed the educational curriculum administered by an
1647 education provider as approved by the division pursuant to the
1648 requirements established in chapter 718 within 1 year before or
1649 90 days after the date of election or appointment. The
1650 educational certificate is valid and does not have to be
1651 resubmitted as long as the director serves on the board without
1652 interruption. A director who fails to timely file the written
1653 certification or educational certificate is suspended from
1654 service on the board until he or she complies with this sub-
1655 subparagraph. The board may temporarily fill the vacancy during
1656 the period of suspension. The secretary of the association shall
1657 cause the association to retain a director's written
1658 certification or educational certificate for inspection by the
1659 members for 5 years after a director's election or the duration
1660 of the director's uninterrupted tenure, whichever is longer.
1661 Failure to have such written certification or educational
1662 certificate on file does not affect the validity of any board
1663 action.

1664 2. Any approval by unit owners called for by this chapter,



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1665 or the applicable cooperative documents, must be made at a duly
1666 noticed meeting of unit owners and is subject to this chapter or
1667 the applicable cooperative documents relating to unit owner
1668 decisionmaking, except that unit owners may take action by
1669 written agreement, without meetings, on matters for which action
1670 by written agreement without meetings is expressly allowed by
1671 the applicable cooperative documents or law which provides for
1672 the unit owner action.

1673 3. Unit owners may waive notice of specific meetings if
1674 allowed by the applicable cooperative documents or law. ~~If~~
1675 ~~authorized by the bylaws,~~ Notice of meetings of the board of
1676 administration, shareholder meetings, except shareholder
1677 meetings called to recall board members under paragraph (f), and
1678 committee meetings may be given by electronic transmission to
1679 unit owners who consent to receive notice by electronic
1680 transmission.

1681 4. Unit owners have the right to participate in meetings of
1682 unit owners with reference to all designated agenda items.
1683 However, the association may adopt reasonable rules governing
1684 the frequency, duration, and manner of unit owner participation.

1685 5. Any unit owner may tape record or videotape meetings of
1686 the unit owners subject to reasonable rules adopted by the
1687 division; however, a unit owner may not post the recordings on
1688 any website or other media that can readily be viewed by persons
1689 who are not members of the association.

1690 6. Unless otherwise provided in the bylaws, a vacancy
1691 occurring on the board before the expiration of a term may be
1692 filled by the affirmative vote of the majority of the remaining
1693 directors, even if the remaining directors constitute less than



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1694 a quorum, or by the sole remaining director. In the alternative,
1695 a board may hold an election to fill the vacancy, in which case
1696 the election procedures must conform to the requirements of
1697 subparagraph 1. unless the association has opted out of the
1698 statutory election process, in which case the bylaws of the
1699 association control. Unless otherwise provided in the bylaws, a
1700 board member appointed or elected under this subparagraph shall
1701 fill the vacancy for the unexpired term of the seat being
1702 filled. Filling vacancies created by recall is governed by
1703 paragraph (f) and rules adopted by the division.

1704
1705 Notwithstanding subparagraphs (b)2. and (d)1., an association
1706 may, by the affirmative vote of a majority of the total voting
1707 interests, provide for a different voting and election procedure
1708 in its bylaws, which vote may be by a proxy specifically
1709 delineating the different voting and election procedures. The
1710 different voting and election procedures may provide for
1711 elections to be conducted by limited or general proxy.

1712 Section 17. Subsections (3) and (4) of section 719.108,
1713 Florida Statutes, are amended to read:

1714 719.108 Rents and assessments; liability; lien and
1715 priority; interest; collection; cooperative ownership.—

1716 (3) Rents and assessments, and installments on them, not
1717 paid when due bear interest at the rate provided in the
1718 cooperative documents from the date due until paid. This rate
1719 may not exceed the rate allowed by law and, if a rate is not
1720 provided in the cooperative documents, accrues at 18 percent per
1721 annum. If the cooperative documents or bylaws so provide, the
1722 association may charge an administrative late fee in addition to



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1723 such interest, not to exceed the greater of \$25 or 5 percent of
1724 each installment of the assessment for each delinquent
1725 installment that the payment is late. The association may also
1726 recover from the unit owner any reasonable charges imposed upon
1727 the association under a written contract with its management or
1728 bookkeeping company or collection agent which are incurred in
1729 connection with collecting a delinquent assessment. Such charges
1730 must be based on the actual time expended performing necessary,
1731 nonduplicative services. Fees for collection are not recoverable
1732 for the period after referral of the matter to an association's
1733 legal counsel. Any payment received by an association must be
1734 applied first to any interest accrued by the association, then
1735 to any administrative late fee, then to any costs and reasonable
1736 attorney fees incurred in collection, then to any reasonable
1737 costs for collection services contracted for by the association,
1738 and then to the delinquent assessment. The foregoing applies
1739 notwithstanding s. 673.3111, any purported accord and
1740 satisfaction, or any restrictive endorsement, designation, or
1741 instruction placed on or accompanying a payment. The preceding
1742 sentence is intended to clarify existing law. A late fee is not
1743 subject to chapter 687 or s. 719.303(4).

1744 (4) The association has a lien on each cooperative parcel
1745 for any unpaid rents and assessments, plus interest, any
1746 reasonable costs for collection services contracted for by the
1747 association, and any ~~authorized~~ administrative late fees. If
1748 authorized by the cooperative documents, the lien also secures
1749 reasonable attorney fees incurred by the association incident to
1750 the collection of the rents and assessments or enforcement of
1751 such lien. The lien is effective from and after recording a



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1752 claim of lien in the public records in the county in which the
1753 cooperative parcel is located which states the description of
1754 the cooperative parcel, the name of the unit owner, the amount
1755 due, and the due dates. Except as otherwise provided in this
1756 chapter, a lien may not be filed by the association against a
1757 cooperative parcel until 30 days after the date on which a
1758 notice of intent to file a lien has been delivered to the owner.

1759 (a) The notice must be sent to the unit owner at the
1760 address of the unit by first-class United States mail, and the
1761 notice must be in substantially the following form:

1762 NOTICE OF INTENT

1763 TO RECORD A CLAIM OF LIEN

1764 RE: Unit ...(unit number)... of ...(name of cooperative)..
1765 The following amounts are currently due on your account to
1766 ...(name of association)..., and must be paid within 30 days
1767 after your receipt of this letter. This letter shall serve as
1768 the association's notice of intent to record a Claim of Lien
1769 against your property no sooner than 30 days after your receipt
1770 of this letter, unless you pay in full the amounts set forth
1771 below:

1772 Maintenance due ...(dates)... \$.....

1773 Late fee, if applicable \$.....

1774 Interest through ...(dates)...* \$.....

1775 Certified mail charges \$.....

1776 Other costs \$.....

1777 TOTAL OUTSTANDING \$.....

1778 *Interest accrues at the rate of percent per annum.

1779 1. If the most recent address of the unit owner on the
1780 records of the association is the address of the unit, the



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1781 notice must be sent by certified mail, return receipt requested,
1782 to the unit owner at the address of the unit.

1783 2. If the most recent address of the unit owner on the
1784 records of the association is in the United States, but is not
1785 the address of the unit, the notice must be sent by certified
1786 mail, return receipt requested, to the unit owner at his or her
1787 most recent address.

1788 3. If the most recent address of the unit owner on the
1789 records of the association is not in the United States, the
1790 notice must be sent by first-class United States mail to the
1791 unit owner at his or her most recent address.

1792 (b) A notice that is sent pursuant to this subsection is
1793 deemed delivered upon mailing. A claim of lien must be executed
1794 and acknowledged by an officer or authorized agent of the
1795 association. The lien is not effective 1 year after the claim of
1796 lien was recorded unless, within that time, an action to enforce
1797 the lien is commenced. The 1-year period is automatically
1798 extended for any length of time during which the association is
1799 prevented from filing a foreclosure action by an automatic stay
1800 resulting from a bankruptcy petition filed by the parcel owner
1801 or any other person claiming an interest in the parcel. The
1802 claim of lien secures all unpaid rents and assessments that are
1803 due and that may accrue after the claim of lien is recorded and
1804 through the entry of a final judgment, as well as interest and
1805 all reasonable costs and attorney fees incurred by the
1806 association incident to the collection process. Upon payment in
1807 full, the person making the payment is entitled to a
1808 satisfaction of the lien.

1809 (c) By recording a notice in substantially the following



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1810 form, a unit owner or the unit owner's agent or attorney may
1811 require the association to enforce a recorded claim of lien
1812 against his or her cooperative parcel:

1813 NOTICE OF CONTEST OF LIEN

1814 TO: ...(Name and address of association)...:

1815 You are notified that the undersigned contests the claim of lien
1816 filed by you on, ...(year)..., and recorded in Official
1817 Records Book at Page, of the public records of
1818 County, Florida, and that the time within which you may file
1819 suit to enforce your lien is limited to 90 days from the date of
1820 service of this notice. Executed this day of,
1821 ...(year)....

1822 Signed: ...(Owner or Attorney)...

1823 After notice of contest of lien has been recorded, the clerk of
1824 the circuit court shall mail a copy of the recorded notice to
1825 the association by certified mail, return receipt requested, at
1826 the address shown in the claim of lien or most recent amendment
1827 to it and shall certify to the service on the face of the
1828 notice. Service is complete upon mailing. After service, the
1829 association has 90 days in which to file an action to enforce
1830 the lien. If the action is not filed within the 90-day period,
1831 the lien is void. However, the 90-day period shall be extended
1832 for any length of time during which the association is prevented
1833 from filing its action because of an automatic stay resulting
1834 from the filing of a bankruptcy petition by the unit owner or by
1835 any other person claiming an interest in the parcel.

1836 (d) A release of lien must be in substantially the
1837 following form:

1838 RELEASE OF LIEN



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1839 The undersigned lienor, in consideration of the final payment in
1840 the amount of \$...., hereby waives and releases its lien and
1841 right to claim a lien for unpaid assessments through,
1842 ...(year)..., recorded in the Official Records Book at Page
1843, of the public records of County, Florida, for the
1844 following described real property:
1845 THAT COOPERATIVE PARCEL WHICH INCLUDES UNIT NO. OF ...(NAME
1846 OF COOPERATIVE)..., A COOPERATIVE AS SET FORTH IN THE
1847 COOPERATIVE DOCUMENTS AND THE EXHIBITS ANNEXED THERETO AND
1848 FORMING A PART THEREOF, RECORDED IN OFFICIAL RECORDS BOOK,
1849 PAGE, OF THE PUBLIC RECORDS OF COUNTY, FLORIDA.
1850 ...(Signature of Authorized Agent)... ...(Signature of
1851 Witness)...
1852 ...(Print Name)... ...(Print Name)...
1853 ... (Signature of Witness) ...
1854 ... (Print Name) ...
1855 Sworn to (or affirmed) and subscribed before me this day of
1856, ...(year)..., by ...(name of person making statement)....
1857 ...(Signature of Notary Public)...
1858 ...(Print, type, or stamp commissioned name of Notary Public)...
1859 Personally Known OR Produced as identification.
1860 Section 18. Section 719.129, Florida Statutes, is created
1861 to read:
1862 719.129 Electronic voting.—The association may conduct
1863 elections and other unit owner votes through an Internet-based
1864 online voting system if a unit owner consents in writing to
1865 online voting and if the following requirements are met:
1866 (1) The association provides each unit owner with:
1867 (a) A method to authenticate the unit owner's identity to



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1868 the online voting system.

1869 (b) For elections of the board, a method to transmit an
1870 electronic ballot to the online voting system that ensures the
1871 secrecy and integrity of each ballot.

1872 (c) A method to confirm, at least 14 days before the voting
1873 deadline, that the unit owner's electronic device can
1874 successfully communicate with the online voting system.

1875 (2) The association uses an online voting system that is:

1876 (a) Able to authenticate the unit owner's identity.

1877 (b) Able to authenticate the validity of each electronic
1878 vote to ensure that the vote is not altered in transit.

1879 (c) Able to transmit a receipt from the online voting
1880 system to each unit owner who casts an electronic vote.

1881 (d) For elections of the board of administration, able to
1882 permanently separate any authentication or identifying
1883 information from the electronic election ballot, rendering it
1884 impossible to tie an election ballot to a specific unit owner.

1885 (e) Able to store and keep electronic votes accessible to
1886 election officials for recount, inspection, and review purposes.

1887 (3) A unit owner voting electronically pursuant to this
1888 section shall be counted as being in attendance at the meeting
1889 for purposes of determining a quorum. A substantive vote of the
1890 unit owners may not be taken on any issue other than the issues
1891 specifically identified in the electronic vote when a quorum is
1892 established based on unit owners voting electronically pursuant
1893 to this section.

1894 (4) This section applies to an association that provides
1895 for and authorizes an online voting system pursuant to this
1896 section by a board resolution. The board resolution must provide



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1897 that unit owners receive notice of the opportunity to vote
1898 through an online voting system, must establish reasonable
1899 procedures and deadlines for unit owners to consent in writing
1900 to online voting, and must establish reasonable procedures and
1901 deadlines for unit owners to opt out of online voting after
1902 giving consent. Written notice of a meeting at which the
1903 resolution will be considered must be mailed, delivered, or
1904 electronically transmitted to the unit owners and posted
1905 conspicuously on the condominium property or association
1906 property at least 14 days before the meeting. Evidence of
1907 compliance with the 14-day notice requirement must be made by an
1908 affidavit executed by the person providing the notice and filed
1909 with the official records of the association.

1910 (5) A unit owner's consent to online voting is valid until
1911 the unit owner opts out of online voting pursuant to the
1912 procedures established by the board of administration pursuant
1913 to paragraph (4).

1914 (6) This section may apply to any matter that requires a
1915 vote of the unit owners.

1916 Section 19. Subsection (3) of section 719.303, Florida
1917 Statutes, is amended to read:

1918 719.303 Obligations of owners.—

1919 (3) The association may levy reasonable fines for failure
1920 of the unit owner or the unit's occupant, licensee, or invitee
1921 to comply with any provision of the cooperative documents or
1922 reasonable rules of the association. A fine may not become a
1923 lien against a unit. A fine may be levied by the board of
1924 administration or its authorized designee on the basis of each
1925 day of a continuing violation, with a single notice and



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1926 opportunity for hearing before an impartial committee as
1927 provided in paragraph (b). However, the fine may not exceed \$100
1928 per violation, or \$1,000 in the aggregate.

1929 (a) An association may suspend, for a reasonable period of
1930 time, the right of a unit owner, or a unit owner's tenant,
1931 guest, or invitee, to use the common elements, common
1932 facilities, or any other association property for failure to
1933 comply with any provision of the cooperative documents or
1934 reasonable rules of the association. This paragraph does not
1935 apply to limited common elements intended to be used only by
1936 that unit, common elements needed to access the unit, utility
1937 services provided to the unit, parking spaces, or elevators.

1938 (b) A fine or suspension levied by the board of
1939 administration or its authorized designee may not be imposed
1940 unless the board first provides at least 14 days' written ~~except~~
1941 ~~after giving reasonable~~ notice and an opportunity for a hearing
1942 to the unit owner and, if applicable, its occupant, the unit's
1943 licensee, or invitee. The hearing must be held before an
1944 impartial a committee of other unit owners who are neither board
1945 members, persons residing in a board member's household, nor the
1946 authorized designee or members of the authorized designee's
1947 household. The role of the impartial committee is limited to
1948 determining whether to confirm or reject the fine or suspension
1949 levied by the board or its authorized designee. If the impartial
1950 committee does not agree with the fine or suspension, it may not
1951 be imposed.

1952 Section 20. Subsection (8) of section 720.301, Florida
1953 Statutes, is amended to read:

1954 720.301 Definitions.—As used in this chapter, the term:



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1955 (8) "Governing documents" means:

1956 (a) The recorded declaration of covenants for a community,
1957 and all duly adopted and recorded amendments, supplements, and
1958 recorded exhibits thereto; ~~and~~

1959 (b) The articles of incorporation and bylaws of the
1960 homeowners' association, ~~and~~ any duly adopted amendments
1961 thereto; and

1962 (c) Rules and regulations adopted under the authority of
1963 the recorded declaration, articles of incorporation, or bylaws
1964 and duly adopted amendments thereto.

1965 Section 21. Section 720.3015, Florida Statutes, is created
1966 to read:

1967 720.3015 Short title.—This chapter may be cited as the
1968 "Homeowners' Association Act."

1969 Section 22. Paragraph (c) of subsection (2) of section
1970 720.303, Florida Statutes, is amended to read:

1971 720.303 Association powers and duties; meetings of board;
1972 official records; budgets; financial reporting; association
1973 funds; recalls.—

1974 (2) BOARD MEETINGS.—

1975 (c) The bylaws shall provide for giving notice to parcel
1976 owners and members of all board meetings and, if they do not do
1977 so, shall be deemed to provide the following:

1978 1. Notices of all board meetings must be posted in a
1979 conspicuous place in the community at least 48 hours in advance
1980 of a meeting, except in an emergency. In the alternative, if
1981 notice is not posted in a conspicuous place in the community,
1982 notice of each board meeting must be mailed or delivered to each
1983 member at least 7 days before the meeting, except in an



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1984 emergency. Notwithstanding this general notice requirement, for
1985 communities with more than 100 members, the bylaws may provide
1986 for a reasonable alternative to posting or mailing of notice for
1987 each board meeting, including publication of notice, provision
1988 of a schedule of board meetings, or the conspicuous posting and
1989 repeated broadcasting of the notice on a closed-circuit cable
1990 television system serving the homeowners' association. However,
1991 if broadcast notice is used in lieu of a notice posted
1992 physically in the community, the notice must be broadcast at
1993 least four times every broadcast hour of each day that a posted
1994 notice is otherwise required. When broadcast notice is provided,
1995 the notice and agenda must be broadcast in a manner and for a
1996 sufficient continuous length of time so as to allow an average
1997 reader to observe the notice and read and comprehend the entire
1998 content of the notice and the agenda. The association bylaws ~~or~~
1999 ~~amended bylaws~~ may provide ~~for giving~~ notice by electronic
2000 transmission in a manner authorized by law for meetings of the
2001 board of directors, committee meetings requiring notice under
2002 this section, and annual and special meetings of the members;
2003 however, a member must consent in writing to receiving notice by
2004 electronic transmission.

2005 2. An assessment may not be levied at a board meeting
2006 unless the notice of the meeting includes a statement that
2007 assessments will be considered and the nature of the
2008 assessments. Written notice of any meeting at which special
2009 assessments will be considered or at which amendments to rules
2010 regarding parcel use will be considered must be mailed,
2011 delivered, or electronically transmitted to the members and
2012 parcel owners and posted conspicuously on the property or



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2013 broadcast on closed-circuit cable television not less than 14
2014 days before the meeting.

2015 3. Directors may not vote by proxy or by secret ballot at
2016 board meetings, except that secret ballots may be used in the
2017 election of officers. This subsection also applies to the
2018 meetings of any committee or other similar body, when a final
2019 decision will be made regarding the expenditure of association
2020 funds, and to any body vested with the power to approve or
2021 disapprove architectural decisions with respect to a specific
2022 parcel of residential property owned by a member of the
2023 community.

2024 Section 23. Section 720.305, Florida Statutes, is amended
2025 to read:

2026 720.305 Obligations of members; remedies at law or in
2027 equity; levy of fines and suspension of use rights.—

2028 (1) Each member and the member's tenants, guests, and
2029 invitees, and each association, are governed by, and must comply
2030 with, this chapter, the governing documents of the community,
2031 and the rules of the association. Actions at law or in equity,
2032 or both, to redress alleged failure or refusal to comply with
2033 these provisions may be brought by the association or by any
2034 member against:

2035 (a) The association;

2036 (b) A member;

2037 (c) Any director or officer of an association who willfully
2038 and knowingly fails to comply with these provisions; and

2039 (d) Any tenants, guests, or invitees occupying a parcel or
2040 using the common areas.

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2042 The prevailing party in any such litigation is entitled to
2043 recover reasonable attorney ~~attorney's~~ fees and costs. A member
2044 prevailing in an action between the association and the member
2045 under this section, in addition to recovering his or her
2046 reasonable attorney ~~attorney's~~ fees, may recover additional
2047 amounts as determined by the court to be necessary to reimburse
2048 the member for his or her share of assessments levied by the
2049 association to fund its expenses of the litigation. This relief
2050 does not exclude other remedies provided by law. This section
2051 does not deprive any person of any other available right or
2052 remedy.

2053 (2) The association may levy reasonable fines. A fine may
2054 not exceed ~~of up to~~ \$100 per violation against any member or any
2055 member's tenant, guest, or invitee for the failure of the owner
2056 of the parcel or its occupant, licensee, or invitee to comply
2057 with any provision of the declaration, the association bylaws,
2058 or reasonable rules of the association unless otherwise provided
2059 in the governing documents. A fine may be levied by the board or
2060 its authorized designee for each day of a continuing violation,
2061 with a single notice and opportunity for hearing, except that
2062 the fine may not exceed \$1,000 in the aggregate unless otherwise
2063 provided in the governing documents. A fine of less than \$1,000
2064 may not become a lien against a parcel. In any action to recover
2065 a fine, the prevailing party is entitled to reasonable attorney
2066 fees and costs from the nonprevailing party as determined by the
2067 court.

2068 (a) An association may suspend, for a reasonable period of
2069 time, the right of a member, or a member's tenant, guest, or
2070 invitee, to use common areas and facilities for the failure of



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2071 the owner of the parcel or its occupant, licensee, or invitee to
2072 comply with any provision of the declaration, the association
2073 bylaws, or reasonable rules of the association. This paragraph
2074 does not apply to that portion of common areas used to provide
2075 access or utility services to the parcel. A suspension may not
2076 prohibit ~~impair the right of~~ an owner or tenant of a parcel from
2077 having ~~to have~~ vehicular and pedestrian ingress to and egress
2078 from the parcel, including, but not limited to, the right to
2079 park.

2080 (b) A fine or suspension may not be imposed by the board of
2081 administration or its authorized designee without at least 14
2082 days' notice to the person sought to be fined or suspended and
2083 an opportunity for a hearing before an impartial ~~a~~ committee of
2084 at least three members appointed by the board who are not
2085 officers, directors, or employees of the association, or the
2086 spouse, parent, child, brother, or sister of an officer,
2087 director, ~~or~~ employee, or the board's designee or the designee's
2088 family. If the committee, by majority vote, does not approve a
2089 proposed fine or suspension, it may not be imposed. The role of
2090 the impartial committee is limited to determining whether to
2091 confirm or reject the fine or suspension levied by the board or
2092 its authorized designee. If the board of administration or its
2093 authorized designee ~~association~~ imposes a fine or suspension,
2094 the association must provide written notice of such fine or
2095 suspension by mail or hand delivery to the parcel owner and, if
2096 applicable, to any tenant, licensee, or invitee of the parcel
2097 owner.

2098 (3) If a member is more than 90 days delinquent in paying
2099 any fee, fine, or other ~~a~~ monetary obligation due to the



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2100 association, the association may suspend the rights of the
2101 member, or the member's tenant, guest, or invitee, to use common
2102 areas and facilities until the fee, fine, or other monetary
2103 obligation is paid in full. This subsection does not apply to
2104 that portion of common areas used to provide access or utility
2105 services to the parcel. A suspension may ~~does~~ not prohibit
2106 ~~impair the right of~~ an owner or tenant of a parcel from having
2107 ~~to have~~ vehicular and pedestrian ingress to and egress from the
2108 parcel, including, but not limited to, the right to park. The
2109 notice and hearing requirements under subsection (2) do not
2110 apply to a suspension imposed under this subsection.

2111 (4) An association may suspend the voting rights of a
2112 parcel or member for the nonpayment of any fee, fine, or other
2113 monetary obligation due to the association which ~~that~~ is more
2114 than 90 days delinquent. A voting interest or consent right
2115 allocated to a parcel or member which has been suspended by the
2116 association shall be subtracted from ~~may not be counted towards~~
2117 the total number of voting interests in the association, which
2118 shall be reduced by the number of suspended voting interests
2119 when calculating the total percentage or number of all voting
2120 interests available to take or approve any action, and the
2121 suspended voting interests may not be considered for any
2122 purpose, including, but not limited to, the percentage or number
2123 of voting interests necessary to constitute a quorum, the
2124 percentage or number of voting interests required to conduct an
2125 election, or the percentage or number of voting interests
2126 required to approve an action under this chapter or pursuant to
2127 the governing documents. The notice and hearing requirements
2128 under subsection (2) do not apply to a suspension imposed under



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2129 this subsection. The suspension ends upon full payment of all
2130 obligations currently due or overdue to the association.

2131 (5) All suspensions imposed pursuant to subsection (3) or
2132 subsection (4) must be approved at a properly noticed board
2133 meeting. Upon approval, the association must notify the parcel
2134 owner and, if applicable, the parcel's occupant, licensee, or
2135 invitee by mail or hand delivery.

2136 (6) The suspensions permitted by paragraph (2)(a) and
2137 subsections (3) and (4) apply to a member and, when appropriate,
2138 the member's tenants, guests, or invitees, even if the
2139 delinquency or failure that resulted in the suspension arose
2140 from less than all of the multiple parcels owned by the member.

2141 Section 24. Paragraph (b) of subsection (1) and subsections
2142 (9) and (10) of section 720.306, Florida Statutes, are amended
2143 to read:

2144 720.306 Meetings of members; voting and election
2145 procedures; amendments.—

2146 (1) QUORUM; AMENDMENTS.—

2147 (b) Unless otherwise provided in the governing documents or
2148 required by law, and other than those matters set forth in
2149 paragraph (c), any governing document of an association may be
2150 amended by the affirmative vote of two-thirds of the voting
2151 interests of the association. Within 30 days after recording an
2152 amendment to the governing documents, the association shall
2153 provide copies of the amendment to the members. However, if a
2154 copy of the proposed amendment is provided to the members before
2155 they vote on the amendment ~~and the proposed amendment is not~~
2156 ~~changed before the vote~~, the association, in lieu of providing a
2157 copy of the amendment, may provide notice to the members that



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2158 the amendment was adopted, identifying the official book and
2159 page number or instrument number of the recorded amendment and
2160 that a copy of the amendment is available at no charge to the
2161 member upon written request to the association. The copies and
2162 notice described in this paragraph may be provided
2163 electronically to those owners who previously consented to
2164 receive notice electronically. The failure to timely provide
2165 notice of the recording of the amendment does not affect the
2166 validity or enforceability of the amendment.

2167 (9) ELECTIONS AND BOARD VACANCIES.—

2168 (a) Elections of directors must be conducted in accordance
2169 with the procedures set forth in the governing documents of the
2170 association. Except as provided in paragraph (b), all members of
2171 the association are eligible to serve on the board of directors,
2172 and a member may nominate himself or herself as a candidate for
2173 the board at a meeting where the election is to be held;
2174 provided, however, that if the election process allows
2175 candidates to be nominated in advance of the meeting, the
2176 association is not required to allow nominations at the meeting.
2177 An election is not required unless more candidates are nominated
2178 than vacancies exist. Except as otherwise provided in the
2179 governing documents, boards of directors must be elected by a
2180 plurality of the votes cast by eligible voters. Any challenge to
2181 the election process must be commenced within 60 days after the
2182 election results are announced.

2183 (b) A person who is delinquent in the payment of any fee,
2184 fine, or other monetary obligation to the association on the day
2185 that he or she could last nominate himself or herself or be
2186 nominated for the board may not seek election to the board, and



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2187 his or her name may not be listed on the ballot. A person
2188 -serving as a board member who becomes more than 90 days
2189 delinquent in the payment of any fee, fine, or other monetary
2190 obligation to the association shall be deemed to have abandoned
2191 his or her seat on the board, creating a vacancy on the board to
2192 be filled according to law. For purposes of this paragraph, the
2193 term "any fee, fine, or other monetary obligation" means any
2194 delinquency to the association with respect to any parcel ~~for~~
2195 ~~more than 90 days is not eligible for board membership.~~ A person
2196 who has been convicted of any felony in this state or in a
2197 United States District or Territorial Court, or has been
2198 convicted of any offense in another jurisdiction which would be
2199 considered a felony if committed in this state, may not seek
2200 election to the board and is not eligible for board membership
2201 unless such felon's civil rights have been restored for at least
2202 5 years as of the date on which such person seeks election to
2203 the board. The validity of any action by the board is not
2204 affected if it is later determined that a person was ineligible
2205 to seek election to the board or that a member of the board is
2206 ineligible for board membership.

2207 (c) Any election dispute between a member and an
2208 association must be submitted to mandatory binding arbitration
2209 with the division. Such proceedings must be conducted in the
2210 manner provided by s. 718.1255 and the procedural rules adopted
2211 by the division. Unless otherwise provided in the bylaws, any
2212 vacancy occurring on the board before the expiration of a term
2213 may be filled by an affirmative vote of the majority of the
2214 remaining directors, even if the remaining directors constitute
2215 less than a quorum, or by the sole remaining director. In the



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2216 alternative, a board may hold an election to fill the vacancy,
2217 in which case the election procedures must conform to the
2218 requirements of the governing documents. Unless otherwise
2219 provided in the bylaws, a board member appointed or elected
2220 under this section is appointed for the unexpired term of the
2221 seat being filled. Filling vacancies created by recall is
2222 governed by s. 720.303(10) and rules adopted by the division.

2223 (10) RECORDING.—Any parcel owner may tape record or
2224 videotape meetings of the board of directors and meetings of the
2225 members; however, a parcel owner may not post the recordings on
2226 any website or other media that can readily be viewed by persons
2227 who are not members of the association. The board of directors
2228 of the association may adopt reasonable rules governing the
2229 taping of meetings of the board and the membership.

2230 Section 24. Paragraph (a) of subsection (1) and subsection
2231 (3) of section 720.3085, Florida Statutes, are amended to read:

2232 720.3085 Payment for assessments; lien claims.—

2233 (1) When authorized by the governing documents, the
2234 association has a lien on each parcel to secure the payment of
2235 assessments and other amounts provided for by this section.
2236 Except as otherwise set forth in this section, the lien is
2237 effective from and shall relate back to the date on which the
2238 original declaration of the community was recorded. However, as
2239 to first mortgages of record, the lien is effective from and
2240 after recording of a claim of lien in the public records of the
2241 county in which the parcel is located. This subsection does not
2242 bestow upon any lien, mortgage, or certified judgment of record
2243 on July 1, 2008, including the lien for unpaid assessments
2244 created in this section, a priority that, by law, the lien,



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2245 mortgage, or judgment did not have before July 1, 2008.

2246 (a) To be valid, a claim of lien must state the description
2247 of the parcel, the name of the record owner, the name and
2248 address of the association, the assessment amount due, and the
2249 due date. The claim of lien secures all unpaid assessments that
2250 are due and that may accrue subsequent to the recording of the
2251 claim of lien and before entry of a certificate of title, as
2252 well as interest, late charges, and reasonable collection costs
2253 and attorney fees incurred by the association incident to the
2254 collection process. The person making payment is entitled to a
2255 satisfaction of the lien upon payment in full.

2256 (3) Assessments and installments on assessments that are
2257 not paid when due bear interest from the due date until paid at
2258 the rate provided in the declaration of covenants or the bylaws
2259 of the association, which rate may not exceed the rate allowed
2260 by law. If no rate is provided in the declaration or bylaws,
2261 interest accrues at the rate of 18 percent per year.

2262 (a) If the declaration or bylaws so provide, the
2263 association may also charge an administrative late fee not to
2264 exceed the greater of \$25 or 5 percent of the amount of each
2265 installment that is paid past the due date. The association may
2266 also recover from the parcel owner any reasonable charges
2267 imposed upon the association under a written contract with its
2268 management or bookkeeping company or collection agent which are
2269 incurred in connection with collecting a delinquent assessment.
2270 Such charges must be based on the actual time expended
2271 performing necessary, nonduplicative services. Fees for
2272 collection are not recoverable for the period after referral of
2273 the matter to an association's legal counsel.



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2274 (b) Any payment received by an association and accepted
2275 shall be applied first to any interest accrued, then to any
2276 administrative late fee, then to any costs and reasonable
2277 attorney fees incurred in collection, then to any reasonable
2278 costs for collection services contracted for by the association,
2279 and then to the delinquent assessment. This paragraph applies
2280 notwithstanding any restrictive endorsement, designation, or
2281 instruction placed on or accompanying a payment. A late fee is
2282 not subject to the provisions of chapter 687 and is not a fine.

2283 Section 25. Section 720.317, Florida Statutes, is created
2284 to read:

2285 720.317 Electronic voting.—The association may conduct
2286 elections and other membership votes through an Internet-based
2287 online voting system if a member consents in writing to online
2288 voting and if the following requirements are met:

2289 (1) The association provides each member with:

2290 (a) A method to authenticate the member's identity to the
2291 online voting system.

2292 (b) A method to confirm, at least 14 days before the voting
2293 deadline, that the member's electronic device can successfully
2294 communicate with the online voting system.

2295 (c) A method that is consistent with the election and
2296 voting procedures in the association's bylaws.

2297 (2) The association uses an online voting system that is:

2298 (a) Able to authenticate the member's identity.

2299 (b) Able to authenticate the validity of each electronic
2300 vote to ensure that the vote is not altered in transit.

2301 (c) Able to transmit a receipt from the online voting
2302 system to each member who casts an electronic vote.



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2303 (d) Able to permanently separate any authentication or
2304 identifying information from the electronic election ballot,
2305 rendering it impossible to tie an election ballot to a specific
2306 member. This paragraph only applies if the association's bylaws
2307 provide for secret ballots for the election of directors.

2308 (e) Able to store and keep electronic ballots accessible to
2309 election officials for recount, inspection, and review purposes.

2310 (3) A member voting electronically pursuant to this section
2311 shall be counted as being in attendance at the meeting for
2312 purposes of determining a quorum.

2313 (4) This section applies to an association that provides
2314 for and authorizes an online voting system pursuant to this
2315 section by a board resolution. The board resolution must provide
2316 that members receive notice of the opportunity to vote through
2317 an online voting system, must establish reasonable procedures
2318 and deadlines for members to consent in writing to online
2319 voting, and must establish reasonable procedures and deadlines
2320 for members to opt out of online voting after giving consent.

2321 Written notice of a meeting at which the board resolution
2322 regarding online voting will be considered must be mailed,
2323 delivered, or electronically transmitted to the unit owners and
2324 posted conspicuously on the condominium property or association
2325 property at least 14 days before the meeting. Evidence of
2326 compliance with the 14-day notice requirement must be made by an
2327 affidavit executed by the person providing the notice and filed
2328 with the official records of the association.

2329 (5) A member's consent to online voting is valid until the
2330 member opts out of online voting pursuant to the procedures
2331 established by the board of administration pursuant to paragraph



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2332 (4).

2333 (6) This section may apply to any matter that requires a
2334 vote of the members.

2335
2336 ===== T I T L E A M E N D M E N T =====

2337 And the title is amended as follows:

2338 Delete lines 29 - 139

2339 and insert:

2340 electronically is counted toward a quorum; providing
2341 applicability; providing that a unit owner's consent
2342 to online voting is valid unit the unit owner opts out
2343 according to specified procedures; amending s.

2344 718.301, F.S.; adding conditions under which certain
2345 unit owners are entitled to elect at least a majority
2346 of the members of the board of administration of an
2347 association; requiring a bulk-unit purchaser to
2348 relinquish control of the association under certain
2349 circumstances; requiring a bulk-unit purchaser to
2350 deliver certain items, at the bulk-unit purchaser's
2351 expense, during the transfer of association control
2352 from the bulk-unit purchaser; amending s. 718.302,
2353 F.S.; revising the conditions under which certain
2354 grants, reservations, or contracts made by an
2355 association may be cancelled; prohibiting a lender-
2356 unit purchaser from voting on cancellation of certain
2357 grants, reservations, or contracts while the
2358 association is under control of that lender-unit
2359 purchaser; amending s. 718.303, F.S.; providing that a
2360 fine may be levied by the board or its authorized



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2361 designee under certain conditions; revising the
2362 requirements for levying a fine or suspension;
2363 amending s. 718.501, F.S.; conforming provisions of
2364 chapter 718, F.S., relating to the enforcement powers
2365 of the Division of Florida Condominiums, Timeshares,
2366 and Mobile Homes; creating s. 718.709, F.S.; providing
2367 applicability of the provisions relating to the
2368 Distressed Condominium Relief Act; creating part VIII
2369 of ch. 718, F.S.; providing legislative intent;
2370 providing definitions; authorizing a bulk-unit
2371 purchaser to exercise certain developer rights;
2372 requiring a bulk-unit purchaser to pay a working
2373 capital contribution under certain circumstances;
2374 providing applicability; authorizing a lender-unit
2375 purchaser to exercise any developer rights he or she
2376 acquires; requiring a bulk-unit purchaser and a
2377 lender-unit purchaser to comply with specified
2378 provisions under ch. 718, F.S.; limiting the rights of
2379 bulk-unit purchasers and lender-unit purchasers to
2380 vote on reserves or funding of reserves; prohibiting
2381 the transfer of such voting rights; providing
2382 assessment liability for bulk-unit purchasers and
2383 lender-unit purchasers; providing for suspension of a
2384 director who has been elected or appointed by a bulk-
2385 unit purchaser in certain circumstances; specifying
2386 amendments and alterations for which a majority
2387 approval of unit owners is required; requiring consent
2388 of a bulk-unit purchaser, lender-unit purchaser, or
2389 developer to certain amendments; requiring certain



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2390 warranties and disclosures; requiring an architect or
2391 engineer to disclose specified information in a
2392 condition report under certain circumstances;
2393 subjecting multiple bulk-unit purchasers to joint and
2394 several liability; prohibiting a board of
2395 administration, a majority of which is elected by a
2396 bulk-unit purchaser, from resolving certain
2397 construction disputes unless other conditions are
2398 satisfied; providing that a bulk-unit purchaser or
2399 lender-unit purchaser who does not comply with ch.
2400 718, F.S., forfeits all protections or exemptions
2401 under ch. 718, F.S.; clarifying conditions under which
2402 a bulk-unit purchaser must deliver certain items
2403 during the transfer of association control from the
2404 bulk-unit purchaser; providing conditions by which a
2405 person may become a bulk-unit purchaser following
2406 acquisition of title to timeshare interests that are
2407 or ultimately will be included in a timeshare plan;
2408 requiring disclosure to purchasers by certain bulk-
2409 unit purchasers of timeshare interests; amending s.
2410 719.104, F.S.; revising what constitutes the official
2411 records of an association; amending s. 719.106, F.S.;
2412 revising the requirements for board of administration
2413 and shareholder meetings; amending s. 719.108, F.S.;
2414 revising applicability; revising the effect of a claim
2415 of lien; creating s. 719.129, F.S.; authorizing
2416 cooperative associations to conduct elections by
2417 electronic voting under certain conditions; providing
2418 that a member voting electronically is counted toward



2419 a quorum; providing applicability; providing that a
2420 unit owner's consent to online voting is valid unit
2421 the unit owner opts out according to specified
2422 procedures; amending s. 719.303, F.S.; providing that
2423 a fine may be levied by the board or its authorized
2424 designee under certain conditions; revising the
2425 requirements for levying a fine or suspension;
2426 amending s. 720.301, F.S.; revising the definition of
2427 the term "governing documents"; creating s. 720.3015,
2428 F.S.; providing a short title; amending s. 720.303,
2429 F.S.; authorizing a homeowners' association to provide
2430 notice by electronic transmission in certain
2431 circumstances; amending s. 720.305, F.S.; revising the
2432 requirements for levying a fine or suspension;
2433 revising the application of certain provisions;
2434 amending s. 720.306, F.S.; revising the requirements
2435 for the adoption of amendments to the governing
2436 documents; revising the requirements for the election
2437 of directors; revising the requirements for board of
2438 director and member meetings; amending s. 720.3085,
2439 F.S.; providing that the association may recover from
2440 the parcel owner a reasonable charge imposed by a
2441 management or bookkeeping company or a collection
2442 agent which are incurred in connection with a
2443 delinquent assessment; providing that such charges
2444 must be liquidated, noncontingent, and based upon
2445 actual time expended; providing that fees for
2446 collection are not recoverable in a certain
2447 circumstance; specifying the hierarchy for the



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2448 application of payments received for collection
2449 services contracted for by the association; creating
2450 s. 720.317, F.S.; authorizing homeowners' associations
2451 to conduct elections by electronic voting under
2452 certain conditions; providing that a member voting
2453 electronically is counted toward a quorum; providing
2454 applicability; providing that a member's consent to
2455 online voting is valid unit the member opts out
2456 according to specified procedures; providing an