



594576

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/20/2015	.	
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The Committee on Regulated Industries (Richter) recommended the following:

1       **Senate Amendment to Amendment (127128) (with title**  
2 **amendment)**

3  
4       Delete lines 753 - 2617  
5 and insert:

6       Section 8. Section 718.128, Florida Statutes, is created to  
7 read:

8       718.128 Electronic voting.—The association may conduct  
9 elections by electronic voting if a member consents, in writing,  
10 to voting electronically and the following requirements are met:



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- 11       (1) The association provides each member with:
- 12       (a) A method to authenticate the member's identity to the  
13 electronic voting system.
- 14       (b) A method to secure the member's vote from, among other  
15 things, malicious software and the ability of others to remotely  
16 monitor or control the electronic voting platform.
- 17       (c) A method to communicate with the electronic voting  
18 system.
- 19       (d) A method to review an electronic ballot before its  
20 transmission to the electronic voting system.
- 21       (e) A method to transmit an electronic ballot to the  
22 electronic voting system which ensures the secrecy and integrity  
23 of each ballot.
- 24       (f) A method to allow members to verify the authenticity of  
25 receipts sent from the electronic voting system.
- 26       (g) A method to confirm, at least 14 days before the voting  
27 deadline, that the member's electronic voting platform can  
28 successfully communicate with the electronic voting system.
- 29       (h) In the event of a disruption of the electronic voting  
30 system, the ability to vote by mail or to deliver a ballot in  
31 person.
- 32       (2) The association uses an electronic voting system that  
33 is:
- 34       (a) Accessible to members with disabilities.
- 35       (b) Secure from, among other things, malicious software and  
36 the ability of others to remotely monitor or control the system.
- 37       (c) Able to authenticate the member's identity.
- 38       (d) Able to communicate with each member's electronic  
39 voting platform.



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40 (e) Able to authenticate the validity of each electronic  
41 ballot to ensure that the ballot is not altered in transit.

42 (f) Able to transmit a receipt from the electronic voting  
43 system to each member who casts an electronic ballot.

44 (g) Able to permanently separate any authentication or  
45 identifying information from the electronic ballot, rendering it  
46 impossible to tie a ballot to a specific member.

47 (h) Able to allow the member to confirm that his or her  
48 ballot has been received and counted.

49 (i) Able to store and keep electronic ballots accessible to  
50 election officials for recount, inspection, and review purposes.

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

54 (4) The bylaws of an association must provide for and allow  
55 voting pursuant to this section before this section shall apply.  
56 This section may apply to some or all matters for which a vote  
57 of the membership is required.

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

60 718.301 Transfer of association control; claims of defect  
61 by association.—

62 (1) If unit owners other than the developer own 15 percent  
63 or more of the units ~~in a condominium~~ that ultimately will be  
64 operated ~~ultimately~~ by an association, as provided in the  
65 declaration, articles of incorporation, or bylaws as originally  
66 recorded, the unit owners other than the developer are entitled  
67 to elect at least one-third of the members of the board of  
68 administration of the association. Unit owners other than the



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69 developer are entitled to elect at least a majority of the  
70 members of the board of administration of an association, upon  
71 the first to occur of any of the following events that occur:

72 (a) Three years after 50 percent of the units that  
73 ultimately will be operated ultimately by the association, as  
74 provided in the declaration, articles of incorporation, or  
75 bylaws as originally recorded, have been conveyed to  
76 purchasers.

77 (b) Three months after 90 percent of the units that  
78 ultimately will be operated ultimately by the association, as  
79 provided in the declaration, articles of incorporation, or  
80 bylaws as originally recorded, have been conveyed to  
81 purchasers.

82 (c) When all the units that ultimately will be operated  
83 ultimately by the association, as provided in the declaration,  
84 articles of incorporation, or bylaws as originally recorded,  
85 have been completed, some of them have been conveyed to  
86 purchasers, and none of the others is are being offered for sale  
87 by the developer in the ordinary course of business.

88 (d) When some of the units have been conveyed to purchasers  
89 and none of the others is are being constructed or offered for  
90 sale by the developer in the ordinary course of business.

91 (e) When the developer files a petition seeking protection  
92 in bankruptcy.

93 (f) When a bulk-unit purchaser who owns a majority of the  
94 units that ultimately will be operated by the association, as  
95 provided in the declaration, articles of incorporation, or  
96 bylaws as originally recorded, files a petition seeking  
97 protection in bankruptcy.



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98            (g)~~(f)~~ When a receiver for the developer is appointed by a  
99 circuit court and is not discharged within 30 days after such  
100 appointment, unless the court determines within 30 days after  
101 appointment of the receiver that transfer of control would be  
102 detrimental to the association or its members.~~;~~~~or~~

103            (h) When a receiver for a bulk-unit purchaser who owns a  
104 majority of the units that ultimately will be operated by the  
105 association, as provided in the declaration, articles of  
106 incorporation, or bylaws as originally recorded, is appointed by  
107 a circuit court and is not discharged within 30 days after such  
108 appointment, unless the court determines within 30 days after  
109 appointment of the receiver that transfer of control would be  
110 detrimental to the association or its members.

111            (i) Five years after the date of recording of the first  
112 conveyance to a bulk-unit purchaser who owns a majority of the  
113 units that ultimately will be operated by the association, as  
114 provided in the declaration, articles of incorporation, or  
115 bylaws as originally recorded. Notwithstanding that unit owners  
116 other than the developer are entitled to elect a majority of the  
117 members of the board of administration and notwithstanding s.  
118 718.112(2)(f)2., 5 years after the date of recording of the  
119 first conveyance of a unit to a bulk-unit purchaser who owns a  
120 majority of the units, the bulk-unit purchaser may exercise the  
121 right to vote for each unit owned by the bulk-unit purchaser in  
122 the same manner as any other unit owner except for the purposes  
123 of reacquiring control of the association or electing or  
124 appointing a majority of the members of the board of  
125 administration.

126            (j)~~(g)~~ Seven years after the date of the recording of the



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127 certificate of a surveyor and mapper pursuant to s.  
128 718.104(4) (e) or the recording of an instrument that transfers  
129 title to a unit in the condominium which is not accompanied by a  
130 recorded assignment of developer rights in favor of the grantee  
131 of such unit, whichever occurs first; or, in the case of an  
132 association that ~~may~~ ultimately may operate more than one  
133 condominium, 7 years after the date of the recording of the  
134 certificate of a surveyor and mapper pursuant to s.  
135 718.104(4) (e) or the recording of an instrument that transfers  
136 title to a unit which is not accompanied by a recorded  
137 assignment of developer rights in favor of the grantee of such  
138 unit, whichever occurs first, for the first condominium it  
139 operates; or, in the case of an association operating a phase  
140 condominium created pursuant to s. 718.403, 7 years after the  
141 date of the recording of the certificate of a surveyor and  
142 mapper pursuant to s. 718.104(4) (e) or the recording of an  
143 instrument that transfers title to a unit which is not  
144 accompanied by a recorded assignment of developer rights in  
145 favor of the grantee of such unit, whichever occurs first.  
146  
147 The developer is entitled to elect at least one member of the  
148 board of administration of an association as long as the  
149 developer holds for sale in the ordinary course of business at  
150 least 5 percent, in condominiums with fewer than 500 units, and  
151 2 percent, in condominiums with more than 500 units, of the  
152 units in a condominium operated by the association. After the  
153 developer relinquishes control of the association, the developer  
154 may exercise the right to vote any developer-owned units in the  
155 same manner as any other unit owner except for purposes of



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156 reacquiring control of the association or selecting a the  
157 majority of the members of the board of administration.

158 (4) At the time that unit owners other than the developer  
159 elect a majority of the members of the board of administration  
160 of an association, the developer or bulk-unit purchaser shall  
161 relinquish control of the association, and the unit owners shall  
162 accept control. Simultaneously, or for the purposes of paragraph  
163 (c) not more than 90 days thereafter, the developer or bulk-unit  
164 purchaser shall deliver to the association, at the developer's  
165 or bulk-unit purchaser's expense, all property of the unit  
166 owners and of the association which is held or controlled by the  
167 developer or bulk-unit purchaser, including, but not limited to,  
168 the following items, if applicable, as to each condominium  
169 operated by the association:

170 (a)1. The original or a photocopy of the recorded  
171 declaration of condominium and all amendments thereto. If a  
172 photocopy is provided, it must be certified by affidavit of the  
173 developer, a bulk-unit purchaser, or an officer or agent of the  
174 developer or bulk-unit purchaser as being a complete copy of the  
175 actual recorded declaration.

176 2. A certified copy of the articles of incorporation of the  
177 association or, if the association was created before ~~prior to~~  
178 the effective date of this act and it is not incorporated,  
179 copies of the documents creating the association.

180 3. A copy of the bylaws.

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

183 5. Any house rules and regulations that have been adopted  
184 ~~promulgated~~.



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185 (b) Resignations of officers and members of the board of  
186 administration who are required to resign because the developer  
187 or bulk-unit purchaser is required to relinquish control of the  
188 association.

189 (c) The financial records, including financial statements  
190 of the association, and source documents from the incorporation  
191 of the association through the date of turnover. The records  
192 must be audited for the period from the incorporation of the  
193 association or from the period covered by the last audit, if an  
194 audit has been performed for each fiscal year since  
195 incorporation, by an independent certified public accountant.  
196 All financial statements must be prepared in accordance with  
197 generally accepted accounting principles and must be audited in  
198 accordance with generally accepted auditing standards, as  
199 prescribed by the Florida Board of Accountancy, pursuant to  
200 chapter 473. The accountant performing the audit shall examine  
201 to the extent necessary supporting documents and records,  
202 including the cash disbursements and related paid invoices, to  
203 determine whether ~~if~~ expenditures were for association purposes  
204 and the billings, cash receipts, and related records to  
205 determine whether ~~that~~ the developer or bulk-unit purchaser was  
206 charged and paid the proper amounts of assessments.

207 (d) Association funds or control thereof.

208 (e) All tangible personal property that is property of the  
209 association, which is represented by the developer or bulk-unit  
210 purchaser to be part of the common elements or which is  
211 ostensibly part of the common elements, and an inventory of that  
212 property.

213 (f) A copy of the plans and specifications used ~~utilized~~ in





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214 the construction or remodeling of improvements and the supplying  
215 of equipment to the condominium and in the construction and  
216 installation of all mechanical components serving the  
217 improvements and the site with a certificate in affidavit form  
218 of the developer, the bulk-unit purchaser, or the developer's or  
219 bulk-unit purchaser's agent or an architect or engineer  
220 authorized to practice in this state that such plans and  
221 specifications represent, to the best of his or her knowledge  
222 and belief, the actual plans and specifications used ~~utilized~~ in  
223 the construction and improvement of the condominium property and  
224 for the construction and installation of the mechanical  
225 components serving the improvements. If the condominium property  
226 has been declared a condominium more than 3 years after the  
227 completion of construction or remodeling of the improvements,  
228 ~~the requirements of this paragraph~~ does ~~de~~ not apply.

229 (g) A list of the names and addresses of all contractors,  
230 subcontractors, and suppliers used ~~utilized~~ in the construction  
231 or remodeling of the improvements and in the landscaping of the  
232 condominium or association property which the developer or bulk-  
233 unit purchaser had knowledge of at any time in the development  
234 of the condominium.

235 (h) Insurance policies.

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

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



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243 (k) All written warranties of the contractor,  
244 subcontractors, suppliers, and manufacturers, if any, that are  
245 still effective.

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

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

251 (n) Employment contracts or service contracts in which the  
252 association is one of the contracting parties or service  
253 contracts in which the association or the unit owners have an  
254 obligation or responsibility, directly or indirectly, to pay  
255 some or all of the fee or charge of the person or persons  
256 performing the service.

257 (o) All other contracts to which the association is a  
258 party.

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

- 264 1. Roof.
- 265 2. Structure.
- 266 3. Fireproofing and fire protection systems.
- 267 4. Elevators.
- 268 5. Heating and cooling systems.
- 269 6. Plumbing.
- 270 7. Electrical systems.
- 271 8. Swimming pool or spa and equipment.



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272 9. Seawalls.

273 10. Pavement and parking areas.

274 11. Drainage systems.

275 12. Painting.

276 13. Irrigation systems.

277 (q) A copy of the certificate of a surveyor and mapper  
278 recorded pursuant to s. 718.104(4)(e) or the recorded instrument  
279 that transfers title to a unit in the condominium which is not  
280 accompanied by a recorded assignment of developer or bulk-unit  
281 purchaser rights in favor of the grantee of such unit, whichever  
282 occurred first.

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

285 718.302 Agreements entered into by the association.—

286 (1) A ~~Any~~ grant or reservation made by a declaration,  
287 lease, or other document, and a ~~any~~ contract made by an  
288 association before ~~prior to~~ assumption of control of the  
289 association by unit owners other than the developer, a bulk-unit  
290 purchaser, or a lender-unit purchaser, which ~~that~~ provides for  
291 operation, maintenance, or management of a condominium  
292 association or property serving the unit owners of a condominium  
293 must ~~shall~~ be fair and reasonable, and such grant, reservation,  
294 or contract may be canceled by unit owners other than the  
295 developer or a bulk-unit purchaser. A lender-unit purchaser may  
296 not vote on cancellation of a grant, reservation, or contract  
297 made by the association while the association is under control  
298 of that lender-unit purchaser.÷

299 (a) If the association operates only one condominium and  
300 the unit owners other than the developer, a bulk-unit purchaser,



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301 or a lender-unit purchaser have assumed control of the  
302 association, or if the unit owners other than the developer, a  
303 bulk-unit purchaser, or a lender-unit purchaser own at least ~~not~~  
304 ~~less than~~ 75 percent of the voting interests in the condominium,  
305 the cancellation shall be by concurrence of the owners of at  
306 least ~~not less than~~ 75 percent of the voting interests other  
307 than the voting interests owned by the developer, a bulk-unit  
308 purchaser, or a lender-unit purchaser. If a grant, reservation,  
309 or contract is so canceled and the unit owners other than the  
310 developer or a bulk-unit purchaser have not assumed control of  
311 the association, the association shall make a new contract or  
312 otherwise provide for maintenance, management, or operation in  
313 lieu of the canceled obligation, at the direction of the owners  
314 of ~~not less than~~ a majority of the voting interests in the  
315 condominium other than the voting interests owned by the  
316 developer, a bulk-unit purchaser, or a lender-unit purchaser.

317 (b) If the association operates more than one condominium  
318 and the unit owners other than the developer, a bulk-unit  
319 purchaser, or a lender-unit purchaser have not assumed control  
320 of the association, and if the unit owners other than the  
321 developer or a bulk-unit purchaser own at least 75 percent of  
322 the voting interests in a condominium operated by the  
323 association, any grant, reservation, or contract for  
324 maintenance, management, or operation of buildings containing  
325 the units in that condominium or of improvements used only by  
326 the unit owners of that condominium may be canceled by  
327 concurrence of the owners of at least 75 percent of the voting  
328 interests in the condominium other than the voting interests  
329 owned by the developer or a bulk-unit purchaser. A ~~No~~ grant,



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330 reservation, or contract for maintenance, management, or  
331 operation of recreational areas or any other property serving  
332 more than one condominium, and operated by more than one  
333 association, may not be canceled except pursuant to paragraph  
334 (d).

335 (c) If the association operates more than one condominium  
336 and the unit owners other than the developer, a bulk-unit  
337 purchaser, or a lender-unit purchaser have assumed control of  
338 the association, the cancellation shall be by concurrence of the  
339 owners of at least ~~not less than~~ 75 percent of the total number  
340 of voting interests in all condominiums operated by the  
341 association other than the voting interests owned by the  
342 developer or a bulk-unit purchaser.

343 (d) If the owners of units in a condominium have the right  
344 to use property in common with owners of units in other  
345 condominiums and those condominiums are operated by more than  
346 one association, a ~~ne~~ grant, reservation, or contract for  
347 maintenance, management, or operation of the property serving  
348 more than one condominium may not be canceled until the unit  
349 owners other than the developer, a bulk-unit purchaser, or a  
350 lender-unit purchaser have assumed control of all of the  
351 associations operating the condominiums that are to be served by  
352 the recreational area or other property, after which  
353 cancellation may be effected by concurrence of the owners of at  
354 least ~~not less than~~ 75 percent of the total number of voting  
355 interests in those condominiums other than voting interests  
356 owned by the developer, a bulk-unit purchaser, or a lender-unit  
357 purchaser.

358 (2) A ~~Any~~ grant or reservation made by a declaration,



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359 lease, or other document, or a any contract made by the  
360 developer or association before ~~prior to the time when~~ unit  
361 owners other than the developer or a bulk-unit purchaser elect a  
362 majority of the board of administration, which grant,  
363 reservation, or contract requires the association to purchase  
364 condominium property or to lease condominium property to another  
365 party, shall be deemed ratified unless rejected by a majority of  
366 the voting interests of the unit owners other than the developer  
367 or a bulk-unit purchaser within 18 months after the unit owners  
368 other than the developer or a bulk-unit purchaser elect a  
369 majority of the board of administration. A lender-unit purchaser  
370 may not vote on cancellation of a grant, reservation, or  
371 contract made by the association while the association is under  
372 control of that lender-unit purchaser. This subsection does not  
373 apply to a any grant or reservation made by a declaration under  
374 which ~~whereby~~ persons other than the developer or the  
375 developer's or bulk-unit purchaser's heirs, assigns, affiliates,  
376 directors, officers, or employees are granted the right to use  
377 the condominium property, if so long as such persons are  
378 obligated to pay at least, ~~at a minimum,~~ a proportionate share  
379 of the cost associated with such property.

380 (3) A Any grant or reservation made by a declaration,  
381 lease, or other document, and a any contract made by an  
382 association, whether before or after assumption of control of  
383 the association by unit owners other than the developer, a bulk-  
384 unit purchaser, or a lender-unit purchaser, which ~~that~~ provides  
385 for operation, maintenance, or management of a condominium  
386 association or property serving the unit owners of a condominium  
387 may ~~shall~~ not ~~be in~~ conflict with the powers and duties of the



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388 association or the rights of the unit owners as provided in this  
389 chapter. This subsection is intended only as a clarification of  
390 existing law.

391 (4) A ~~Any~~ grant or reservation made by a declaration,  
392 lease, or other document, and a a ~~any~~ contract made by an  
393 association before ~~prior to~~ assumption of control of the  
394 association by unit owners other than the developer, a bulk-unit  
395 purchaser, or a lender-unit purchaser, must ~~shall~~ be fair and  
396 reasonable.

397 Section 11. Subsections (3), (4), and (5) of section  
398 718.303, Florida Statutes, are amended, and subsection (7) is  
399 added to that section, to read:

400 718.303 Obligations of owners and occupants; remedies.—

401 (3) The association may levy reasonable fines for the  
402 failure of the owner of the unit or its occupant, licensee, or  
403 invitee to comply with any provision of the declaration, the  
404 association bylaws, or reasonable rules of the association. A  
405 fine may not become a lien against a unit. A fine may be levied  
406 by the board or its authorized designee on the basis of each day  
407 of a continuing violation, with a single notice and opportunity  
408 for hearing before an impartial committee as provided in  
409 paragraph (b). However, the fine may not exceed \$100 per  
410 violation, or \$1,000 in the aggregate.

411 (a) An association may suspend, for a reasonable period of  
412 time, the right of a unit owner, or a unit owner's tenant,  
413 guest, or invitee, to use the common elements, common  
414 facilities, or any other association property for failure to  
415 comply with any provision of the declaration, the association  
416 bylaws, or reasonable rules of the association. This paragraph



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417 does not apply to limited common elements intended to be used  
418 only by that unit, common elements needed to access the unit,  
419 utility services provided to the unit, parking spaces, or  
420 elevators.

421 (b) A fine or suspension levied by the board of  
422 administration or its authorized designee may not be imposed  
423 unless the board association first provides at least 14 days'  
424 written notice and an opportunity for a hearing to the unit  
425 owner and, if applicable, its occupant, licensee, or invitee.  
426 The hearing must be held before an impartial ~~a~~ committee of  
427 other unit owners who are neither board members, ~~nor~~ persons  
428 residing in a board member's household, the board's authorized  
429 designee, nor persons residing in the household of the board's  
430 authorized designee. The role of the impartial committee is  
431 limited to determining whether to confirm or reject the fine or  
432 suspension levied by the board. If the impartial committee does  
433 not agree, the fine or suspension may not be imposed.

434 (4) If a unit owner is more than 90 days delinquent in  
435 paying a fee, fine, or other monetary obligation due to the  
436 association, the association may suspend the right of the unit  
437 owner or the unit's occupant, licensee, or invitee to use common  
438 elements, common facilities, or any other association property  
439 until the fee, fine, or other monetary obligation is paid in  
440 full. This subsection does not apply to limited common elements  
441 intended to be used only by that unit, common elements needed to  
442 access the unit, utility services provided to the unit, parking  
443 spaces, or elevators. The notice and hearing requirements under  
444 subsection (3) do not apply to suspensions imposed under this  
445 subsection.





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446 (5) An association may suspend the voting rights of a unit  
447 or member due to nonpayment of any fee, fine, or other monetary  
448 obligation due to the association which is more than 90 days  
449 delinquent. A voting interest or consent right allocated to a  
450 unit or member which has been suspended by the association shall  
451 be subtracted from ~~may not be counted towards~~ the total number  
452 of voting interests in the association, which shall be reduced  
453 by the number of suspended voting interests when calculating the  
454 total percentage or number of all voting interests available to  
455 take or approve any action, and the suspended voting interests  
456 may not be considered for any purpose, including, but not  
457 limited to, the percentage or number of voting interests  
458 necessary to constitute a quorum, the percentage or number of  
459 voting interests required to conduct an election, or the  
460 percentage or number of voting interests required to approve an  
461 action under this chapter or pursuant to the declaration,  
462 articles of incorporation, or bylaws. The suspension ends upon  
463 full payment of all obligations currently due or overdue the  
464 association. The notice and hearing requirements under  
465 subsection (3) do not apply to a suspension imposed under this  
466 subsection.

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

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

474 718.501 Authority, responsibility, and duties of Division



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475 of Florida Condominiums, Timeshares, and Mobile Homes.—

476 (1) The division may enforce and ensure compliance with ~~the~~  
477 ~~provisions of~~ this chapter and rules relating to the  
478 development, construction, sale, lease, ownership, operation,  
479 and management of residential condominium units. In performing  
480 its duties, the division has complete jurisdiction to  
481 investigate complaints and enforce compliance with respect to  
482 associations that are still under the control of the developer,  
483 the control of a bulk-unit purchaser or lender-unit purchaser,  
484 or the control of a bulk assignee or bulk buyer pursuant to part  
485 VII of this chapter and complaints against developers, bulk-unit  
486 purchasers, lender-unit purchasers, bulk assignees, or bulk  
487 buyers involving improper turnover or failure to turnover,  
488 pursuant to s. 718.301. However, after turnover has occurred,  
489 the division has jurisdiction to investigate only complaints  
490 related ~~only~~ to financial issues, elections, and unit owner  
491 access to association records pursuant to s. 718.111(12).

492 (a)1. The division may make necessary public or private  
493 investigations within or outside this state to determine whether  
494 any person has violated this chapter or any rule or order  
495 hereunder, to aid in the enforcement of this chapter, or to aid  
496 in the adoption of rules or forms.

497 2. The division may submit any official written report,  
498 worksheet, or other related paper, or a duly certified copy  
499 thereof, compiled, prepared, drafted, or otherwise made by and  
500 duly authenticated by a financial examiner or analyst to be  
501 admitted as competent evidence in any hearing in which the  
502 financial examiner or analyst is available for cross-examination  
503 and attests under oath that such documents were prepared as a



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504 result of an examination or inspection conducted pursuant to  
505 this chapter.

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

510 (c) For the purpose of any investigation under this  
511 chapter, the division director or any officer or employee  
512 designated by the division director may administer oaths or  
513 affirmations, subpoena witnesses and compel their attendance,  
514 take evidence, and require the production of any matter that  
515 ~~which~~ is relevant to the investigation, including the existence,  
516 description, nature, custody, condition, and location of any  
517 books, documents, or other tangible things and the identity and  
518 location of persons having knowledge of relevant facts or any  
519 other matter reasonably calculated to lead to the discovery of  
520 material evidence. Upon the failure of ~~by~~ a person to obey a  
521 subpoena or to answer questions propounded by the investigating  
522 officer and upon reasonable notice to all affected persons, the  
523 division may apply to the circuit court for an order compelling  
524 compliance.

525 (d) Notwithstanding any remedies available to unit owners  
526 and associations, if the division has reasonable cause to  
527 believe that a violation of ~~any provision of~~ this chapter or a  
528 related rule has occurred, the division may institute  
529 enforcement proceedings in its own name against any developer,  
530 bulk-unit purchaser, lender-unit purchaser, bulk assignee, bulk  
531 buyer, association, officer, or member of the board of  
532 administration, or his or her ~~its~~ assignees or agents, as



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533 follows:

534 1. The division may permit a person whose conduct or  
535 actions may be under investigation to waive formal proceedings  
536 and enter into a consent proceeding under which ~~whereby~~ orders,  
537 rules, or letters of censure or warning, whether formal or  
538 informal, may be entered against the person.

539 2. The division may issue an order requiring the developer,  
540 bulk-unit purchaser, lender-unit purchaser, bulk assignee, bulk  
541 buyer, association, developer-designated officer, or developer-  
542 designated member of the board of administration, or his or her  
543 ~~developer-designated~~ assignees or agents, the ~~bulk assignee-~~  
544 ~~designated assignees or agents, bulk buyer-designated assignees~~  
545 ~~or agents,~~ community association manager, or the ~~community~~  
546 ~~association~~ management firm to cease and desist from the  
547 unlawful practice and take such affirmative action as in the  
548 judgment of the division to carry out the purposes of this  
549 chapter. If the division finds that a developer, bulk-unit  
550 purchaser, lender-unit purchaser, bulk assignee, bulk buyer,  
551 association, officer, or member of the board of administration,  
552 or his or her ~~its~~ assignees or agents, is violating or is about  
553 to violate ~~any provision of~~ this chapter, any rule adopted or  
554 order issued by the division, or any written agreement entered  
555 into with the division, ~~and~~ the violation presents an immediate  
556 danger to the public requiring an immediate final order, it may  
557 issue an emergency cease and desist order reciting with  
558 particularity the facts underlying such findings. The emergency  
559 cease and desist order is effective for 90 days. If the division  
560 begins nonemergency cease and desist proceedings, the emergency  
561 cease and desist order remains effective until the conclusion of



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562 the proceedings under ss. 120.569 and 120.57.

563         3. If a developer, bulk-unit purchaser, lender-unit  
564 purchaser, bulk assignee, or bulk buyer, fails to pay any  
565 restitution determined by the division to be owed and, ~~plus~~ any  
566 accrued interest charged at the highest rate permitted by law,  
567 within 30 days after expiration of any appellate time period of  
568 a final order requiring payment of restitution or the conclusion  
569 of any appeal thereof, whichever is later, the division shall  
570 ~~must~~ bring an action in circuit or county court on behalf of any  
571 association, class of unit owners, lessees, or purchasers for  
572 restitution, declaratory relief, injunctive relief, or any other  
573 available remedy. The division may also temporarily revoke its  
574 acceptance of the filing for the developer, bulk-unit purchaser,  
575 or lender-unit purchaser, to which the restitution relates until  
576 payment of restitution is made.

577         4. The division may petition the court for appointment of a  
578 receiver or conservator who, ~~if appointed, the receiver or~~  
579 ~~conservator~~ may take action to implement the court order to  
580 ensure the performance of the order and to remedy any breach  
581 thereof. In addition to all other means provided by law for the  
582 enforcement of an injunction or temporary restraining order, the  
583 circuit court may impound or sequester the property of a party  
584 defendant, including books, papers, documents, and related  
585 records, and allow the examination and use of the property by  
586 the division and a court-appointed receiver or conservator.

587         5. The division may apply to the circuit court for an order  
588 of restitution under which ~~whereby~~ the defendant in an action  
589 brought pursuant to subparagraph 4. is ordered to make  
590 restitution of those sums shown by the division to have been



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591 obtained by the defendant in violation of this chapter. At the  
592 option of the court, such restitution is payable to the  
593 conservator or receiver appointed pursuant to subparagraph 4. or  
594 directly to the persons whose funds or assets were obtained in  
595 violation of this chapter.

596         6. The division may impose a civil penalty against a  
597 developer, bulk-unit purchaser, lender-unit purchaser, bulk  
598 assignee, ~~or~~ bulk buyer, or association, or its assignee or  
599 agent, for a ~~any~~ violation of this chapter or a related rule.  
600 The division may impose a civil penalty individually against an  
601 officer or board member who willfully and knowingly violates ~~a~~  
602 ~~provision of~~ this chapter, an adopted rule, or a final order of  
603 the division; may order the removal of such individual as an  
604 officer or from the board of administration or as an officer of  
605 the association; and may prohibit such individual from serving  
606 as an officer or on the board of a community association for a  
607 period of time. The term "willfully and knowingly" means that  
608 the division informed the officer or board member that his or  
609 her action or intended action violates this chapter, a rule  
610 adopted under this chapter, or a final order of the division and  
611 that the officer or board member refused to comply with ~~the~~  
612 ~~requirements of~~ this chapter, a rule adopted under this chapter,  
613 or a final order of the division. ~~The division,~~ Before  
614 initiating formal agency action under chapter 120, the division  
615 must afford the officer or board member an opportunity to  
616 voluntarily comply, and an officer or board member who complies  
617 within 10 days is not subject to a civil penalty. A penalty may  
618 be imposed on the basis of each day of continuing violation, but  
619 the penalty for any offense may not exceed \$5,000. ~~By January 1,~~



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620 ~~1998,~~ The division shall adopt, by rule, penalty guidelines  
621 applicable to possible violations or to categories of violations  
622 of this chapter or rules adopted by the division. The guidelines  
623 must specify a meaningful range of civil penalties for each such  
624 violation of the statute and rules and must be based upon the  
625 harm caused by the violation, the repetition of the violation,  
626 and upon such other factors deemed relevant by the division. ~~For~~  
627 ~~example,~~ The division may consider whether the violations were  
628 committed by a developer, bulk-unit purchaser, lender-unit  
629 purchaser, bulk assignee, or bulk buyer, or owner-controlled  
630 association, the size of the association, and other factors. The  
631 guidelines must designate the possible mitigating or aggravating  
632 circumstances that justify a departure from the range of  
633 penalties provided by the rules. It is the legislative intent  
634 that minor violations be distinguished from those that ~~which~~  
635 endanger the health, safety, or welfare of ~~the~~ condominium  
636 residents or other persons and that such guidelines provide  
637 reasonable and meaningful notice to the public of likely  
638 penalties that may be imposed for proscribed conduct. This  
639 subsection does not limit the ability of the division to  
640 informally dispose of administrative actions or complaints by  
641 stipulation, agreed settlement, or consent order. All amounts  
642 collected shall be deposited with the Chief Financial Officer to  
643 the credit of the Division of Florida Condominiums, Timeshares,  
644 and Mobile Homes Trust Fund. If a developer, bulk-unit  
645 purchaser, lender-unit purchaser, bulk assignee, or bulk buyer  
646 fails to pay the civil penalty and the amount deemed to be owed  
647 to the association, the division shall issue an order directing  
648 that such developer, bulk-unit purchaser, lender-unit purchaser,



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649 bulk assignee, or bulk buyer cease and desist from further  
650 operation until such time as the civil penalty is paid or may  
651 pursue enforcement of the penalty in a court of competent  
652 jurisdiction. If an association fails to pay the civil penalty,  
653 the division shall pursue enforcement in a court of competent  
654 jurisdiction, and the order imposing the civil penalty or the  
655 cease and desist order is not effective until 20 days after the  
656 date of such order. Any action commenced by the division shall  
657 be brought in the county in which the division has its executive  
658 offices or in the county where the violation occurred.

659         7. If a unit owner presents the division with proof that  
660 the unit owner has requested access to official records in  
661 writing by certified mail, and that after 10 days the unit owner  
662 again made the same request for access to official records in  
663 writing by certified mail, and that more than 10 days has  
664 elapsed since the second request and the association has still  
665 failed or refused to provide access to official records as  
666 required by this chapter, the division shall issue a subpoena  
667 requiring production of the requested records where the records  
668 are kept pursuant to s. 718.112.

669         8. In addition to subparagraph 6., the division may seek  
670 the imposition of a civil penalty through the circuit court for  
671 any violation for which the division may issue a notice to show  
672 cause under paragraph (r). The civil penalty shall be at least  
673 \$500 but no more than \$5,000 for each violation. The court may  
674 also award to the prevailing party court costs and reasonable  
675 attorney ~~attorney's~~ fees and, if the division prevails, may also  
676 award reasonable costs of investigation.

677         (e) The division may prepare and disseminate a prospectus





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678 and other information to assist prospective owners, purchasers,  
679 lessees, and developers of residential condominiums in assessing  
680 the rights, privileges, and duties pertaining thereto.

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

683 (g) The division shall establish procedures for providing  
684 notice to an association and the developer, bulk-unit purchaser,  
685 lender-unit purchaser, bulk assignee, or bulk buyer during the  
686 period in which the developer, bulk-unit purchaser, lender-unit  
687 purchaser, bulk assignee, or bulk buyer controls the association  
688 if the division is considering the issuance of a declaratory  
689 statement with respect to the declaration of condominium or any  
690 related document governing such condominium community.

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

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

698 (j) The division shall provide training and educational  
699 programs for condominium association board members and unit  
700 owners. The training may, at ~~in~~ the division's discretion,  
701 include web-based electronic media, ~~and~~ live training and  
702 seminars in various locations throughout the state. The division  
703 may review and approve education and training programs for board  
704 members and unit owners offered by providers, and shall maintain  
705 a current list of approved programs and providers, and shall  
706 make such list available to board members and unit owners in a



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707 reasonable and cost-effective manner.

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

710 (l) The division shall develop a program to certify both  
711 volunteer and paid mediators to provide mediation of condominium  
712 disputes. Upon request, the division shall provide, ~~upon~~  
713 ~~request~~, a list of such mediators to any association, unit  
714 owner, or other participant in arbitration proceedings under s.  
715 718.1255 requesting a copy of the list. The division shall  
716 include on the list of volunteer mediators only the names of  
717 individuals ~~persons~~ who have received at least 20 hours of  
718 training in mediation techniques or who have mediated at least  
719 20 disputes. In order to become initially certified by the  
720 division, paid mediators must be certified by the Supreme Court  
721 to mediate court cases in county or circuit courts. However, the  
722 division may adopt, by rule, additional factors for the  
723 certification of paid mediators, which must be related to  
724 experience, education, or background. In order to continue to be  
725 certified, an individual ~~Any person~~ initially certified as a  
726 paid mediator by the division must, ~~in order to continue to be~~  
727 ~~certified~~, comply with the factors or requirements adopted by  
728 rule.

729 (m) If a complaint is made, the division shall ~~must~~ conduct  
730 its inquiry with due regard for the interests of the affected  
731 parties. Within 30 days after receipt of a complaint, the  
732 division shall acknowledge the complaint in writing and notify  
733 the complainant as to whether the complaint is within the  
734 jurisdiction of the division and whether additional information  
735 is needed by the division from the complainant. The division



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736 shall conduct its investigation and, within 90 days after  
737 receipt of the original complaint or of timely requested  
738 additional information, take action upon the complaint. However,  
739 the failure to complete the investigation within 90 days does  
740 not prevent the division from continuing the investigation,  
741 accepting or considering evidence obtained or received after 90  
742 days, or taking administrative action if reasonable cause exists  
743 to believe that a violation of this chapter or a rule has  
744 occurred. If an investigation is not completed within the time  
745 limits established in this paragraph, the division shall, on a  
746 monthly basis, notify the complainant in writing of the status  
747 of the investigation. When reporting its action to the  
748 complainant, the division shall inform the complainant of any  
749 right to a hearing pursuant to ss. 120.569 and 120.57.

750 (n) Condominium association directors, officers, and  
751 employees; condominium developers; bulk-unit purchasers, lender-  
752 unit purchasers, bulk assignees, bulk buyers, and community  
753 association managers; and community association management firms  
754 have an ongoing duty to reasonably cooperate with the division  
755 in any investigation pursuant to this section. The division  
756 shall refer to local law enforcement authorities any person who  
757 ~~whom~~ the division believes has altered, destroyed, concealed, or  
758 removed any record, document, or thing required to be kept or  
759 maintained by this chapter with the purpose to impair its verity  
760 or availability in the department's investigation.

761 (o) The division may:

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



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765 (p) The division shall cooperate with similar agencies in  
766 other jurisdictions to establish uniform filing procedures and  
767 forms, public offering statements, advertising standards, and  
768 rules and common administrative practices.

769 (q) The division shall consider notice to a developer,  
770 bulk-unit purchaser, lender-unit purchaser, bulk assignee, or  
771 bulk buyer to be complete when it is delivered to the address of  
772 the developer, bulk-unit purchaser, lender-unit purchaser, bulk  
773 assignee, or bulk buyer currently on file with the division.

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

777 (s) The division shall submit to the Governor, the  
778 President of the Senate, the Speaker of the House of  
779 Representatives, and the chairs of the legislative  
780 appropriations committees an annual report that includes, but  
781 need not be limited to, the number of training programs provided  
782 for condominium association board members and unit owners;i~~T~~ the  
783 number of complaints received, by type;i~~T~~ the number and percent  
784 of complaints acknowledged in writing within 30 days and the  
785 number and percent of investigations acted upon within 90 days  
786 in accordance with paragraph (m);i~~T~~ and the number of  
787 investigations exceeding the 90-day requirement. The annual  
788 report must also include an evaluation of the division's core  
789 business processes and make recommendations for improvements,  
790 including statutory changes. The report shall be submitted by  
791 September 30 following the end of the fiscal year.

792 Section 13. Section 718.709, Florida Statutes, is created  
793 to read:



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794 718.709 Applicability.—Sections 718.701-718.708, relating  
795 to the Distressed Condominium Relief Act, apply to title to  
796 units acquired on or after July 1, 2010, but before July 1,  
797 2016.

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

800 PART VIII

801 BULK-UNIT PURCHASERS AND LENDER-UNIT PURCHASERS

802 718.801 Legislative intent.—The Legislature declares that  
803 it is the public policy of this state to protect the interests  
804 of developers, lenders, unit owners, and condominium  
805 associations with regard to bulk-unit purchasers or lender-unit  
806 purchasers of condominium units and that there is a need to  
807 balance such interests by limiting the applicability of the  
808 Distressed Condominium Relief Act. Notwithstanding the  
809 limitation, the Distressed Condominium Relief Act applies to  
810 title acquired on or after July 1, 2010, but before July 1,  
811 2016.

812 718.802 Definitions.—As used in this part, the term:

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

815 (a) Acquires more than seven condominium parcels in a  
816 single condominium;

817 (b) Receives an assignment of any of the developer rights,  
818 other than or in addition to those rights described in  
819 subsection (3), as set forth in the declaration of condominium  
820 or this chapter:

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



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

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

827 (c) Acquired condominium parcels on or after July 1, 2010,  
828 but before July 1, 2016. The date of such acquisition shall be  
829 determined by the date of recording a deed or other instrument  
830 of conveyance for such parcels in the public records of the  
831 county in which the condominium is located, or by the date of  
832 issuing a certificate of title in a foreclosure proceeding with  
833 respect to such condominium parcels.

834  
835 A mortgagee or its assignee may not be deemed a bulk assignee or  
836 developer by reason of the acquisition of condominium units and  
837 receipt of an assignment of some or all of a developer's rights  
838 unless the mortgage or its assignee exercises any of the  
839 developer rights other than those described in subsection (3).

840 (2) "Bulk-unit purchaser" means a person who acquires title  
841 to the greater of at least eight units or 20 percent of the  
842 units that ultimately will be operated by the same association,  
843 as provided in the declaration, articles of incorporation, or  
844 bylaws as originally recorded. Multiple bulk-unit purchasers may  
845 be members of an association simultaneously or successively.

846 There may be one or more bulk-unit purchasers while the  
847 developer still owns units operated by the association. A person  
848 who acquires title to units or timeshare interests in a  
849 condominium, which units or timeshare interests are or  
850 ultimately will be included in a timeshare plan governed by  
851 chapter 721, may elect to be a bulk-unit purchaser pursuant to



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852 s. 718.813. The term does not include a lender-unit purchaser.  
853 Further, the term does not include an acquirer of units if any  
854 transfer of title to the acquirer is made:

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

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

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

861 (3) "Bulk buyer" means a person who acquired condominium  
862 parcels on or after July 1, 2010, but before July 1, 2016, and  
863 the date of acquisition shall be determined in the same manner  
864 as in subsection (1). Further, the term means a person who  
865 acquires more than seven condominium parcels in a single  
866 condominium but who does not receive an assignment of any  
867 developer rights or receives only some or all of the following  
868 rights:

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

871 (b) The right to be exempt from the payment of working  
872 capital contributions to the condominium association arising out  
873 of, or in connection with, the bulk buyer's acquisition of the  
874 units.

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

880 (4) "Lender-unit purchaser" means a person, or the person's



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881 successors, assigns, or wholly owned subsidiaries, who holds a  
882 mortgage from a developer or from a bulk-unit purchaser on the  
883 greater of at least eight units or 20 percent of the units that,  
884 as provided in the declaration, articles of incorporation, or  
885 bylaws as originally recorded, ultimately will be operated by  
886 the same association; who subsequently obtains title to such  
887 units through foreclosure or deed in lieu of foreclosure; and  
888 who makes the election to become a lender-unit purchaser  
889 pursuant to 718.808(4). However, a mortgagee or its wholly owned  
890 subsidiary that acquires and sells units to one or more bulk-  
891 unit purchasers is not a developer or a lender-unit purchaser  
892 with respect to the sale.

893 718.803 Exercise of rights.-

894 (1) A bulk-unit purchaser may exercise only the following  
895 developer rights, provided such rights are contained in the  
896 declaration:

897 (a) The right to conduct sales, leasing, and marketing  
898 activities within the condominium, including the use of the  
899 sales and leasing office.

900 (b) The right to assign limited common elements and use  
901 rights to common elements and association property which were  
902 not assigned before the bulk-unit purchaser acquired title to  
903 the units. Such rights may include, without limitation, the  
904 rights to garages, parking spaces, storage areas, and cabanas.  
905 If there is more than one bulk-unit purchaser, this right must  
906 be established in a written assignment from the developer which  
907 specifies the bulk-unit purchaser who has such a right as to  
908 specified limited common elements, common elements, and  
909 association property.





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910           (c) For a phase condominium, the right to add phases.  
911           (2) If the initial purchaser of a unit from the developer  
912 is required to make a working capital contribution to the  
913 association, a bulk-unit purchaser shall pay a working capital  
914 contribution to the association, which must be calculated in the  
915 same manner for each unit acquired, upon the earlier of:  
916           (a) Sale of a unit by the bulk-unit purchaser to a third  
917 party other than the bulk-unit purchaser; or  
918           (b) Five years from the date of acquisition of title to a  
919 unit by the bulk-unit purchaser.  
920           (3) If a bulk-unit purchaser exercises developer rights  
921 other than those specified in subsection (1), he or she is no  
922 longer deemed to be a bulk-unit purchaser, and this part does  
923 not apply to such person.  
924           (4) Except as set forth in this part, a lender-unit  
925 purchaser may exercise any developer rights that the lender-unit  
926 purchaser acquires.  
927           718.804 Compliance.—A bulk-unit purchaser and a lender-unit  
928 purchaser shall comply with all applicable requirements of s.  
929 718.202 and part V of this chapter in connection with any units  
930 that they own or sell.  
931           718.805 Voting rights.—  
932           (1) For the first 2 fiscal years following the first  
933 conveyance of a unit to a bulk-unit purchaser or lender-unit  
934 purchaser, the bulk-unit purchaser or lender-unit purchaser may  
935 vote the voting interests allocated to his or her units to waive  
936 reserves or reduce the funding of reserves. After these 2 fiscal  
937 years, the bulk-unit purchaser or lender-unit purchaser may not  
938 vote his or her voting interests to waive reserves or reduce the



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939 funding of reserves until the bulk-unit purchaser or lender-unit  
940 purchaser holds less than a majority of the voting interests in  
941 the association.

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

946 718.806 Assessment liability; election of directors.-

947 (1) BULK-UNIT PURCHASER ASSESSMENT LIABILITY.-A bulk-unit  
948 purchaser is liable for all assessments on his or her units  
949 which become due while the bulk-unit purchaser holds title to  
950 such units. Additionally, the bulk-unit purchaser is jointly and  
951 severally liable with the previous owner for all unpaid regular  
952 periodic assessments and special assessments that became due  
953 before the acquisition of title, for all other monetary  
954 obligations accrued which are secured by the association's lien,  
955 and for all costs advanced by the association for the  
956 maintenance and repair of the units acquired by the bulk-unit  
957 purchaser.

958 (2) LENDER-UNIT PURCHASER ASSESSMENT LIABILITY.-The  
959 liability of a lender-unit purchaser or his or her successors or  
960 assignees for the units that the lender-unit purchaser owns is  
961 limited to the lesser of:

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

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



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968  
969 The lender-unit purchaser acquiring title must comply with s.  
970 718.116(1)(c).

971 (3) DIRECTOR ELECTED BY BULK-UNIT PURCHASER.—A director who  
972 has been elected or appointed by a bulk-unit purchaser is  
973 automatically suspended from board service for 30 days following  
974 the failure of the bulk-unit purchaser to timely pay monetary  
975 obligations on a unit the bulk-unit purchaser owns. The  
976 remaining directors may temporarily fill the vacancy created by  
977 the suspension. Once the bulk-unit purchaser has cured all  
978 outstanding delinquencies on the unit, the suspended director  
979 shall replace the temporary appointee and resume service on the  
980 board for the unexpired term.

981 718.807 Amendments and material alterations.—

982 (1) The following amendments or alterations may not go into  
983 effect unless approved by a majority vote of unit owners other  
984 than the developer, a bulk-unit purchaser, or a lender-unit  
985 purchaser:

986 (a) An amendment described in s. 718.110(4) or (8).

987 (b) An amendment creating, changing, or terminating leasing  
988 restrictions.

989 (c) An amendment of the declaration pertaining to the  
990 condominium's status as housing for older persons.

991 (d) An amendment pursuant to s. 718.110(14) or an amendment  
992 that otherwise reclassifies a portion of the common elements as  
993 a limited common element or that authorizes the association to  
994 change the limited common elements assigned to any unit.

995 (e) Material alterations or substantial additions to the  
996 common elements or association property any time one of the



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997 following owns a percentage of voting interests equal to or  
998 greater than the percentage required to approve the amendment:

999 1. A bulk-unit purchaser;

1000 2. A lender-unit purchaser;

1001 3. The developer and a bulk-unit purchaser;

1002 4. The developer and a lender-unit purchaser; or

1003 5. A bulk-unit purchaser and a lender-unit purchaser.

1004 (2) Notwithstanding subsection (1), consent of the  
1005 developer, a bulk-unit purchaser, or a lender-unit purchaser is  
1006 required for an amendment that would otherwise require the  
1007 approval of such voting interests based upon the requirements of  
1008 the declaration, articles of incorporation, or bylaws or s.  
1009 718.110 or s. 718.113.

1010 718.808 Warranties and disclosures.—

1011 (1) As the seller, a bulk-unit purchaser or lender-unit  
1012 purchaser is deemed to have granted an implied warranty of  
1013 fitness and merchantability to a purchaser of each unit sold for  
1014 a period of 3 years, which begins on the date of the completion  
1015 of repairs or improvements that the bulk-unit purchaser or  
1016 lender-unit purchaser makes to the unit, common elements, or  
1017 limited common elements. The bulk-unit purchaser or lender-unit  
1018 purchaser is not deemed to have granted a warranty on  
1019 improvements, repairs, or alterations to the condominium which  
1020 he or she did not undertake.

1021 (2) The statute of limitations in s. 718.203 is tolled  
1022 while the bulk-unit purchaser begins the process of appointing  
1023 or electing a majority of the board of administration.

1024 (3) As the seller, the bulk-unit purchaser shall include  
1025 the following disclosure to purchasers in conspicuous type on



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1026 the first page of the sales contract:

1027

1028 SELLER IS A BULK-UNIT PURCHASER UNDER THE CONDOMINIUM ACT.

1029 SELLER IS NOT THE DEVELOPER OF THE CONDOMINIUM FOR ANY PURPOSE

1030 UNDER THE CONDOMINIUM ACT.

1031

1032 (4) A mortgagee who acquires units may elect to become a  
1033 lender-unit purchaser by providing written notice of the  
1034 election to the association addressed to the registered agent at  
1035 the address specified in the records of the Department of State.  
1036 The notice shall be delivered within the time period ending upon  
1037 the earliest of:

1038 (a) The date on which the mortgagee exercises any developer  
1039 rights other than the developer rights described in s.

1040 718.803(1)(a);

1041 (b) Before the sale of a unit by the mortgagee; or

1042 (c) One hundred eighty days after the recording of the  
1043 certificate of title or of the deed in lieu of foreclosure if  
1044 the mortgagee acquired the units by foreclosure or by deed in  
1045 lieu of foreclosure.

1046 (5) As the seller, the lender-unit purchaser shall include  
1047 the following disclosure to purchasers in conspicuous type on  
1048 the first page of the sales contract:

1049

1050 SELLER IS A LENDER-UNIT PURCHASER UNDER THE CONDOMINIUM ACT.

1051 SELLER IS NOT THE DEVELOPER OF THE CONDOMINIUM FOR ANY PURPOSE

1052 UNDER THE CONDOMINIUM ACT. SELLER TOOK TITLE TO THE UNIT(S)

1053 BEING SOLD TO PURCHASER BY FORECLOSURE OR DEED IN LIEU OF

1054 FORECLOSURE.



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1055  
1056       (6) (a) At or before the signing of a contract to sell a  
1057 unit, the bulk-unit purchaser and the lender-unit purchaser must  
1058 provide a condition report that complies with s. 718.616(2) and  
1059 (3) and this section to the prospective purchaser and must  
1060 obtain verification of delivery of such condition report. A  
1061 condition report is not required in connection with a sale to a  
1062 bulk-unit purchaser or in connection with a deed in lieu of  
1063 foreclosure to a lender-unit purchaser. A mortgagee is not  
1064 required to deliver to a bulk-unit purchaser a condition report  
1065 even if the mortgagee acquires and transfers developer rights to  
1066 such bulk-unit purchaser.

1067       (b) The condition report must include a reasonably detailed  
1068 description of the repairs or replacements necessary to cure  
1069 defective construction identified in the condition report.

1070       (c) If, during the course of preparing the condition  
1071 report, the architect or engineer becomes aware of a component  
1072 that violates an applicable building code or federal or state  
1073 law or that deviates from the building plans approved by the  
1074 permitting authority, the architect or engineer shall disclose  
1075 such information in the condition report. The architect or  
1076 engineer shall make written inquiry to the applicable local  
1077 government authority of any building code violations and shall  
1078 include in the condition report any of the authority's responses  
1079 or its failure to respond.

1080       (d) The condition report shall be prepared before the bulk-  
1081 unit purchaser or the lender-unit purchaser enters into his or  
1082 her first sales contract, but the condition report may not be  
1083 prepared more than 6 months before the first sales contract is



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1084 agreed upon. If the bulk-unit purchaser or lender-unit purchaser  
1085 remains engaged in selling units, the condition report shall be  
1086 updated no later than 1 year after the closing of the first  
1087 sales contract and each year thereafter.

1088 (e) If a bulk-unit purchaser or lender-unit purchaser fails  
1089 to provide the condition report in accordance with this section,  
1090 the bulk-unit purchaser or lender-unit purchaser is deemed to  
1091 grant implied warranties of fitness and merchantability which  
1092 are not limited to the construction, improvements, or repairs  
1093 that he or she undertakes to the units, common elements, or  
1094 limited common elements.

1095 718.809 Joint and several liability.—For purposes of this  
1096 chapter, if there are multiple bulk-unit purchasers within the  
1097 same association, the units owned by the multiple bulk-unit  
1098 purchasers and the rights of the bulk-unit purchasers shall be  
1099 aggregated as if there were only one bulk-unit purchaser. Each  
1100 bulk-unit purchaser is jointly and severally liable with his or  
1101 her predecessor bulk-unit purchasers for compliance with this  
1102 chapter.

1103 718.810 Construction disputes.—A board of administration  
1104 composed of a majority of directors elected or appointed by a  
1105 bulk-unit purchaser may not resolve a construction dispute that  
1106 is subject to chapter 558 unless such resolution is approved by  
1107 a majority of the voting interests of the unit owners other than  
1108 the developer and a bulk-unit purchaser.

1109 718.811 Noncompliance.—A bulk-unit purchaser or a lender-  
1110 unit purchaser who fails to substantially comply with the  
1111 requirements of this chapter pertaining to the obligations and  
1112 rights of bulk-unit purchasers and lender-unit purchasers



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1113 forfeits all protections or exemptions provided under the  
1114 Condominium Act.

1115 718.812 Documents to be delivered upon turnover.—If a bulk-  
1116 unit purchaser elects a majority of the board of administration  
1117 and the unit owners other than the bulk-unit purchaser elect a  
1118 majority, the bulk-unit purchaser must deliver all of the items  
1119 specified in s. 718.301(4) to the association. However, the  
1120 bulk-unit purchaser is not required to deliver items that were  
1121 never in the possession of the bulk-unit purchaser. In  
1122 conjunction with the acquisition of units, the bulk-unit  
1123 purchaser shall undertake a good faith effort to obtain the  
1124 items specified in s. 718.301(4) which must be delivered to the  
1125 association. If the bulk-unit purchaser cannot obtain such  
1126 items, the bulk-unit purchaser must deliver a certificate in  
1127 writing to the association which names or describes items that  
1128 were not obtainable by the bulk-unit purchaser and which  
1129 describes the good faith efforts that were undertaken to obtain  
1130 the items. Delivery of the certificate relieves the bulk-unit  
1131 purchaser of his or her responsibility under s. 718.301 to  
1132 deliver the documents and materials referenced in the  
1133 certificate. The responsibility of the bulk-unit purchaser to  
1134 conduct the audit required by s. 718.301(4)(c) begins on the  
1135 date the bulk-unit purchaser elects or appoints a majority of  
1136 the members of the board of administration and ends on the date  
1137 the bulk-unit purchaser no longer controls the board.

1138 718.813 Timeshare Condominiums.—With respect to the  
1139 acquisition of title to units or timeshare interests in a  
1140 condominium, which units or timeshare interests are or  
1141 ultimately will be included in a timeshare plan governed by





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1142 chapter 721:

1143 (1) Any person otherwise qualified to be a bulk-unit  
1144 purchaser pursuant to s. 718.802 is not a bulk-unit purchaser  
1145 unless that person makes an election to become a bulk-unit  
1146 purchaser by providing notice to the association addressed to  
1147 the registered agent at the address specified in the records of  
1148 the Department of State. The notice shall be delivered within  
1149 the time period ending upon the earliest of:

1150 (a) The date on which the person exercises any developer  
1151 rights other than the developer rights described in s.  
1152 718.803(1) (a);

1153 (b) The sale of any unit or timeshare interest by the  
1154 person; or

1155 (c) One hundred eighty days after the recording of the deed  
1156 or other instrument of conveyance by which the person acquired  
1157 the units or timeshare interests.

1158 (2) If a person has made an election to be a bulk-unit  
1159 purchaser pursuant to subsection (1), the bulk-unit purchaser,  
1160 when selling units or timeshare interests, shall include the  
1161 following disclosure to purchasers in conspicuous type on the  
1162 first page of the contract for sale of units or timeshare  
1163 interests:

1164 SELLER IS A BULK-UNIT PURCHASER UNDER THE CONDOMINIUM ACT.  
1165 SELLER IS NOT THE DEVELOPER OF THE CONDOMINIUM FOR ANY PURPOSE  
1166 UNDER THE CONDOMINIUM.

1167 Section 15. Paragraph (a) of subsection (2) of section  
1168 719.104, Florida Statutes, is amended to read:

1169 719.104 Cooperatives; access to units; records; financial  
1170 reports; assessments; purchase of leases.-



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1171 (2) OFFICIAL RECORDS.—

1172 (a) From the inception of the association, the association  
1173 shall maintain a copy of each of the following, where  
1174 applicable, which shall constitute the official records of the  
1175 association:

1176 1. The plans, permits, warranties, and other items provided  
1177 by the developer pursuant to s. 719.301(4).

1178 2. A photocopy of the cooperative documents.

1179 3. A copy of the current rules of the association.

1180 4. A book or books containing the minutes of all meetings  
1181 of the association, of the board of directors, and of the unit  
1182 owners, which minutes shall be retained for a period of not less  
1183 than 7 years.

1184 5. A current roster of all unit owners and their mailing  
1185 addresses, unit identifications, voting certifications, and, if  
1186 known, telephone numbers. The association shall also maintain  
1187 the electronic mailing addresses and the numbers designated by  
1188 unit owners for receiving notice sent by electronic transmission  
1189 of those unit owners consenting to receive notice by electronic  
1190 transmission. The electronic mailing addresses and numbers  
1191 provided by unit owners to receive notice by electronic  
1192 transmission shall be removed from association records when  
1193 consent to receive notice by electronic transmission is revoked.  
1194 However, the association is not liable for an erroneous  
1195 disclosure of the electronic mail address or the number for  
1196 receiving electronic transmission of notices.

1197 6. All current insurance policies of the association.

1198 7. A current copy of any management agreement, lease, or  
1199 other contract to which the association is a party or under



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1200 which the association or the unit owners have an obligation or  
1201 responsibility.

1202 8. Bills of sale or transfer for all property owned by the  
1203 association.

1204 9. Accounting records for the association and separate  
1205 accounting records for each unit it operates, according to good  
1206 accounting practices. All accounting records shall be maintained  
1207 for a period of not less than 7 years. The accounting records  
1208 shall include, but not be limited to:

1209 a. Accurate, itemized, and detailed records of all receipts  
1210 and expenditures.

1211 b. A current account and a monthly, bimonthly, or quarterly  
1212 statement of the account for each unit designating the name of  
1213 the unit owner, the due date and amount of each assessment, the  
1214 amount paid upon the account, and the balance due.

1215 c. All audits, reviews, accounting statements, and  
1216 financial reports of the association.

1217 d. All contracts for work to be performed. Bids for work to  
1218 be performed shall also be considered official records and shall  
1219 be maintained for a period of 1 year.

1220 10. Ballots, sign-in sheets, voting proxies, and all other  
1221 papers relating to voting by unit owners, which shall be  
1222 maintained for a period of 1 year after the date of the  
1223 election, vote, or meeting to which the document relates.

1224 11. All rental records where the association is acting as  
1225 agent for the rental of units.

1226 12. A copy of the current question and answer sheet as  
1227 described in s. 719.504.

1228 13. All other written records of the association not



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1229 specifically included in the foregoing which are related to the  
1230 operation of the association.

1231 Section 16. Paragraphs (c) and (d) of subsection (1) of  
1232 section 719.106, Florida Statutes, are amended to read:

1233 719.106 Bylaws; cooperative ownership.—

1234 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative  
1235 documents shall provide for the following, and if they do not,  
1236 they shall be deemed to include the following:

1237 (c) *Board of administration meetings.*—Meetings of the board  
1238 of administration at which a quorum of the members is present  
1239 shall be open to all unit owners. Any unit owner may tape record  
1240 or videotape meetings of the board of administration; however, a  
1241 unit owner may not post the recordings on any website or other  
1242 media that can readily be viewed by persons who are not members  
1243 of the association. The right to attend such meetings includes  
1244 the right to speak at such meetings with reference to all  
1245 designated agenda items. The division shall adopt reasonable  
1246 rules governing the tape recording and videotaping of the  
1247 meeting. The association may adopt reasonable written rules  
1248 governing the frequency, duration, and manner of unit owner  
1249 statements. Adequate notice of all meetings shall be posted in a  
1250 conspicuous place upon the cooperative property at least 48  
1251 continuous hours preceding the meeting, except in an emergency.  
1252 Any item not included on the notice may be taken up on an  
1253 emergency basis by at least a majority plus one of the members  
1254 of the board. Such emergency action shall be noticed and  
1255 ratified at the next regular meeting of the board. However,  
1256 written notice of any meeting at which nonemergency special  
1257 assessments, or at which amendment to rules regarding unit use,



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1258 will be considered shall be mailed, delivered, or electronically  
1259 transmitted to the unit owners and posted conspicuously on the  
1260 cooperative property not less than 14 days before the meeting.  
1261 Evidence of compliance with this 14-day notice shall be made by  
1262 an affidavit executed by the person providing the notice and  
1263 filed among the official records of the association. Upon notice  
1264 to the unit owners, the board shall by duly adopted rule  
1265 designate a specific location on the cooperative property upon  
1266 which all notices of board meetings shall be posted. In lieu of  
1267 or in addition to the physical posting of notice of any meeting  
1268 of the board of administration on the cooperative property, the  
1269 association may, by reasonable rule, adopt a procedure for  
1270 conspicuously posting and repeatedly broadcasting the notice and  
1271 the agenda on a closed-circuit cable television system serving  
1272 the cooperative association. However, if broadcast notice is  
1273 used in lieu of a notice posted physically on the cooperative  
1274 property, the notice and agenda must be broadcast at least four  
1275 times every broadcast hour of each day that a posted notice is  
1276 otherwise required under this section. When broadcast notice is  
1277 provided, the notice and agenda must be broadcast in a manner  
1278 and for a sufficient continuous length of time so as to allow an  
1279 average reader to observe the notice and read and comprehend the  
1280 entire content of the notice and the agenda. Notice of any  
1281 meeting in which regular assessments against unit owners are to  
1282 be considered for any reason shall specifically contain a  
1283 statement that assessments will be considered and the nature of  
1284 any such assessments. Meetings of a committee to take final  
1285 action on behalf of the board or to make recommendations to the  
1286 board regarding the association budget are subject to the



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1287 provisions of this paragraph. Meetings of a committee that does  
1288 not take final action on behalf of the board or make  
1289 recommendations to the board regarding the association budget  
1290 are subject to the provisions of this section, unless those  
1291 meetings are exempted from this section by the bylaws of the  
1292 association. Notwithstanding any other law to the contrary, the  
1293 requirement that board meetings and committee meetings be open  
1294 to the unit owners does not apply to board or committee meetings  
1295 held for the purpose of discussing personnel matters or meetings  
1296 between the board or a committee and the association's attorney,  
1297 with respect to proposed or pending litigation, if the meeting  
1298 is held for the purpose of seeking or rendering legal advice.

1299 (d) *Shareholder meetings.*—There shall be an annual meeting  
1300 of the shareholders. All members of the board of administration  
1301 shall be elected at the annual meeting unless the bylaws provide  
1302 for staggered election terms or for their election at another  
1303 meeting. Any unit owner desiring to be a candidate for board  
1304 membership must comply with subparagraph 1. The bylaws must  
1305 provide the method for calling meetings, including annual  
1306 meetings. Written notice, which must incorporate an  
1307 identification of agenda items, shall be given to each unit  
1308 owner at least 14 days before the annual meeting and posted in a  
1309 conspicuous place on the cooperative property at least 14  
1310 continuous days preceding the annual meeting. Upon notice to the  
1311 unit owners, the board must by duly adopted rule designate a  
1312 specific location on the cooperative property upon which all  
1313 notice of unit owner meetings are posted. In lieu of or in  
1314 addition to the physical posting of the meeting notice, the  
1315 association may, by reasonable rule, adopt a procedure for



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1316 conspicuously posting and repeatedly broadcasting the notice and  
1317 the agenda on a closed-circuit cable television system serving  
1318 the cooperative association. However, if broadcast notice is  
1319 used in lieu of a posted notice, the notice and agenda must be  
1320 broadcast at least four times every broadcast hour of each day  
1321 that a posted notice is otherwise required under this section.  
1322 If broadcast notice is provided, the notice and agenda must be  
1323 broadcast in a manner and for a sufficient continuous length of  
1324 time to allow an average reader to observe the notice and read  
1325 and comprehend the entire content of the notice and the agenda.  
1326 Unless a unit owner waives in writing the right to receive  
1327 notice of the annual meeting, the notice of the annual meeting  
1328 must be sent by mail, hand delivered, or electronically  
1329 transmitted to each unit owner. An officer of the association  
1330 must provide an affidavit or United States Postal Service  
1331 certificate of mailing, to be included in the official records  
1332 of the association, affirming that notices of the association  
1333 meeting were mailed, hand delivered, or electronically  
1334 transmitted, in accordance with this provision, to each unit  
1335 owner at the address last furnished to the association.

1336       1. The board of administration shall be elected by written  
1337 ballot or voting machine. A proxy may not be used in electing  
1338 the board of administration in general elections or elections to  
1339 fill vacancies caused by recall, resignation, or otherwise  
1340 unless otherwise provided in this chapter.

1341       a. At least 60 days before a scheduled election, the  
1342 association shall mail, deliver, or transmit, whether by  
1343 separate association mailing, delivery, or electronic  
1344 transmission or included in another association mailing,



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1345 delivery, or electronic transmission, including regularly  
1346 published newsletters, to each unit owner entitled to vote, a  
1347 first notice of the date of the election. Any unit owner or  
1348 other eligible person desiring to be a candidate for the board  
1349 of administration must give written notice to the association at  
1350 least 40 days before a scheduled election. Together with the  
1351 written notice and agenda as set forth in this section, the  
1352 association shall mail, deliver, or electronically transmit a  
1353 second notice of election to all unit owners entitled to vote,  
1354 together with a ballot that lists all candidates. Upon request  
1355 of a candidate, the association shall include an information  
1356 sheet, no larger than 8 1/2 inches by 11 inches, which must be  
1357 furnished by the candidate at least 35 days before the election,  
1358 to be included with the mailing, delivery, or electronic  
1359 transmission of the ballot, with the costs of mailing, delivery,  
1360 or transmission and copying to be borne by the association. The  
1361 association is not liable for the contents of the information  
1362 sheets provided by the candidates. In order to reduce costs, the  
1363 association may print or duplicate the information sheets on  
1364 both sides of the paper. The division shall by rule establish  
1365 voting procedures consistent with this subparagraph, including  
1366 rules establishing procedures for giving notice by electronic  
1367 transmission and rules providing for the secrecy of ballots.  
1368 Elections shall be decided by a plurality of those ballots cast.  
1369 There is no quorum requirement. However, at least 20 percent of  
1370 the eligible voters must cast a ballot in order to have a valid  
1371 election. A unit owner may not permit any other person to vote  
1372 his or her ballot, and any such ballots improperly cast are  
1373 invalid. A unit owner who needs assistance in casting the ballot





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1374 for the reasons stated in s. 101.051 may obtain assistance in  
1375 casting the ballot. Any unit owner violating this provision may  
1376 be fined by the association in accordance with s. 719.303. The  
1377 regular election must occur on the date of the annual meeting.  
1378 This subparagraph does not apply to timeshare cooperatives.  
1379 Notwithstanding this subparagraph, an election and balloting are  
1380 not required unless more candidates file a notice of intent to  
1381 run or are nominated than vacancies exist on the board. Any  
1382 challenge to the election process must be commenced within 60  
1383 days after the election results are announced.

1384       b. Within 90 days after being elected or appointed to the  
1385 board, each new director shall certify in writing to the  
1386 secretary of the association that he or she has read the  
1387 association's bylaws, articles of incorporation, proprietary  
1388 lease, and current written policies; that he or she will work to  
1389 uphold such documents and policies to the best of his or her  
1390 ability; and that he or she will faithfully discharge his or her  
1391 fiduciary responsibility to the association's members. Within 90  
1392 days after being elected or appointed to the board, in lieu of  
1393 this written certification, the newly elected or appointed  
1394 director may submit a certificate of having satisfactorily  
1395 completed the educational curriculum administered by an  
1396 education provider as approved by the division pursuant to the  
1397 requirements established in chapter 718 within 1 year before or  
1398 90 days after the date of election or appointment. The  
1399 educational certificate is valid and does not have to be  
1400 resubmitted as long as the director serves on the board without  
1401 interruption. A director who fails to timely file the written  
1402 certification or educational certificate is suspended from



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1403 service on the board until he or she complies with this sub-  
1404 subparagraph. The board may temporarily fill the vacancy during  
1405 the period of suspension. The secretary of the association shall  
1406 cause the association to retain a director's written  
1407 certification or educational certificate for inspection by the  
1408 members for 5 years after a director's election or the duration  
1409 of the director's uninterrupted tenure, whichever is longer.  
1410 Failure to have such written certification or educational  
1411 certificate on file does not affect the validity of any board  
1412 action.

1413         2. Any approval by unit owners called for by this chapter,  
1414 or the applicable cooperative documents, must be made at a duly  
1415 noticed meeting of unit owners and is subject to this chapter or  
1416 the applicable cooperative documents relating to unit owner  
1417 decisionmaking, except that unit owners may take action by  
1418 written agreement, without meetings, on matters for which action  
1419 by written agreement without meetings is expressly allowed by  
1420 the applicable cooperative documents or law which provides for  
1421 the unit owner action.

1422         3. Unit owners may waive notice of specific meetings if  
1423 allowed by the applicable cooperative documents or law. If  
1424 authorized by the bylaws, notice of meetings of the board of  
1425 administration, shareholder meetings, except shareholder  
1426 meetings called to recall board members under paragraph (f), and  
1427 committee meetings may be given by electronic transmission to  
1428 unit owners who consent to receive notice by electronic  
1429 transmission.

1430         4. Unit owners have the right to participate in meetings of  
1431 unit owners with reference to all designated agenda items.



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1432 However, the association may adopt reasonable rules governing  
1433 the frequency, duration, and manner of unit owner participation.

1434 5. Any unit owner may tape record or videotape meetings of  
1435 the unit owners subject to reasonable rules adopted by the  
1436 division; however, a unit owner may not post the recordings on  
1437 any website or other media that can readily be viewed by persons  
1438 who are not members of the association.

1439 6. Unless otherwise provided in the bylaws, a vacancy  
1440 occurring on the board before the expiration of a term may be  
1441 filled by the affirmative vote of the majority of the remaining  
1442 directors, even if the remaining directors constitute less than  
1443 a quorum, or by the sole remaining director. In the alternative,  
1444 a board may hold an election to fill the vacancy, in which case  
1445 the election procedures must conform to the requirements of  
1446 subparagraph 1. unless the association has opted out of the  
1447 statutory election process, in which case the bylaws of the  
1448 association control. Unless otherwise provided in the bylaws, a  
1449 board member appointed or elected under this subparagraph shall  
1450 fill the vacancy for the unexpired term of the seat being  
1451 filled. Filling vacancies created by recall is governed by  
1452 paragraph (f) and rules adopted by the division.

1453  
1454 Notwithstanding subparagraphs (b)2. and (d)1., an association  
1455 may, by the affirmative vote of a majority of the total voting  
1456 interests, provide for a different voting and election procedure  
1457 in its bylaws, which vote may be by a proxy specifically  
1458 delineating the different voting and election procedures. The  
1459 different voting and election procedures may provide for  
1460 elections to be conducted by limited or general proxy.



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1461           Section 17. Subsections (3) and (4) of section 719.108,  
1462 Florida Statutes, are amended to read:  
1463           719.108 Rents and assessments; liability; lien and  
1464 priority; interest; collection; cooperative ownership.—  
1465           (3) Rents and assessments, and installments on them, not  
1466 paid when due bear interest at the rate provided in the  
1467 cooperative documents from the date due until paid. This rate  
1468 may not exceed the rate allowed by law and, if a rate is not  
1469 provided in the cooperative documents, accrues at 18 percent per  
1470 annum. If the cooperative documents or bylaws so provide, the  
1471 association may charge an administrative late fee in addition to  
1472 such interest, not to exceed the greater of \$25 or 5 percent of  
1473 each installment of the assessment for each delinquent  
1474 installment that the payment is late. The association may also  
1475 recover from the unit owner any reasonable charges imposed upon  
1476 the association under a written contract with its management or  
1477 bookkeeping company or collection agent which are incurred in  
1478 connection with collecting a delinquent assessment. Such charges  
1479 must be in a liquidated and noncontingent amount and must be  
1480 based on the actual time expended performing necessary,  
1481 nonduplicative services. Fees for collection are not recoverable  
1482 for the period after referral of the matter to an association's  
1483 legal counsel. Any payment received by an association must be  
1484 applied first to any interest accrued by the association, then  
1485 to any administrative late fee, then to any costs and reasonable  
1486 attorney fees incurred in collection, then to any reasonable  
1487 costs for collection services contracted for by the association,  
1488 and then to the delinquent assessment. The foregoing applies  
1489 notwithstanding s. 673.3111, any purported accord and



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1490 satisfaction, or any restrictive endorsement, designation, or  
1491 instruction placed on or accompanying a payment. The preceding  
1492 sentence is intended to clarify existing law. A late fee is not  
1493 subject to chapter 687 or s. 719.303(4).

1494 (4) The association has a lien on each cooperative parcel  
1495 for any unpaid rents and assessments, plus interest, any  
1496 reasonable costs for collection services contracted for by the  
1497 association, and any ~~authorized~~ administrative late fees. If  
1498 authorized by the cooperative documents, the lien also secures  
1499 reasonable attorney fees incurred by the association incident to  
1500 the collection of the rents and assessments or enforcement of  
1501 such lien. The lien is effective from and after recording a  
1502 claim of lien in the public records in the county in which the  
1503 cooperative parcel is located which states the description of  
1504 the cooperative parcel, the name of the unit owner, the amount  
1505 due, and the due dates. Except as otherwise provided in this  
1506 chapter, a lien may not be filed by the association against a  
1507 cooperative parcel until 30 days after the date on which a  
1508 notice of intent to file a lien has been delivered to the owner.

1509 (a) The notice must be sent to the unit owner at the  
1510 address of the unit by first-class United States mail, and the  
1511 notice must be in substantially the following form:

1512 NOTICE OF INTENT  
1513 TO RECORD A CLAIM OF LIEN  
1514 RE: Unit ...(unit number)... of ...(name of cooperative)..  
1515 The following amounts are currently due on your account to  
1516 ...(name of association)..., and must be paid within 30 days  
1517 after your receipt of this letter. This letter shall serve as  
1518 the association's notice of intent to record a Claim of Lien



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1519 against your property no sooner than 30 days after your receipt  
1520 of this letter, unless you pay in full the amounts set forth  
1521 below:

1522 Maintenance due ...(dates)... \$.....

1523 Late fee, if applicable \$.....

1524 Interest through ...(dates)...\* \$.....

1525 Certified mail charges \$.....

1526 Other costs \$.....

1527 TOTAL OUTSTANDING \$.....

1528 \*Interest accrues at the rate of .... percent per annum.

1529 1. If the most recent address of the unit owner on the  
1530 records of the association is the address of the unit, the  
1531 notice must be sent by certified mail, return receipt requested,  
1532 to the unit owner at the address of the unit.

1533 2. If the most recent address of the unit owner on the  
1534 records of the association is in the United States, but is not  
1535 the address of the unit, the notice must be sent by certified  
1536 mail, return receipt requested, to the unit owner at his or her  
1537 most recent address.

1538 3. If the most recent address of the unit owner on the  
1539 records of the association is not in the United States, the  
1540 notice must be sent by first-class United States mail to the  
1541 unit owner at his or her most recent address.

1542 (b) A notice that is sent pursuant to this subsection is  
1543 deemed delivered upon mailing. A claim of lien must be executed  
1544 and acknowledged by an officer or authorized agent of the  
1545 association. The lien is not effective 1 year after the claim of  
1546 lien was recorded unless, within that time, an action to enforce  
1547 the lien is commenced. The 1-year period is automatically



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1548 extended for any length of time during which the association is  
1549 prevented from filing a foreclosure action by an automatic stay  
1550 resulting from a bankruptcy petition filed by the parcel owner  
1551 or any other person claiming an interest in the parcel. The  
1552 claim of lien secures all unpaid rents and assessments that are  
1553 due and that may accrue after the claim of lien is recorded and  
1554 through the entry of a final judgment, as well as interest and  
1555 all reasonable costs and attorney fees incurred by the  
1556 association incident to the collection process. Upon payment in  
1557 full, the person making the payment is entitled to a  
1558 satisfaction of the lien.

1559 (c) By recording a notice in substantially the following  
1560 form, a unit owner or the unit owner's agent or attorney may  
1561 require the association to enforce a recorded claim of lien  
1562 against his or her cooperative parcel:

1563 NOTICE OF CONTEST OF LIEN

1564 TO: ...(Name and address of association)...:  
1565 You are notified that the undersigned contests the claim of lien  
1566 filed by you on ....., ...(year)..., and recorded in Official  
1567 Records Book .... at Page ....., of the public records of ....  
1568 County, Florida, and that the time within which you may file  
1569 suit to enforce your lien is limited to 90 days from the date of  
1570 service of this notice. Executed this .... day of .....,  
1571 ...(year)....

1572 Signed: ...(Owner or Attorney)...

1573 After notice of contest of lien has been recorded, the clerk of  
1574 the circuit court shall mail a copy of the recorded notice to  
1575 the association by certified mail, return receipt requested, at  
1576 the address shown in the claim of lien or most recent amendment



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1577 to it and shall certify to the service on the face of the  
1578 notice. Service is complete upon mailing. After service, the  
1579 association has 90 days in which to file an action to enforce  
1580 the lien. If the action is not filed within the 90-day period,  
1581 the lien is void. However, the 90-day period shall be extended  
1582 for any length of time during which the association is prevented  
1583 from filing its action because of an automatic stay resulting  
1584 from the filing of a bankruptcy petition by the unit owner or by  
1585 any other person claiming an interest in the parcel.

1586 (d) A release of lien must be in substantially the  
1587 following form:

1588 RELEASE OF LIEN

1589 The undersigned lienor, in consideration of the final payment in  
1590 the amount of \$...., hereby waives and releases its lien and  
1591 right to claim a lien for unpaid assessments through ....,  
1592 ...(year)..., recorded in the Official Records Book .... at Page  
1593 ....., of the public records of .... County, Florida, for the  
1594 following described real property:

1595 THAT COOPERATIVE PARCEL WHICH INCLUDES UNIT NO. .... OF ...(NAME  
1596 OF COOPERATIVE)..., A COOPERATIVE AS SET FORTH IN THE  
1597 COOPERATIVE DOCUMENTS AND THE EXHIBITS ANNEXED THERETO AND  
1598 FORMING A PART THEREOF, RECORDED IN OFFICIAL RECORDS BOOK .....,  
1599 PAGE ....., OF THE PUBLIC RECORDS OF .... COUNTY, FLORIDA.

1600 ...(Signature of Authorized Agent)... ...(Signature of  
1601 Witness)...

1602 ...(Print Name)... ...(Print Name)...  
1603 ...(Signature of Witness)...  
1604 ...(Print Name)...

1605 Sworn to (or affirmed) and subscribed before me this .... day of





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1606 ..... (year)...., by ... (name of person making statement)....  
1607 ... (Signature of Notary Public) ...  
1608 ... (Print, type, or stamp commissioned name of Notary Public) ...  
1609 Personally Known .... OR Produced .... as identification.

1610 Section 18. Section 719.129, Florida Statutes, is created  
1611 to read:

1612 719.129 Electronic voting.—The association may conduct  
1613 elections by electronic voting if a member consents, in writing,  
1614 to voting electronically and the following requirements are met:

1615 (1) The association provides each member with:

1616 (a) A method to authenticate the member's identity to the  
1617 electronic voting system.

1618 (b) A method to secure the member's vote from, among other  
1619 things, malicious software and the ability of others to remotely  
1620 monitor or control the electronic voting platform.

1621 (c) A method to communicate with the electronic voting  
1622 system.

1623 (d) A method to review an electronic ballot before its  
1624 transmission to the electronic voting system.

1625 (e) A method to transmit an electronic ballot to the  
1626 electronic voting system which ensures the secrecy and integrity  
1627 of each ballot.

1628 (f) A method to allow members to verify the authenticity of  
1629 receipts sent from the electronic voting system.

1630 (g) A method to confirm, at least 14 days before the voting  
1631 deadline, that the member's electronic voting platform can  
1632 successfully communicate with the electronic voting system.

1633 (h) In the event of a disruption of the electronic voting  
1634 system, the ability to vote by mail or to deliver a ballot in



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1635 person.  
1636 (2) The association uses an electronic voting system that  
1637 is:  
1638 (a) Accessible to members with disabilities.  
1639 (b) Secure from, among other things, malicious software and  
1640 the ability of others to remotely monitor or control the system.  
1641 (c) Able to authenticate the member's identity.  
1642 (d) Able to communicate with each member's electronic  
1643 voting platform.  
1644 (e) Able to authenticate the validity of each electronic  
1645 ballot to ensure that the ballot is not altered in transit.  
1646 (f) Able to transmit a receipt from the electronic voting  
1647 system to each member who casts an electronic ballot.  
1648 (g) Able to permanently separate any authentication or  
1649 identifying information from the electronic ballot, rendering it  
1650 impossible to tie a ballot to a specific member.  
1651 (h) Able to allow the member to confirm that his or her  
1652 ballot has been received and counted.  
1653 (i) Able to store and keep electronic ballots accessible to  
1654 election officials for recount, inspection, and review purposes.  
1655 (3) A member voting electronically pursuant to this section  
1656 shall be counted as being in attendance at the meeting for  
1657 purposes of determining a quorum.  
1658 (4) The bylaws of an association must provide for and allow  
1659 voting pursuant to this section before this section shall apply.  
1660 This section may apply to some or all matters for which a vote  
1661 of the membership is required.

1662 Section 19. Subsection (3) of section 719.303, Florida  
1663 Statutes, is amended to read:



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1664 719.303 Obligations of owners.—

1665 (3) The association may levy reasonable fines for failure  
1666 of the unit owner or the unit's occupant, licensee, or invitee  
1667 to comply with any provision of the cooperative documents or  
1668 reasonable rules of the association. A fine may not become a  
1669 lien against a unit. A fine may be levied by the board of  
1670 administration or its authorized designee on the basis of each  
1671 day of a continuing violation, with a single notice and  
1672 opportunity for hearing before an impartial committee as  
1673 provided in paragraph (b). However, the fine may not exceed \$100  
1674 per violation, or \$1,000 in the aggregate.

1675 (a) An association may suspend, for a reasonable period of  
1676 time, the right of a unit owner, or a unit owner's tenant,  
1677 guest, or invitee, to use the common elements, common  
1678 facilities, or any other association property for failure to  
1679 comply with any provision of the cooperative documents or  
1680 reasonable rules of the association. This paragraph does not  
1681 apply to limited common elements intended to be used only by  
1682 that unit, common elements needed to access the unit, utility  
1683 services provided to the unit, parking spaces, or elevators.

1684 (b) A fine or suspension levied by the board of  
1685 administration or its authorized designee may not be imposed  
1686 unless the board first provides at least 14 days' written ~~except~~  
1687 ~~after giving reasonable~~ notice and an opportunity for a hearing  
1688 to the unit owner and, if applicable, its occupant, ~~the unit's~~  
1689 ~~licensee,~~ or invitee. The hearing must be held before an  
1690 impartial ~~a~~ committee of other unit owners who are neither board  
1691 members, persons residing in a board member's household, nor the  
1692 authorized designee or members of the authorized designee's



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1693 household. The role of the impartial committee is limited to  
1694 determining whether to confirm or reject the fine or suspension  
1695 levied by the board or its authorized designee. If the impartial  
1696 committee does not agree with the fine or suspension, it may not  
1697 be imposed.

1698 Section 20. Subsection (8) of section 720.301, Florida  
1699 Statutes, is amended to read:

1700 720.301 Definitions.—As used in this chapter, the term:

1701 (8) "Governing documents" means:

1702 (a) The recorded declaration of covenants for a community<sub>7</sub>  
1703 and all duly adopted and recorded amendments, supplements, and  
1704 recorded exhibits thereto; ~~and~~

1705 (b) The articles of incorporation and bylaws of the  
1706 homeowners' association<sub>7</sub> and any duly adopted amendments  
1707 thereto; and

1708 (c) Rules and regulations adopted under the authority of  
1709 the recorded declaration, articles of incorporation, or bylaws  
1710 and duly adopted amendments thereto.

1711 Section 21. Section 720.3015, Florida Statutes, is created  
1712 to read:

1713 720.3015 Short title.—This chapter may be cited as the  
1714 "Homeowners' Association Act."

1715 Section 22. Section 720.305, Florida Statutes, is amended  
1716 to read:

1717 720.305 Obligations of members; remedies at law or in  
1718 equity; levy of fines and suspension of use rights.—

1719 (1) Each member and the member's tenants, guests, and  
1720 invitees, and each association, are governed by, and must comply  
1721 with, this chapter, the governing documents of the community,



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1722 and the rules of the association. Actions at law or in equity,  
1723 or both, to redress alleged failure or refusal to comply with  
1724 these provisions may be brought by the association or by any  
1725 member against:

1726 (a) The association;

1727 (b) A member;

1728 (c) Any director or officer of an association who willfully  
1729 and knowingly fails to comply with these provisions; and

1730 (d) Any tenants, guests, or invitees occupying a parcel or  
1731 using the common areas.

1732

1733 The prevailing party in any such litigation is entitled to  
1734 recover reasonable attorney ~~attorney's~~ fees and costs. A member  
1735 prevailing in an action between the association and the member  
1736 under this section, in addition to recovering his or her  
1737 reasonable attorney ~~attorney's~~ fees, may recover additional  
1738 amounts as determined by the court to be necessary to reimburse  
1739 the member for his or her share of assessments levied by the  
1740 association to fund its expenses of the litigation. This relief  
1741 does not exclude other remedies provided by law. This section  
1742 does not deprive any person of any other available right or  
1743 remedy.

1744 (2) The association may levy reasonable fines. A fine may  
1745 not exceed ~~of up to~~ \$100 per violation against any member or any  
1746 member's tenant, guest, or invitee for the failure of the owner  
1747 of the parcel or its occupant, licensee, or invitee to comply  
1748 with any provision of the declaration, the association bylaws,  
1749 or reasonable rules of the association unless otherwise provided  
1750 in the governing documents. A fine may be levied by the board or



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1751 its authorized designee for each day of a continuing violation,  
1752 with a single notice and opportunity for hearing, except that  
1753 the fine may not exceed \$1,000 in the aggregate unless otherwise  
1754 provided in the governing documents. A fine of less than \$1,000  
1755 may not become a lien against a parcel. In any action to recover  
1756 a fine, the prevailing party is entitled to reasonable attorney  
1757 fees and costs from the nonprevailing party as determined by the  
1758 court.

1759 (a) An association may suspend, for a reasonable period of  
1760 time, the right of a member, or a member's tenant, guest, or  
1761 invitee, to use common areas and facilities for the failure of  
1762 the owner of the parcel or its occupant, licensee, or invitee to  
1763 comply with any provision of the declaration, the association  
1764 bylaws, or reasonable rules of the association. This paragraph  
1765 does not apply to that portion of common areas used to provide  
1766 access or utility services to the parcel. A suspension may not  
1767 prohibit ~~impair the right of~~ an owner or tenant of a parcel from  
1768 having ~~to have~~ vehicular and pedestrian ingress to and egress  
1769 from the parcel, including, but not limited to, the right to  
1770 park.

1771 (b) A fine or suspension may not be imposed by the board of  
1772 administration or its authorized designee without at least 14  
1773 days' notice to the person sought to be fined or suspended and  
1774 an opportunity for a hearing before an impartial ~~a~~ committee of  
1775 at least three members appointed by the board who are not  
1776 officers, directors, or employees of the association, or the  
1777 spouse, parent, child, brother, or sister of an officer,  
1778 director, ~~or~~ employee, or the board's designee or the designee's  
1779 family. If the committee, by majority vote, does not approve a



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1780 proposed fine or suspension, it may not be imposed. The role of  
1781 the impartial committee is limited to determining whether to  
1782 confirm or reject the fine or suspension levied by the board or  
1783 its authorized designee. If the board of administration or its  
1784 authorized designee ~~association~~ imposes a fine or suspension,  
1785 the association must provide written notice of such fine or  
1786 suspension by mail or hand delivery to the parcel owner and, if  
1787 applicable, to any tenant, licensee, or invitee of the parcel  
1788 owner.

1789 (3) If a member is more than 90 days delinquent in paying  
1790 any fee, fine, or other ~~a~~ monetary obligation due to the  
1791 association, the association may suspend the rights of the  
1792 member, or the member's tenant, guest, or invitee, to use common  
1793 areas and facilities until the fee, fine, or other monetary  
1794 obligation is paid in full. This subsection does not apply to  
1795 that portion of common areas used to provide access or utility  
1796 services to the parcel. A suspension may ~~does~~ not prohibit  
1797 ~~impair the right of~~ an owner or tenant of a parcel from having  
1798 ~~to have~~ vehicular and pedestrian ingress to and egress from the  
1799 parcel, including, but not limited to, the right to park. The  
1800 notice and hearing requirements under subsection (2) do not  
1801 apply to a suspension imposed under this subsection.

1802 (4) An association may suspend the voting rights of a  
1803 parcel or member for the nonpayment of any fee, fine, or other  
1804 monetary obligation due to the association which ~~that~~ is more  
1805 than 90 days delinquent. A voting interest or consent right  
1806 allocated to a parcel or member which has been suspended by the  
1807 association shall be subtracted from ~~may not be counted towards~~  
1808 the total number of voting interests in the association, which



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1809 shall be reduced by the number of suspended voting interests  
1810 when calculating the total percentage or number of all voting  
1811 interests available to take or approve any action, and the  
1812 suspended voting interests may not be considered for any  
1813 purpose, including, but not limited to, the percentage or number  
1814 of voting interests necessary to constitute a quorum, the  
1815 percentage or number of voting interests required to conduct an  
1816 election, or the percentage or number of voting interests  
1817 required to approve an action under this chapter or pursuant to  
1818 the governing documents. The notice and hearing requirements  
1819 under subsection (2) do not apply to a suspension imposed under  
1820 this subsection. The suspension ends upon full payment of all  
1821 obligations currently due or overdue to the association.

1822 (5) All suspensions imposed pursuant to subsection (3) or  
1823 subsection (4) must be approved at a properly noticed board  
1824 meeting. Upon approval, the association must notify the parcel  
1825 owner and, if applicable, the parcel's occupant, licensee, or  
1826 invitee by mail or hand delivery.

1827 (6) The suspensions permitted by paragraph (2)(a) and  
1828 subsections (3) and (4) apply to a member and, when appropriate,  
1829 the member's tenants, guests, or invitees, even if the  
1830 delinquency or failure that resulted in the suspension arose  
1831 from less than all of the multiple parcels owned by the member.

1832 Section 23. Paragraph (b) of subsection (1) and subsections  
1833 (9) and (10) of section 720.306, Florida Statutes, are amended  
1834 to read:

1835 720.306 Meetings of members; voting and election  
1836 procedures; amendments.—

1837 (1) QUORUM; AMENDMENTS.—





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1838 (b) Unless otherwise provided in the governing documents or  
1839 required by law, and other than those matters set forth in  
1840 paragraph (c), any governing document of an association may be  
1841 amended by the affirmative vote of two-thirds of the voting  
1842 interests of the association. Within 30 days after recording an  
1843 amendment to the governing documents, the association shall  
1844 provide copies of the amendment to the members. However, if a  
1845 copy of the proposed amendment is provided to the members before  
1846 they vote on the amendment ~~and the proposed amendment is not~~  
1847 ~~changed before the vote~~, the association, in lieu of providing a  
1848 copy of the amendment, may provide notice to the members that  
1849 the amendment was adopted, identifying the official book and  
1850 page number or instrument number of the recorded amendment and  
1851 that a copy of the amendment is available at no charge to the  
1852 member upon written request to the association. The copies and  
1853 notice described in this paragraph may be provided  
1854 electronically to those owners who previously consented to  
1855 receive notice electronically. The failure to timely provide  
1856 notice of the recording of the amendment does not affect the  
1857 validity or enforceability of the amendment.

1858 (9) ELECTIONS AND BOARD VACANCIES.—

1859 (a) Elections of directors must be conducted in accordance  
1860 with the procedures set forth in the governing documents of the  
1861 association. Except as provided in paragraph (b), all members of  
1862 the association are eligible to serve on the board of directors,  
1863 and a member may nominate himself or herself as a candidate for  
1864 the board at a meeting where the election is to be held;  
1865 provided, however, that if the election process allows  
1866 candidates to be nominated in advance of the meeting, the



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1867 association is not required to allow nominations at the meeting.  
1868 An election is not required unless more candidates are nominated  
1869 than vacancies exist. Except as otherwise provided in the  
1870 governing documents, boards of directors must be elected by a  
1871 plurality of the votes cast by eligible voters. Any challenge to  
1872 the election process must be commenced within 60 days after the  
1873 election results are announced.

1874 (b) A person who is delinquent in the payment of any fee,  
1875 fine, or other monetary obligation to the association on the day  
1876 that he or she could last nominate himself or herself or be  
1877 nominated for the board may not seek election to the board, and  
1878 his or her name may not be listed on the ballot. A person  
1879 -serving as a board member who becomes more than 90 days  
1880 delinquent in the payment of any fee, fine, or other monetary  
1881 obligation to the association shall be deemed to have abandoned  
1882 his or her seat on the board, creating a vacancy on the board to  
1883 be filled according to law. For purposes of this paragraph, the  
1884 term "any fee, fine, or other monetary obligation" means any  
1885 delinquency to the association with respect to any parcel ~~for~~  
1886 ~~more than 90 days is not eligible for board membership.~~ A person  
1887 who has been convicted of any felony in this state or in a  
1888 United States District or Territorial Court, or has been  
1889 convicted of any offense in another jurisdiction which would be  
1890 considered a felony if committed in this state, may not seek  
1891 election to the board and is not eligible for board membership  
1892 unless such felon's civil rights have been restored for at least  
1893 5 years as of the date on which such person seeks election to  
1894 the board. The validity of any action by the board is not  
1895 affected if it is later determined that a person was ineligible



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1896 to seek election to the board or that a member of the board is  
1897 ineligible for board membership.

1898 (c) Any election dispute between a member and an  
1899 association must be submitted to mandatory binding arbitration  
1900 with the division. Such proceedings must be conducted in the  
1901 manner provided by s. 718.1255 and the procedural rules adopted  
1902 by the division. Unless otherwise provided in the bylaws, any  
1903 vacancy occurring on the board before the expiration of a term  
1904 may be filled by an affirmative vote of the majority of the  
1905 remaining directors, even if the remaining directors constitute  
1906 less than a quorum, or by the sole remaining director. In the  
1907 alternative, a board may hold an election to fill the vacancy,  
1908 in which case the election procedures must conform to the  
1909 requirements of the governing documents. Unless otherwise  
1910 provided in the bylaws, a board member appointed or elected  
1911 under this section is appointed for the unexpired term of the  
1912 seat being filled. Filling vacancies created by recall is  
1913 governed by s. 720.303(10) and rules adopted by the division.

1914 (10) RECORDING.—Any parcel owner may tape record or  
1915 videotape meetings of the board of directors and meetings of the  
1916 members; however, a parcel owner may not post the recordings on  
1917 any website or other media that can readily be viewed by persons  
1918 who are not members of the association. The board of directors  
1919 of the association may adopt reasonable rules governing the  
1920 taping of meetings of the board and the membership.

1921 Section 24. Paragraph (a) of subsection (1) and subsection  
1922 (3) of section 720.3085, Florida Statutes, are amended to read:  
1923 720.3085 Payment for assessments; lien claims.—

1924 (1) When authorized by the governing documents, the



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1925 association has a lien on each parcel to secure the payment of  
1926 assessments and other amounts provided for by this section.  
1927 Except as otherwise set forth in this section, the lien is  
1928 effective from and shall relate back to the date on which the  
1929 original declaration of the community was recorded. However, as  
1930 to first mortgages of record, the lien is effective from and  
1931 after recording of a claim of lien in the public records of the  
1932 county in which the parcel is located. This subsection does not  
1933 bestow upon any lien, mortgage, or certified judgment of record  
1934 on July 1, 2008, including the lien for unpaid assessments  
1935 created in this section, a priority that, by law, the lien,  
1936 mortgage, or judgment did not have before July 1, 2008.

1937 (a) To be valid, a claim of lien must state the description  
1938 of the parcel, the name of the record owner, the name and  
1939 address of the association, the assessment amount due, and the  
1940 due date. The claim of lien secures all unpaid assessments that  
1941 are due and that may accrue subsequent to the recording of the  
1942 claim of lien and before entry of a certificate of title, as  
1943 well as interest, late charges, and reasonable collection costs  
1944 and attorney fees incurred by the association incident to the  
1945 collection process. The person making payment is entitled to a  
1946 satisfaction of the lien upon payment in full.

1947 (3) Assessments and installments on assessments that are  
1948 not paid when due bear interest from the due date until paid at  
1949 the rate provided in the declaration of covenants or the bylaws  
1950 of the association, which rate may not exceed the rate allowed  
1951 by law. If no rate is provided in the declaration or bylaws,  
1952 interest accrues at the rate of 18 percent per year.

1953 (a) If the declaration or bylaws so provide, the



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1954 association may also charge an administrative late fee not to  
1955 exceed the greater of \$25 or 5 percent of the amount of each  
1956 installment that is paid past the due date. The association may  
1957 also recover from the parcel owner any reasonable charges  
1958 imposed upon the association under a written contract with its  
1959 management or bookkeeping company or collection agent which are  
1960 incurred in connection with collecting a delinquent assessment.  
1961 Such charges must be in a liquidated and noncontingent amount  
1962 and must be based on the actual time expended performing  
1963 necessary, nonduplicative services. Fees for collection are not  
1964 recoverable for the period after referral of the matter to an  
1965 association's legal counsel.

1966 (b) Any payment received by an association and accepted  
1967 shall be applied first to any interest accrued, then to any  
1968 administrative late fee, then to any costs and reasonable  
1969 attorney fees incurred in collection, then to any reasonable  
1970 costs for collection services contracted for by the association,  
1971 and then to the delinquent assessment. This paragraph applies  
1972 notwithstanding any restrictive endorsement, designation, or  
1973 instruction placed on or accompanying a payment. A late fee is  
1974 not subject to the provisions of chapter 687 and is not a fine.

1975 Section 25. Section 720.317, Florida Statutes, is created  
1976 to read:

1977 720.317 Electronic voting.—The association may conduct  
1978 elections by electronic voting if a member consents, in writing,  
1979 to voting electronically and the following requirements are met:

1980 (1) The association provides each member with:

1981 (a) A method to authenticate the member's identity to the  
1982 electronic voting system.



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1983           (b) A method to secure the member's vote from, among other  
1984 things, malicious software and the ability of others to remotely  
1985 monitor or control the electronic voting platform.

1986           (c) A method to communicate with the electronic voting  
1987 system.

1988           (d) A method to review an electronic ballot before its  
1989 transmission to the electronic voting system.

1990           (e) A method to transmit an electronic ballot to the  
1991 electronic voting system which ensures the secrecy and integrity  
1992 of each ballot.

1993           (f) A method to allow members to verify the authenticity of  
1994 receipts sent from the electronic voting system.

1995           (g) A method to confirm, at least 14 days before the voting  
1996 deadline, that the member's electronic voting platform can  
1997 successfully communicate with the electronic voting system.

1998           (h) In the event of a disruption of the electronic voting  
1999 system, the ability to vote by mail or to deliver a ballot in  
2000 person.

2001           (2) The association uses an electronic voting system that  
2002 is:

2003           (a) Accessible to members with disabilities.

2004           (b) Secure from, among other things, malicious software and  
2005 the ability of others to remotely monitor or control the system.

2006           (c) Able to authenticate the member's identity.

2007           (d) Able to communicate with each member's electronic  
2008 voting platform.

2009           (e) Able to authenticate the validity of each electronic  
2010 ballot to ensure that the ballot is not altered in transit.

2011           (f) Able to transmit a receipt from the electronic voting



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2012 system to each member who casts an electronic ballot.

2013 (g) Able to permanently separate any authentication or  
2014 identifying information from the electronic ballot, rendering it  
2015 impossible to tie a ballot to a specific member.

2016 (h) Able to allow the member to confirm that his or her  
2017 ballot has been received and counted.

2018 (i) Able to store and keep electronic ballots accessible to  
2019 election officials for recount, inspection, and review purposes.

2020 (3) A member voting electronically pursuant to this section  
2021 shall be counted as being in attendance at the meeting for  
2022 purposes of determining a quorum.

2023 (4) The bylaws of an association must provide for and allow  
2024 voting pursuant to this section before this section shall apply.  
2025 This section may apply to some or all matters for which a vote  
2026 of the membership is required.

2027  
2028 ===== T I T L E A M E N D M E N T =====

2029 And the title is amended as follows:

2030 Delete lines 2650 - 2745

2031 and insert:

2032 lien; creating s. 718.128, F.S.; authorizing  
2033 condominium associations to conduct elections by  
2034 electronic voting under certain conditions; providing  
2035 that a member voting electronically is counted toward  
2036 a quorum; requiring that the bylaws allow electronic  
2037 voting of some or all matters; providing a definition;  
2038 amending s. 718.301, F.S.; adding conditions under  
2039 which certain unit owners are entitled to elect at  
2040 least a majority of the members of the board of



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2041 administration of an association; requiring a bulk-  
2042 unit purchaser to relinquish control of the  
2043 association under certain circumstances; requiring a  
2044 bulk-unit purchaser to deliver certain items, at the  
2045 bulk-unit purchaser's expense, during the transfer of  
2046 association control from the bulk-unit purchaser;  
2047 amending s. 718.302, F.S.; revising the conditions  
2048 under which certain grants, reservations, or contracts  
2049 made by an association may be cancelled; prohibiting a  
2050 lender-unit purchaser from voting on cancellation of  
2051 certain grants, reservations, or contracts while the  
2052 association is under control of that lender-unit  
2053 purchaser; amending s. 718.303, F.S.; providing that a  
2054 fine may be levied by the board or its authorized  
2055 designee under certain conditions; revising the  
2056 requirements for levying a fine or suspension;  
2057 amending s. 718.501, F.S.; conforming provisions of  
2058 chapter 718, F.S., relating to the enforcement powers  
2059 of the Division of Florida Condominiums, Timeshares,  
2060 and Mobile Homes; creating s. 718.709, F.S.; providing  
2061 applicability of the provisions relating to the  
2062 Distressed Condominium Relief Act; creating part VIII  
2063 of ch. 718, F.S.; providing legislative intent;  
2064 providing definitions; authorizing a bulk-unit  
2065 purchaser to exercise certain developer rights;  
2066 requiring a bulk-unit purchaser to pay a working  
2067 capital contribution under certain circumstances;  
2068 providing applicability; authorizing a lender-unit  
2069 purchaser to exercise any developer rights he or she





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2070 acquires; requiring a bulk-unit purchaser and a  
2071 lender-unit purchaser to comply with specified  
2072 provisions under ch. 718, F.S.; limiting the rights of  
2073 bulk-unit purchasers and lender-unit purchasers to  
2074 vote on reserves or funding of reserves; prohibiting  
2075 the transfer of such voting rights; providing  
2076 assessment liability for bulk-unit purchasers and  
2077 lender-unit purchasers; providing for suspension of a  
2078 director who has been elected or appointed by a bulk-  
2079 unit purchaser in certain circumstances; specifying  
2080 amendments and alterations for which a majority  
2081 approval of unit owners is required; requiring consent  
2082 of a bulk-unit purchaser, lender-unit purchaser, or  
2083 developer to certain amendments; requiring certain  
2084 warranties and disclosures; requiring an architect or  
2085 engineer to disclose specified information in a  
2086 condition report under certain circumstances;  
2087 subjecting multiple bulk-unit purchasers to joint and  
2088 several liability; prohibiting a board of  
2089 administration, a majority of which is elected by a  
2090 bulk-unit purchaser, from resolving certain  
2091 construction disputes unless other conditions are  
2092 satisfied; providing that a bulk-unit purchaser or  
2093 lender-unit purchaser who does not comply with ch.  
2094 718, F.S., forfeits all protections or exemptions  
2095 under ch. 718, F.S.; clarifying conditions under which  
2096 a bulk-unit purchaser must deliver certain items  
2097 during the transfer of association control from the  
2098 bulk-unit purchaser; providing conditions by which a



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2099 person may become a bulk-unit purchaser following  
2100 acquisition of title to timeshare interests that are  
2101 or ultimately will be included in a timeshare plan;  
2102 requiring disclosure to purchasers by certain bulk-  
2103 unit purchasers of timeshare interests; amending s.  
2104 719.104, F.S.; revising what constitutes the official  
2105 records of an association; amending s. 719.106, F.S.;  
2106 revising the requirements for board of administration  
2107 and shareholder meetings; amending s. 719.108, F.S.;  
2108 revising applicability; revising the effect of a claim  
2109 of lien; creating s. 719.129, F.S.; authorizing  
2110 cooperative associations to conduct elections by  
2111 electronic voting under certain conditions; providing  
2112 that a member voting electronically is counted toward  
2113 a quorum; requiring that the bylaws allow electronic  
2114 voting of some or all matters; providing a definition;  
2115 amending s. 719.303, F.S.; providing that a fine may  
2116 be levied by the board or its authorized designee  
2117 under certain conditions; revising the requirements  
2118 for levying a fine or suspension; amending s. 720.301,  
2119 F.S.; revising the definition of the term "governing  
2120 documents"; creating s. 720.3015, F.S.; providing a  
2121 short title; amending s. 720.305, F.S.; revising the  
2122 requirements for levying a fine or suspension;  
2123 revising the application of certain provisions;  
2124 amending s. 720.306, F.S.; revising the requirements  
2125 for the adoption of amendments to the governing  
2126 documents; revising the requirements for the election  
2127 of directors; revising the requirements for board of



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2128 director and member meetings; amending s. 720.3085,  
2129 F.S.; providing that the association may recover from  
2130 the parcel owner a reasonable charge imposed by a  
2131 management or bookkeeping company or a collection  
2132 agent which are incurred in connection with a  
2133 delinquent assessment; providing that such charges  
2134 must be liquidated, noncontingent, and based upon  
2135 actual time expended; providing that fees for  
2136 collection are not recoverable in a certain  
2137 circumstance; specifying the hierarchy for the  
2138 application of payments received for collection  
2139 services contracted for by the association; creating  
2140 s. 720.317, F.S.; authorizing homeowners' associations  
2141 to conduct elections by electronic voting under  
2142 certain conditions; providing that a member voting  
2143 electronically is counted toward a quorum; requiring  
2144 that the bylaws allow electronic voting of some or all  
2145 matters; providing a definition; providing