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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/21/2015	.	
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The Committee on Fiscal Policy (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (2) of section 617.0721, Florida
Statutes, is amended to read:

617.0721 Voting by members.—

(2) A member who is entitled to vote may vote in person or,
unless the articles of incorporation or the bylaws otherwise
provide, may vote by proxy executed in writing by the member or



11 by his or her duly authorized attorney in fact. Notwithstanding
12 any provision to the contrary in the articles of incorporation
13 or bylaws, any copy, facsimile transmission, or other reliable
14 reproduction of the original proxy may be substituted or used in
15 lieu of the original proxy for any purpose for which the
16 original proxy could be used if the copy, facsimile
17 transmission, or other reproduction is a complete reproduction
18 of the entire proxy. An appointment of a proxy is not valid
19 after 11 months following the date of its execution unless
20 otherwise provided in the proxy.

21 (a) If directors or officers are to be elected by members,
22 the bylaws may provide that such elections may be conducted by
23 mail.

24 (b) A corporation may reject a vote, consent, waiver, or
25 proxy appointment if the secretary or other officer or agent
26 authorized to tabulate votes, acting in good faith, has a
27 reasonable basis for doubting the validity of the signature on
28 it or the signatory's authority to sign for the member.

29 Section 2. Paragraph (j) of subsection (11) and paragraph
30 (a) of subsection (12) of section 718.111, Florida Statutes, are
31 amended to read:

32 718.111 The association.—

33 (11) INSURANCE.—In order to protect the safety, health, and
34 welfare of the people of the State of Florida and to ensure
35 consistency in the provision of insurance coverage to
36 condominiums and their unit owners, this subsection applies to
37 every residential condominium in the state, regardless of the
38 date of its declaration of condominium. It is the intent of the
39 Legislature to encourage lower or stable insurance premiums for



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40 associations described in this subsection.

41 (j) Any portion of the condominium property that must be
42 insured by the association against property loss pursuant to
43 paragraph (f) which is damaged by an insurable event shall be
44 reconstructed, repaired, or replaced as necessary by the
45 association as a common expense. In the absence of an insurable
46 event, the association or the unit owners shall be responsible
47 for the reconstruction, repair, or replacement, as determined by
48 the maintenance provisions of the declaration or bylaws. All
49 property insurance deductibles, ~~uninsured losses~~, and other
50 damages in excess of property insurance coverage under the
51 property insurance policies maintained by the association are a
52 common expense of the condominium, except that:

53 1. A unit owner is responsible for the costs of repair or
54 replacement of any portion of the condominium property not paid
55 by insurance proceeds if such damage is caused by intentional
56 conduct, negligence, or failure to comply with the terms of the
57 declaration or the rules of the association by a unit owner, the
58 members of his or her family, unit occupants, tenants, guests,
59 or invitees, without compromise of the subrogation rights of the
60 insurer.

61 2. The provisions of subparagraph 1. regarding the
62 financial responsibility of a unit owner for the costs of
63 repairing or replacing other portions of the condominium
64 property also apply to the costs of repair or replacement of
65 personal property of other unit owners or the association, as
66 well as other property, whether real or personal, which the unit
67 owners are required to insure.

68 3. To the extent the cost of repair or reconstruction for



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69 which the unit owner is responsible under this paragraph is
70 reimbursed to the association by insurance proceeds, and the
71 association has collected the cost of such repair or
72 reconstruction from the unit owner, the association shall
73 reimburse the unit owner without the waiver of any rights of
74 subrogation.

75 4. The association is not obligated to pay for
76 reconstruction or repairs of property losses as a common expense
77 if the property losses were known or should have been known to a
78 unit owner and were not reported to the association until after
79 the insurance claim of the association for that property was
80 settled or resolved with finality, or denied because it was
81 untimely filed.

82 (12) OFFICIAL RECORDS.—

83 (a) From the inception of the association, the association
84 shall maintain each of the following items, if applicable, which
85 constitutes the official records of the association:

86 1. A copy of the plans, permits, warranties, and other
87 items provided by the developer pursuant to s. 718.301(4).

88 2. A photocopy of the recorded declaration of condominium
89 of each condominium operated by the association and each
90 amendment to each declaration.

91 3. A photocopy of the recorded bylaws of the association
92 and each amendment to the bylaws.

93 4. A certified copy of the articles of incorporation of the
94 association, or other documents creating the association, and
95 each amendment thereto.

96 5. A copy of the current rules of the association.

97 6. A book or books that contain the minutes of all meetings



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98 of the association, the board of administration, and the unit
99 owners, which minutes must be retained for at least 7 years.

100 7. A current roster of all unit owners and their mailing
101 addresses, unit identifications, voting certifications, and, if
102 known, telephone numbers. The association shall also maintain
103 the electronic mailing addresses and facsimile numbers of unit
104 owners consenting to receive notice by electronic transmission.
105 The electronic mailing addresses and facsimile numbers are not
106 accessible to unit owners if consent to receive notice by
107 electronic transmission is not provided in accordance with
108 subparagraph (c)5. However, the association is not liable for an
109 inadvertent disclosure of the electronic mail address or
110 facsimile number for receiving electronic transmission of
111 notices.

112 8. All current insurance policies of the association and
113 condominiums operated by the association.

114 9. A current copy of any management agreement, lease, or
115 other contract to which the association is a party or under
116 which the association or the unit owners have an obligation or
117 responsibility.

118 10. Bills of sale or transfer for all property owned by the
119 association.

120 11. Accounting records for the association and separate
121 accounting records for each condominium that the association
122 operates. All accounting records must be maintained for at least
123 7 years. Any person who knowingly or intentionally defaces or
124 destroys such records, or who knowingly or intentionally fails
125 to create or maintain such records, with the intent of causing
126 harm to the association or one or more of its members, is



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127 personally subject to a civil penalty pursuant to s.
128 718.501(1)(d). The accounting records must include, but are not
129 limited to:
130 a. Accurate, itemized, and detailed records of all receipts
131 and expenditures.
132 b. A current account and a monthly, bimonthly, or quarterly
133 statement of the account for each unit designating the name of
134 the unit owner, the due date and amount of each assessment, the
135 amount paid on the account, and the balance due.
136 c. All audits, reviews, accounting statements, and
137 financial reports of the association or condominium.
138 d. All contracts for work to be performed. Bids for work to
139 be performed are also considered official records and must be
140 maintained by the association.
141 12. Ballots, sign-in sheets, voting proxies, and all other
142 papers relating to voting by unit owners, which must be
143 maintained for 1 year from the date of the election, vote, or
144 meeting to which the document relates, notwithstanding paragraph
145 (b).
146 13. All rental records if the association is acting as
147 agent for the rental of condominium units.
148 14. A copy of the current question and answer sheet as
149 described in s. 718.504.
150 15. All other written records of the association not
151 specifically included in the foregoing which are related to the
152 operation of the association.
153 16. A copy of the inspection report as described in s.
154 718.301(4)(p).
155 Section 3. Paragraph (f) of subsection (2) of section



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156 718.112, Florida Statutes, is amended to read:

157 718.112 Bylaws.—

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

161 (f) *Annual budget.*—

162 1. The proposed annual budget of estimated revenues and
163 expenses must be detailed and must show the amounts budgeted by
164 accounts and expense classifications, including, at a minimum,
165 any if applicable, ~~but not limited to,~~ those expenses listed in
166 s. 718.504(21). A multicondominium association shall adopt a
167 separate budget of common expenses for each condominium the
168 association operates and shall adopt a separate budget of common
169 expenses for the association. In addition, if the association
170 maintains limited common elements with the cost to be shared
171 only by those entitled to use the limited common elements as
172 provided for in s. 718.113(1), the budget or a schedule attached
173 to it must show the amount budgeted for this maintenance. If,
174 after turnover of control of the association to the unit owners,
175 any of the expenses listed in s. 718.504(21) are not applicable,
176 they need not be listed.

177 2.a. In addition to annual operating expenses, the budget
178 must include reserve accounts for capital expenditures and
179 deferred maintenance. These accounts must include, but are not
180 limited to, roof replacement, building painting, and pavement
181 resurfacing, regardless of the amount of deferred maintenance
182 expense or replacement cost, and ~~for~~ any other item that has a
183 deferred maintenance expense or replacement cost that exceeds
184 \$10,000. The amount to be reserved must be computed using a



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185 formula based upon estimated remaining useful life and estimated
186 replacement cost or deferred maintenance expense of each reserve
187 item. The association may adjust replacement reserve assessments
188 annually to take into account any changes in estimates or
189 extension of the useful life of a reserve item caused by
190 deferred maintenance. This subsection does not apply to an
191 adopted budget in which the members of an association have
192 determined, by a majority vote at a duly called meeting of the
193 association, to provide no reserves or less reserves than
194 required by this subsection.

195 b. Before ~~However, prior to~~ turnover of control of an
196 association by a developer to unit owners other than a developer
197 pursuant to s. 718.301, the developer may vote the voting
198 interests allocated to its units to waive the reserves or reduce
199 the funding of reserves through the period expiring at the end
200 of the second fiscal year after the fiscal year in which the
201 certificate of a surveyor and mapper is recorded pursuant to s.
202 718.104(4)(e) or an instrument that transfers title to a unit in
203 the condominium which is not accompanied by a recorded
204 assignment of developer rights in favor of the grantee of such
205 unit is recorded, whichever occurs first, after which time
206 reserves may be waived or reduced only upon the vote of a
207 majority of all nondeveloper voting interests voting in person
208 or by limited proxy at a duly called meeting of the association.
209 If a meeting of the unit owners has been called to determine
210 whether to waive or reduce the funding of reserves, and no such
211 result is achieved or a quorum is not attained, the reserves
212 included in the budget shall go into effect. After the turnover,
213 the developer may vote its voting interest to waive or reduce



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214 the funding of reserves.

215 3. Reserve funds and any interest accruing thereon shall
216 remain in the reserve account or accounts, and may be used only
217 for authorized reserve expenditures unless their use for other
218 purposes is approved in advance by a majority vote at a duly
219 called meeting of the association. Before ~~Prior to~~ turnover of
220 control of an association by a developer to unit owners other
221 than the developer pursuant to s. 718.301, the developer-
222 controlled association may ~~shall~~ not vote to use reserves for
223 purposes other than those ~~that~~ for which they were intended
224 without the approval of a majority of all nondeveloper voting
225 interests, voting in person or by limited proxy at a duly called
226 meeting of the association.

227 4. The only voting interests that are eligible to vote on
228 questions that involve waiving or reducing the funding of
229 reserves, or using existing reserve funds for purposes other
230 than purposes for which the reserves were intended, are the
231 voting interests of the units subject to assessment to fund the
232 reserves in question. Proxy questions relating to waiving or
233 reducing the funding of reserves or using existing reserve funds
234 for purposes other than purposes for which the reserves were
235 intended must ~~shall~~ contain the following statement in
236 capitalized, bold letters in a font size larger than any other
237 used on the face of the proxy ballot: WAIVING OF RESERVES, IN
238 WHOLE OR IN PART, OR ALLOWING ALTERNATIVE USES OF EXISTING
239 RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF
240 UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

241 Section 4. Subsection (3) and paragraph (b) of subsection
242 (5) of section 718.116, Florida Statutes, are amended to read:



243 718.116 Assessments; liability; lien and priority;
244 interest; collection.-

245 (3) Assessments and installments on assessments which are
246 not paid when due bear interest at the rate provided in the
247 declaration, from the due date until paid. The rate may not
248 exceed the rate allowed by law, and, if no rate is provided in
249 the declaration, interest accrues at the rate of 18 percent per
250 year. If provided by the declaration or bylaws, the association
251 may, in addition to such interest, charge an administrative late
252 fee of up to the greater of \$25 or 5 percent of each delinquent
253 installment for which the payment is late. Any payment received
254 by an association must be applied first to any interest accrued
255 by the association, then to any administrative late fee, then to
256 any costs and reasonable attorney ~~attorney's~~ fees incurred in
257 collection, and then to the delinquent assessment. The foregoing
258 is applicable notwithstanding s. 673.3111, any purported accord
259 and satisfaction, or any restrictive endorsement, designation,
260 or instruction placed on or accompanying a payment. The
261 preceding sentence is intended to clarify existing law. A late
262 fee is not subject to chapter 687 or s. 718.303(4).

263 (5)

264 (b) To be valid, a claim of lien must state the description
265 of the condominium parcel, the name of the record owner, the
266 name and address of the association, the amount due, and the due
267 dates. It must be executed and acknowledged by an officer or
268 authorized agent of the association. The lien is not effective 1
269 year after the claim of lien was recorded unless, within that
270 time, an action to enforce the lien is commenced. The 1-year
271 period is automatically extended for any length of time during



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272 which the association is prevented from filing a foreclosure
273 action by an automatic stay resulting from a bankruptcy petition
274 filed by the parcel owner or any other person claiming an
275 interest in the parcel. The claim of lien secures all unpaid
276 assessments that are due and that may accrue after the claim of
277 lien is recorded and through the entry of a final judgment, as
278 well as interest, administrative late fees, and all reasonable
279 costs and attorney ~~attorney's~~ fees incurred by the association
280 incident to the collection process. Upon payment in full, the
281 person making the payment is entitled to a satisfaction of the
282 lien.

283 Section 5. Section 718.128, Florida Statutes, is created to
284 read:

285 718.128 Electronic voting.—The association may conduct
286 elections and other unit owner votes through an Internet-based
287 online voting system if a unit owner consents, in writing, to
288 online voting and if the following requirements are met:

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

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

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

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

298 (2) The association uses an online voting system that can:

299 (a) Authenticate the unit owner's identity.

300 (b) Authenticate the validity of each electronic vote to



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301 ensure that the vote is not altered in transit.

302 (c) Transmit a receipt from the online voting system to
303 each unit owner who casts an electronic vote.

304 (d) Permanently separate any authentication or identifying
305 information from the electronic election ballot, rendering it
306 impossible to tie an election ballot to a specific unit owner.
307 This paragraph only applies to elections of the board of
308 administration.

309 (e) Store and keep electronic votes accessible to election
310 officials for recount, inspection, and review purposes.

311 (3) A unit owner voting electronically pursuant to this
312 section shall be counted as being in attendance at the meeting
313 for purposes of determining a quorum. A substantive vote of the
314 unit owners may not be taken on any issue other than the issues
315 specifically identified in the electronic vote when a quorum is
316 established based on unit owners voting electronically pursuant
317 to this section.

318 (4) This section applies to an association that provides
319 for and authorizes an online voting system pursuant to this
320 section by a board resolution. The board resolution must provide
321 that unit owners receive notice of the opportunity to vote
322 through an online voting system, must establish reasonable
323 procedures and deadlines for unit owners to consent, in writing,
324 to online voting, and must establish reasonable procedures and
325 deadlines for unit owners to opt out of online voting after
326 giving consent. Written notice of a meeting at which the
327 resolution will be considered must be mailed, delivered, or
328 electronically transmitted to the unit owners and posted
329 conspicuously on the condominium property or association



330 property at least 14 days before the meeting. Evidence of
331 compliance with the 14-day notice requirement must be made by an
332 affidavit executed by the person providing the notice and filed
333 with the official records of the association.

334 (5) A unit owner's consent to online voting is valid until
335 the unit owner opts out of online voting according to the
336 procedures established by the board of administration pursuant
337 to subsection (4).

338 (6) Except for timeshare condominium associations, this
339 section may apply to any matter that requires a vote of the unit
340 owners.

341 Section 6. Subsections (3), (4), and (5) of section
342 718.303, Florida Statutes, are amended, and subsection (7) is
343 added to that section, to read:

344 718.303 Obligations of owners and occupants; remedies.—

345 (3) The association may levy reasonable fines for the
346 failure of the owner of the unit or its occupant, licensee, or
347 invitee to comply with any provision of the declaration, the
348 association bylaws, or reasonable rules of the association. A
349 fine may not become a lien against a unit. A fine may be levied
350 by the board on the basis of each day of a continuing violation,
351 with a single notice and opportunity for hearing before a
352 committee as provided in paragraph (b). However, the fine may
353 not exceed \$100 per violation, or \$1,000 in the aggregate.

354 (a) An association may suspend, for a reasonable period of
355 time, the right of a unit owner, or a unit owner's tenant,
356 guest, or invitee, to use the common elements, common
357 facilities, or any other association property for failure to
358 comply with any provision of the declaration, the association



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359 bylaws, or reasonable rules of the association. This paragraph
360 does not apply to limited common elements intended to be used
361 only by that unit, common elements needed to access the unit,
362 utility services provided to the unit, parking spaces, or
363 elevators.

364 (b) A fine or suspension levied by the board of
365 administration may not be imposed unless the board association
366 first provides at least 14 days' written notice and an
367 opportunity for a hearing to the unit owner and, if applicable,
368 its occupant, licensee, or invitee. The hearing must be held
369 before a committee of other unit owners who are neither board
370 members nor persons residing in a board member's household. The
371 role of the committee is limited to determining whether to
372 confirm or reject the fine or suspension levied by the board. If
373 the committee does not agree, the fine or suspension may not be
374 imposed.

375 (4) If a unit owner is more than 90 days delinquent in
376 paying a fee, fine, or other monetary obligation due to the
377 association, the association may suspend the right of the unit
378 owner or the unit's occupant, licensee, or invitee to use common
379 elements, common facilities, or any other association property
380 until the fee, fine, or other monetary obligation is paid in
381 full. This subsection does not apply to limited common elements
382 intended to be used only by that unit, common elements needed to
383 access the unit, utility services provided to the unit, parking
384 spaces, or elevators. The notice and hearing requirements under
385 subsection (3) do not apply to suspensions imposed under this
386 subsection.

387 (5) An association may suspend the voting rights of a unit



388 or member due to nonpayment of any fee, fine, or other monetary
389 obligation due to the association which is more than 90 days
390 delinquent. A voting interest or consent right allocated to a
391 unit or member which has been suspended by the association shall
392 be subtracted from ~~may not be counted towards~~ the total number
393 of voting interests in the association, which shall be reduced
394 by the number of suspended voting interests when calculating the
395 total percentage or number of all voting interests available to
396 take or approve any action, and the suspended voting interests
397 may not be considered for any purpose, including, but not
398 limited to, the percentage or number of voting interests
399 necessary to constitute a quorum, the percentage or number of
400 voting interests required to conduct an election, or the
401 percentage or number of voting interests required to approve an
402 action under this chapter or pursuant to the declaration,
403 articles of incorporation, or bylaws. The suspension ends upon
404 full payment of all obligations currently due or overdue the
405 association. The notice and hearing requirements under
406 subsection (3) do not apply to a suspension imposed under this
407 subsection.

408 (7) The suspensions permitted by paragraph (3) (a) and
409 subsections (4) and (5) apply to a member and, when appropriate,
410 the member's tenants, guests, or invitees, even if the
411 delinquency or failure that resulted in the suspension arose
412 from fewer than all of the multiple units owned by a member.

413 Section 7. Section 718.707, Florida Statutes, is amended to
414 read:

415 718.707 Time limitation for classification as bulk assignee
416 or bulk buyer.—A person acquiring condominium parcels may not be



417 classified as a bulk assignee or bulk buyer unless the
418 condominium parcels were acquired on or after July 1, 2010, but
419 before July 1, 2018 ~~2016~~. The date of such acquisition shall be
420 determined by the date of recording a deed or other instrument
421 of conveyance for such parcels in the public records of the
422 county in which the condominium is located, or by the date of
423 issuing a certificate of title in a foreclosure proceeding with
424 respect to such condominium parcels.

425 Section 8. Paragraph (a) of subsection (2) of section
426 719.104, Florida Statutes, is amended to read:

427 719.104 Cooperatives; access to units; records; financial
428 reports; assessments; purchase of leases.-

429 (2) OFFICIAL RECORDS.-

430 (a) From the inception of the association, the association
431 shall maintain a copy of each of the following, where
432 applicable, which shall constitute the official records of the
433 association:

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

436 2. A photocopy of the cooperative documents.

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

438 4. A book or books containing the minutes of all meetings
439 of the association, of the board of directors, and of the unit
440 owners, which minutes shall be retained for a period of not less
441 than 7 years.

442 5. A current roster of all unit owners and their mailing
443 addresses, unit identifications, voting certifications, and, if
444 known, telephone numbers. The association shall also maintain
445 the electronic mailing addresses and the numbers designated by



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446 unit owners for receiving notice sent by electronic transmission
447 of those unit owners consenting to receive notice by electronic
448 transmission. The electronic mailing addresses and numbers
449 provided by unit owners to receive notice by electronic
450 transmission shall be removed from association records when
451 consent to receive notice by electronic transmission is revoked.
452 However, the association is not liable for an erroneous
453 disclosure of the electronic mail address or the number for
454 receiving electronic transmission of notices.

455 6. All current insurance policies of the association.

456 7. A current copy of any management agreement, lease, or
457 other contract to which the association is a party or under
458 which the association or the unit owners have an obligation or
459 responsibility.

460 8. Bills of sale or transfer for all property owned by the
461 association.

462 9. Accounting records for the association and separate
463 accounting records for each unit it operates, according to good
464 accounting practices. All accounting records shall be maintained
465 for a period of not less than 7 years. The accounting records
466 shall include, but not be limited to:

467 a. Accurate, itemized, and detailed records of all receipts
468 and expenditures.

469 b. A current account and a monthly, bimonthly, or quarterly
470 statement of the account for each unit designating the name of
471 the unit owner, the due date and amount of each assessment, the
472 amount paid upon the account, and the balance due.

473 c. All audits, reviews, accounting statements, and
474 financial reports of the association.



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475 d. All contracts for work to be performed. Bids for work to
476 be performed shall also be considered official records and shall
477 be maintained for a period of 1 year.

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

482 11. All rental records where the association is acting as
483 agent for the rental of units.

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

486 13. All other written records of the association not
487 specifically included in the foregoing which are related to the
488 operation of the association.

489 Section 9. Subsections (3) and (4) of section 719.108,
490 Florida Statutes, are amended to read:

491 719.108 Rents and assessments; liability; lien and
492 priority; interest; collection; cooperative ownership.—

493 (3) Rents and assessments, and installments on them, not
494 paid when due bear interest at the rate provided in the
495 cooperative documents from the date due until paid. This rate
496 may not exceed the rate allowed by law and, if a rate is not
497 provided in the cooperative documents, accrues at 18 percent per
498 annum. If the cooperative documents or bylaws so provide, the
499 association may charge an administrative late fee in addition to
500 such interest, not to exceed the greater of \$25 or 5 percent of
501 each installment of the assessment for each delinquent
502 installment that the payment is late. Any payment received by an
503 association must be applied first to any interest accrued by the



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504 association, then to any administrative late fee, then to any
505 costs and reasonable attorney fees incurred in collection, and
506 then to the delinquent assessment. The foregoing applies
507 notwithstanding s. 673.3111, any purported accord and
508 satisfaction, or any restrictive endorsement, designation, or
509 instruction placed on or accompanying a payment. The preceding
510 sentence is intended to clarify existing law. A late fee is not
511 subject to chapter 687 or s. 719.303(4).

512 (4) The association has a lien on each cooperative parcel
513 for any unpaid rents and assessments, plus interest, and any
514 ~~authorized~~ administrative late fees. If authorized by the
515 cooperative documents, the lien also secures reasonable attorney
516 fees incurred by the association incident to the collection of
517 the rents and assessments or enforcement of such lien. The lien
518 is effective from and after recording a claim of lien in the
519 public records in the county in which the cooperative parcel is
520 located which states the description of the cooperative parcel,
521 the name of the unit owner, the amount due, and the due dates.
522 Except as otherwise provided in this chapter, a lien may not be
523 filed by the association against a cooperative parcel until 30
524 days after the date on which a notice of intent to file a lien
525 has been delivered to the owner.

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

529 NOTICE OF INTENT
530 TO RECORD A CLAIM OF LIEN
531 RE: Unit ...(unit number)... of ...(name of cooperative)..
532 The following amounts are currently due on your account to



533 ...(name of association)..., and must be paid within 30 days
534 after your receipt of this letter. This letter shall serve as
535 the association's notice of intent to record a Claim of Lien
536 against your property no sooner than 30 days after your receipt
537 of this letter, unless you pay in full the amounts set forth
538 below:

539 Maintenance due ...(dates)... \$.....
540 Late fee, if applicable \$.....
541 Interest through ...(dates)...* \$.....
542 Certified mail charges \$.....
543 Other costs \$.....
544 TOTAL OUTSTANDING \$.....

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

546 1. If the most recent address of the unit owner on the
547 records of the association is the address of the unit, the
548 notice must be sent by certified mail, return receipt requested,
549 to the unit owner at the address of the unit.

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

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

559 (b) A notice that is sent pursuant to this subsection is
560 deemed delivered upon mailing. A claim of lien must be executed
561 and acknowledged by an officer or authorized agent of the



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562 association. The lien is not effective 1 year after the claim of
563 lien was recorded unless, within that time, an action to enforce
564 the lien is commenced. The 1-year period is automatically
565 extended for any length of time during which the association is
566 prevented from filing a foreclosure action by an automatic stay
567 resulting from a bankruptcy petition filed by the parcel owner
568 or any other person claiming an interest in the parcel. The
569 claim of lien secures all unpaid rents and assessments that are
570 due and that may accrue after the claim of lien is recorded and
571 through the entry of a final judgment, as well as interest and
572 all reasonable costs and attorney fees incurred by the
573 association incident to the collection process. Upon payment in
574 full, the person making the payment is entitled to a
575 satisfaction of the lien.

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

580 NOTICE OF CONTEST OF LIEN

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

582 You are notified that the undersigned contests the claim of lien
583 filed by you on, ...(year)..., and recorded in Official
584 Records Book at Page, of the public records of
585 County, Florida, and that the time within which you may file
586 suit to enforce your lien is limited to 90 days from the date of
587 service of this notice. Executed this day of,
588 ...(year)....

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

590 After notice of contest of lien has been recorded, the clerk of



591 the circuit court shall mail a copy of the recorded notice to
592 the association by certified mail, return receipt requested, at
593 the address shown in the claim of lien or most recent amendment
594 to it and shall certify to the service on the face of the
595 notice. Service is complete upon mailing. After service, the
596 association has 90 days in which to file an action to enforce
597 the lien. If the action is not filed within the 90-day period,
598 the lien is void. However, the 90-day period shall be extended
599 for any length of time during which the association is prevented
600 from filing its action because of an automatic stay resulting
601 from the filing of a bankruptcy petition by the unit owner or by
602 any other person claiming an interest in the parcel.

603 (d) A release of lien must be in substantially the
604 following form:

605 RELEASE OF LIEN

606 The undersigned lienor, in consideration of the final payment in
607 the amount of \$...., hereby waives and releases its lien and
608 right to claim a lien for unpaid assessments through,
609 ...(year)..., recorded in the Official Records Book at Page
610, of the public records of County, Florida, for the
611 following described real property:

612 THAT COOPERATIVE PARCEL WHICH INCLUDES UNIT NO. OF ...(NAME
613 OF COOPERATIVE)..., A COOPERATIVE AS SET FORTH IN THE
614 COOPERATIVE DOCUMENTS AND THE EXHIBITS ANNEXED THERETO AND
615 FORMING A PART THEREOF, RECORDED IN OFFICIAL RECORDS BOOK,
616 PAGE, OF THE PUBLIC RECORDS OF COUNTY, FLORIDA.

617 ...(Signature of Authorized Agent)... ...(Signature of
618 Witness)...

619 ...(Print Name)... ...(Print Name)...



620 ... (Signature of Witness)...

621 ... (Print Name)...

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

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

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

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

626 Personally Known OR Produced as identification.

627 Section 10. Section 719.129, Florida Statutes, is created
628 to read:

629 719.129 Electronic voting.—The association may conduct
630 elections and other unit owner votes through an Internet-based
631 online voting system if a unit owner consents, in writing, to
632 online voting and if the following requirements are met:

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

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

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

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

642 (2) The association uses an online voting system that can:

643 (a) Authenticate the unit owner's identity.

644 (b) Authenticate the validity of each electronic vote to
645 ensure that the vote is not altered in transit.

646 (c) Transmit a receipt from the online voting system to
647 each unit owner who casts an electronic vote.

648 (d) Permanently separate any authentication or identifying



649 information from the electronic election ballot, rendering it
650 impossible to tie an election ballot to a specific unit owner.
651 This paragraph only applies to elections of the board of
652 administration.

653 (e) Store and keep electronic votes accessible to election
654 officials for recount, inspection, and review purposes.

655 (3) A unit owner voting electronically pursuant to this
656 section shall be counted as being in attendance at the meeting
657 for purposes of determining a quorum. A substantive vote of the
658 unit owners may not be taken on any issue other than the issues
659 specifically identified in the electronic vote when a quorum is
660 established based on unit owners voting electronically pursuant
661 to this section.

662 (4) This section applies to an association that provides
663 for and authorizes an online voting system pursuant to this
664 section by a board resolution. The board resolution must provide
665 that unit owners receive notice of the opportunity to vote
666 through an online voting system, must establish reasonable
667 procedures and deadlines for unit owners to consent, in writing,
668 to online voting, and must establish reasonable procedures and
669 deadlines for unit owners to opt out of online voting after
670 giving consent. Written notice of a meeting at which the
671 resolution will be considered must be mailed, delivered, or
672 electronically transmitted to the unit owners and posted
673 conspicuously on the condominium property or association
674 property at least 14 days before the meeting. Evidence of
675 compliance with the 14-day notice requirement must be made by an
676 affidavit executed by the person providing the notice and filed
677 with the official records of the association.



678 (5) A unit owner's consent to online voting is valid until
679 the unit owner opts out of online voting pursuant to the
680 procedures established by the board of administration pursuant
681 to subsection (4).

682 (6) Except for timeshare condominium associations, this
683 section may apply to any matter that requires a vote of the unit
684 owners.

685 Section 11. Subsection (3) of section 719.303, Florida
686 Statutes, is amended to read:

687 719.303 Obligations of owners.—

688 (3) The association may levy reasonable fines for failure
689 of the unit owner or the unit's occupant, licensee, or invitee
690 to comply with any provision of the cooperative documents or
691 reasonable rules of the association. A fine may not become a
692 lien against a unit. A fine may be levied by the board on the
693 basis of each day of a continuing violation, with a single
694 notice and opportunity for hearing before a committee as
695 provided in paragraph (b). However, the fine may not exceed \$100
696 per violation, or \$1,000 in the aggregate.

697 (a) An association may suspend, for a reasonable period of
698 time, the right of a unit owner, or a unit owner's tenant,
699 guest, or invitee, to use the common elements, common
700 facilities, or any other association property for failure to
701 comply with any provision of the cooperative documents or
702 reasonable rules of the association. This paragraph does not
703 apply to limited common elements intended to be used only by
704 that unit, common elements needed to access the unit, utility
705 services provided to the unit, parking spaces, or elevators.

706 (b) A fine or suspension levied by the board of



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707 administration may not be imposed unless the board first
708 provides at least 14 days' written ~~except after giving~~
709 ~~reasonable~~ notice and an opportunity for a hearing to the unit
710 owner and, if applicable, its occupant, ~~the unit's~~ licensee, or
711 invitee. The hearing must be held before a committee of other
712 unit owners who are neither board members nor persons residing
713 in a board member's household. The role of the committee is
714 limited to determining whether to confirm or reject the fine or
715 suspension levied by the board. If the committee does not agree
716 with the fine or suspension, it may not be imposed.

717 Section 12. Subsection (8) of section 720.301, Florida
718 Statutes, is amended to read:

719 720.301 Definitions.—As used in this chapter, the term:

720 (8) "Governing documents" means:

721 (a) The recorded declaration of covenants for a community,
722 and all duly adopted and recorded amendments, supplements, and
723 recorded exhibits thereto; ~~and~~

724 (b) The articles of incorporation and bylaws of the
725 homeowners' association, and any duly adopted amendments
726 thereto; and

727 (c) Rules and regulations adopted under the authority of
728 the recorded declaration, articles of incorporation, or bylaws
729 and duly adopted amendments thereto.

730 Section 13. Section 720.3015, Florida Statutes, is created
731 to read:

732 720.3015 Short title.—This chapter may be cited as the
733 "Homeowners' Association Act."

734 Section 14. Section 720.305, Florida Statutes, is amended
735 to read:



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736 720.305 Obligations of members; remedies at law or in
737 equity; levy of fines and suspension of use rights.—

738 (1) Each member and the member's tenants, guests, and
739 invitees, and each association, are governed by, and must comply
740 with, this chapter, the governing documents of the community,
741 and the rules of the association. Actions at law or in equity,
742 or both, to redress alleged failure or refusal to comply with
743 these provisions may be brought by the association or by any
744 member against:

745 (a) The association;

746 (b) A member;

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

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

751
752 The prevailing party in any such litigation is entitled to
753 recover reasonable attorney ~~attorney's~~ fees and costs. A member
754 prevailing in an action between the association and the member
755 under this section, in addition to recovering his or her
756 reasonable attorney ~~attorney's~~ fees, may recover additional
757 amounts as determined by the court to be necessary to reimburse
758 the member for his or her share of assessments levied by the
759 association to fund its expenses of the litigation. This relief
760 does not exclude other remedies provided by law. This section
761 does not deprive any person of any other available right or
762 remedy.

763 (2) The association may levy reasonable fines. A fine may
764 not exceed ~~of up to~~ \$100 per violation against any member or any



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765 member's tenant, guest, or invitee for the failure of the owner
766 of the parcel or its occupant, licensee, or invitee to comply
767 with any provision of the declaration, the association bylaws,
768 or reasonable rules of the association unless otherwise provided
769 in the governing documents. A fine may be levied by the board
770 for each day of a continuing violation, with a single notice and
771 opportunity for hearing, except that the fine may not exceed
772 \$1,000 in the aggregate unless otherwise provided in the
773 governing documents. A fine of less than \$1,000 may not become a
774 lien against a parcel. In any action to recover a fine, the
775 prevailing party is entitled to reasonable attorney fees and
776 costs from the nonprevailing party as determined by the court.

777 (a) An association may suspend, for a reasonable period of
778 time, the right of a member, or a member's tenant, guest, or
779 invitee, to use common areas and facilities for the failure of
780 the owner of the parcel or its occupant, licensee, or invitee to
781 comply with any provision of the declaration, the association
782 bylaws, or reasonable rules of the association. This paragraph
783 does not apply to that portion of common areas used to provide
784 access or utility services to the parcel. A suspension may not
785 prohibit ~~impair the right of~~ an owner or tenant of a parcel from
786 having ~~to have~~ vehicular and pedestrian ingress to and egress
787 from the parcel, including, but not limited to, the right to
788 park.

789 (b) A fine or suspension may not be imposed by the board of
790 administration without at least 14 days' notice to the person
791 sought to be fined or suspended and an opportunity for a hearing
792 before a committee of at least three members appointed by the
793 board who are not officers, directors, or employees of the



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794 association, or the spouse, parent, child, brother, or sister of
795 an officer, director, or employee. If the committee, by majority
796 vote, does not approve a proposed fine or suspension, it may not
797 be imposed. The role of the committee is limited to determining
798 whether to confirm or reject the fine or suspension levied by
799 the board. If the board of directors ~~association~~ imposes a fine
800 or suspension, the association must provide written notice of
801 such fine or suspension by mail or hand delivery to the parcel
802 owner and, if applicable, to any tenant, licensee, or invitee of
803 the parcel owner.

804 (3) If a member is more than 90 days delinquent in paying
805 any fee, fine, or other ~~a~~ monetary obligation due to the
806 association, the association may suspend the rights of the
807 member, or the member's tenant, guest, or invitee, to use common
808 areas and facilities until the fee, fine, or other monetary
809 obligation is paid in full. This subsection does not apply to
810 that portion of common areas used to provide access or utility
811 services to the parcel. A suspension may ~~does~~ not prohibit
812 ~~impair the right of~~ an owner or tenant of a parcel from having
813 ~~to have~~ vehicular and pedestrian ingress to and egress from the
814 parcel, including, but not limited to, the right to park. The
815 notice and hearing requirements under subsection (2) do not
816 apply to a suspension imposed under this subsection.

817 (4) An association may suspend the voting rights of a
818 parcel or member for the nonpayment of any fee, fine, or other
819 monetary obligation due to the association that is more than 90
820 days delinquent. A voting interest or consent right allocated to
821 a parcel or member which has been suspended by the association
822 shall be subtracted from ~~may not be counted towards~~ the total



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823 number of voting interests in the association, which shall be
824 reduced by the number of suspended voting interests when
825 calculating the total percentage or number of all voting
826 interests available to take or approve any action, and the
827 suspended voting interests may not be considered for any
828 purpose, including, but not limited to, the percentage or number
829 of voting interests necessary to constitute a quorum, the
830 percentage or number of voting interests required to conduct an
831 election, or the percentage or number of voting interests
832 required to approve an action under this chapter or pursuant to
833 the governing documents. The notice and hearing requirements
834 under subsection (2) do not apply to a suspension imposed under
835 this subsection. The suspension ends upon full payment of all
836 obligations currently due or overdue to the association.

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

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

847 Section 15. Paragraph (b) of subsection (1) and subsection
848 (9) of section 720.306, Florida Statutes, are amended to read:

849 720.306 Meetings of members; voting and election
850 procedures; amendments.—

851 (1) QUORUM; AMENDMENTS.—



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852 (b) Unless otherwise provided in the governing documents or
853 required by law, and other than those matters set forth in
854 paragraph (c), any governing document of an association may be
855 amended by the affirmative vote of two-thirds of the voting
856 interests of the association. Within 30 days after recording an
857 amendment to the governing documents, the association shall
858 provide copies of the amendment to the members. However, if a
859 copy of the proposed amendment is provided to the members before
860 they vote on the amendment and the proposed amendment is not
861 changed before the vote, the association, in lieu of providing a
862 copy of the amendment, may provide notice to the members that
863 the amendment was adopted, identifying the official book and
864 page number or instrument number of the recorded amendment and
865 that a copy of the amendment is available at no charge to the
866 member upon written request to the association. The copies and
867 notice described in this paragraph may be provided
868 electronically to those owners who previously consented to
869 receive notice electronically. The failure to timely provide
870 notice of the recording of the amendment does not affect the
871 validity or enforceability of the amendment.

872 (9) ELECTIONS AND BOARD VACANCIES.—

873 (a) Elections of directors must be conducted in accordance
874 with the procedures set forth in the governing documents of the
875 association. Except as provided in paragraph (b), all members of
876 the association are eligible to serve on the board of directors,
877 and a member may nominate himself or herself as a candidate for
878 the board at a meeting where the election is to be held;
879 provided, however, that if the election process allows
880 candidates to be nominated in advance of the meeting, the



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881 association is not required to allow nominations at the meeting.
882 An election is not required unless more candidates are nominated
883 than vacancies exist. Except as otherwise provided in the
884 governing documents, boards of directors must be elected by a
885 plurality of the votes cast by eligible voters. Any challenge to
886 the election process must be commenced within 60 days after the
887 election results are announced.

888 (b) A person who is delinquent in the payment of any fee,
889 fine, or other monetary obligation to the association on the day
890 that he or she could last nominate himself or herself or be
891 nominated for the board may not seek election to the board, and
892 his or her name shall not be listed on the ballot. A person
893 -serving as a board member who becomes more than 90 days
894 delinquent in the payment of any fee, fine, or other monetary
895 obligation to the association shall be deemed to have abandoned
896 his or her seat on the board, creating a vacancy on the board to
897 be filled according to law. For purposes of this paragraph, the
898 term "any fee, fine, or other monetary obligation" means any
899 delinquency to the association with respect to any parcel ~~for~~
900 ~~more than 90 days is not eligible for board membership.~~ A person
901 who has been convicted of any felony in this state or in a
902 United States District or Territorial Court, or has been
903 convicted of any offense in another jurisdiction which would be
904 considered a felony if committed in this state, may not seek
905 election to the board and is not eligible for board membership
906 unless such felon's civil rights have been restored for at least
907 5 years as of the date on which such person seeks election to
908 the board. The validity of any action by the board is not
909 affected if it is later determined that a person was ineligible



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910 to seek election to the board or that a member of the board is
911 ineligible for board membership.

912 (c) Any election dispute between a member and an
913 association must be submitted to mandatory binding arbitration
914 with the division. Such proceedings must be conducted in the
915 manner provided by s. 718.1255 and the procedural rules adopted
916 by the division. Unless otherwise provided in the bylaws, any
917 vacancy occurring on the board before the expiration of a term
918 may be filled by an affirmative vote of the majority of the
919 remaining directors, even if the remaining directors constitute
920 less than a quorum, or by the sole remaining director. In the
921 alternative, a board may hold an election to fill the vacancy,
922 in which case the election procedures must conform to the
923 requirements of the governing documents. Unless otherwise
924 provided in the bylaws, a board member appointed or elected
925 under this section is appointed for the unexpired term of the
926 seat being filled. Filling vacancies created by recall is
927 governed by s. 720.303(10) and rules adopted by the division.

928 Section 16. Section 720.317, Florida Statutes, is created
929 to read:

930 720.317 Electronic voting.—The association may conduct
931 elections and other membership votes through an Internet-based
932 online voting system if a member consents, in writing, to online
933 voting and if the following requirements are met:

934 (1) The association provides each member with:

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

937 (b) A method to confirm, at least 14 days before the voting
938 deadline, that the member's electronic device can successfully



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939 communicate with the online voting system.

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

942 (2) The association uses an online voting system that can:

943 (a) Authenticate the member's identity.

944 (b) Authenticate the validity of each electronic vote to
945 ensure that the vote is not altered in transit.

946 (c) Transmit a receipt from the online voting system to
947 each member who casts an electronic vote.

948 (d) Permanently separate any authentication or identifying
949 information from the electronic election ballot, rendering it
950 impossible to tie an election ballot to a specific member. This
951 paragraph only applies if the association's bylaws provide for
952 secret ballots for the election of directors.

953 (e) Store and keep electronic ballots accessible to
954 election officials for recount, inspection, and review purposes.

955 (3) A member voting electronically pursuant to this section
956 shall be counted as being in attendance at the meeting for
957 purposes of determining a quorum. A substantive vote of the
958 membership may not be taken on any issue other than the issues
959 specifically identified in the electronic vote when a quorum is
960 established based on members voting electronically pursuant to
961 this section.

962 (4) This section applies to an association that provides
963 for and authorizes an online voting system pursuant to this
964 section by a board resolution. The board resolution must provide
965 that members receive notice of the opportunity to vote through
966 an online voting system, must establish reasonable procedures
967 and deadlines for members to consent, in writing, to online



968 voting, and must establish reasonable procedures and deadlines
969 for members to opt out of online voting after giving consent.
970 Written notice of a meeting at which the board resolution
971 regarding online voting will be considered must be mailed,
972 delivered, or electronically transmitted to the unit owners and
973 posted conspicuously on the condominium property or association
974 property at least 14 days before the meeting. Evidence of
975 compliance with the 14-day notice requirement must be made by an
976 affidavit executed by the person providing the notice and filed
977 with the official records of the association.

978 (5) A member's consent to online voting is valid until the
979 member opts out of online voting pursuant to the procedures
980 established by the board of administration pursuant to
981 subsection (4).

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

984 Section 17. This act shall take effect July 1, 2015.

985
986 ===== T I T L E A M E N D M E N T =====

987 And the title is amended as follows:

988 Delete everything before the enacting clause
989 and insert:

990 A bill to be entitled
991 An act relating to residential properties; amending s.
992 617.0721, F.S.; authorizing the use of a copy,
993 facsimile transmission, or other reliable reproduction
994 of an original proxy vote for certain purposes;
995 amending s. 718.111, F.S.; revising liability of unit
996 owners under certain conditions; revising what



997 constitutes official records of an association;
998 amending s. 718.112, F.S.; revising provisions
999 relating to the voting process for providing reserves;
1000 amending s. 718.116, F.S.; revising applicability;
1001 revising effect of a claim of lien; creating s.
1002 718.128, F.S.; authorizing condominium associations to
1003 conduct votes of the membership by online voting under
1004 certain conditions; providing requirements for online
1005 voting; providing that a member voting electronically
1006 is counted toward the determination of a quorum;
1007 providing applicability; amending s. 718.303, F.S.;
1008 providing that a fine may be levied by the board under
1009 certain conditions; revising requirements for levying
1010 a fine or suspension; amending s. 718.707, F.S.;
1011 extending the time period for classification as bulk
1012 assignee or bulk buyer; amending s. 719.104, F.S.;
1013 revising what constitutes the official records of an
1014 association; amending s. 719.108, F.S.; revising
1015 applicability; revising effect of a claim of lien;
1016 creating s. 719.129, F.S.; authorizing cooperative
1017 associations to conduct votes of the membership by
1018 online voting under certain conditions; providing
1019 requirements for online voting; providing that a
1020 member voting electronically is counted toward the
1021 determination of a quorum; providing applicability;
1022 amending s. 719.303, F.S.; providing that a fine may
1023 be levied by the board under certain conditions;
1024 revising requirements for levying a fine or
1025 suspension; amending s. 720.301, F.S.; revising the



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1026 definition of the term "governing documents"; creating
1027 s. 720.3015, F.S.; providing a short title; amending
1028 s. 720.305, F.S.; revising requirements for levying a
1029 fine or suspension; revising application of certain
1030 provisions; amending s. 720.306, F.S.; revising
1031 requirements for the adoption of amendments to the
1032 governing documents; revising requirements for the
1033 election of directors; creating s. 720.317, F.S.;
1034 authorizing homeowners' associations to conduct votes
1035 of the membership by online voting under certain
1036 conditions; providing requirements for online voting;
1037 providing that a member voting electronically is
1038 counted toward the determination of a quorum;
1039 providing applicability; providing an effective date.