

By the Committee on Regulated Industries; and Senator Ring

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1 A bill to be entitled
2 An act relating to residential properties; amending s.
3 201.02, F.S.; providing that a certain deed, transfer,
4 or conveyance from an owner of property is subject to
5 certain taxes; amending s. 617.0721, F.S.; authorizing
6 the use of a copy, facsimile transmission, or other
7 reliable reproduction of an original proxy vote for
8 certain purposes; amending s. 718.103, F.S.; revising
9 and providing definitions; amending s. 718.111, F.S.;
10 providing that the vote necessary to charge use fees
11 for the use of the common elements or association
12 property may be approved by a majority of the voting
13 interests present, in person or by proxy, at a meeting
14 of the association if a quorum has been established;
15 revising the liability of unit owners under certain
16 conditions; revising what constitutes official records
17 of an association; amending s. 718.112, F.S.; revising
18 the requirements for board of administration and unit
19 owner meetings; clarifying the voting process for
20 providing reserves; amending s. 718.113, F.S.;
21 revising the term governing documents to condominium
22 documents; amending s. 718.116, F.S.; revising the
23 provisions relating to the liability of condominium
24 unit owners and mortgagees; revising applicability;
25 revising effect of a claim of lien; creating s.
26 718.128, F.S.; authorizing condominium associations to
27 conduct elections by electronic voting under certain
28 conditions; providing that a member voting
29 electronically is counted toward a quorum; requiring

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30 that the bylaws allow electronic voting of some or all
31 matters; providing a definition; amending s. 718.301,
32 F.S.; adding conditions under which certain unit
33 owners are entitled to elect at least a majority of
34 the members of the board of administration of an
35 association; requiring a bulk-unit purchaser to
36 relinquish control of the association under certain
37 circumstances; requiring a bulk-unit purchaser to
38 deliver certain items, at the bulk-unit purchaser's
39 expense, during the transfer of association control
40 from the bulk-unit purchaser; amending s. 718.302,
41 F.S.; revising the conditions under which certain
42 grants, reservations, or contracts made by an
43 association may be cancelled; prohibiting a lender-
44 unit purchaser from voting on cancellation of certain
45 grants, reservations, or contracts while the
46 association is under control of that lender-unit
47 purchaser; amending s. 718.303, F.S.; providing that a
48 fine may be levied by the board or its authorized
49 designee under certain conditions; revising the
50 requirements for levying a fine or suspension;
51 amending s. 718.501, F.S.; conforming provisions of
52 chapter 718, F.S., relating to the enforcement powers
53 of the Division of Florida Condominiums, Timeshares,
54 and Mobile Homes; creating s. 718.709, F.S.; providing
55 applicability of the provisions relating to the
56 Distressed Condominium Relief Act; creating part VIII
57 of ch. 718, F.S.; providing legislative intent;
58 providing definitions; authorizing a bulk-unit

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59 purchaser to exercise certain developer rights;
60 requiring a bulk-unit purchaser to pay a working
61 capital contribution under certain circumstances;
62 providing applicability; authorizing a lender-unit
63 purchaser to exercise any developer rights he or she
64 acquires; requiring a bulk-unit purchaser and a
65 lender-unit purchaser to comply with specified
66 provisions under ch. 718, F.S.; limiting the rights of
67 bulk-unit purchasers and lender-unit purchasers to
68 vote on reserves or funding of reserves; prohibiting
69 the transfer of such voting rights; providing
70 assessment liability for bulk-unit purchasers and
71 lender-unit purchasers; providing for suspension of a
72 director who has been elected or appointed by a bulk-
73 unit purchaser in certain circumstances; specifying
74 amendments and alterations for which a majority
75 approval of unit owners is required; requiring consent
76 of a bulk-unit purchaser, lender-unit purchaser, or
77 developer to certain amendments; requiring certain
78 warranties and disclosures; requiring an architect or
79 engineer to disclose specified information in a
80 condition report under certain circumstances;
81 subjecting multiple bulk-unit purchasers to joint and
82 several liability; prohibiting a board of
83 administration, a majority of which is elected by a
84 bulk-unit purchaser, from resolving certain
85 construction disputes unless other conditions are
86 satisfied; providing that a bulk-unit purchaser or
87 lender-unit purchaser who does not comply with ch.

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88 718, F.S., forfeits all protections or exemptions
89 under ch. 718, F.S.; clarifying conditions under which
90 a bulk-unit purchaser must deliver certain items
91 during the transfer of association control from the
92 bulk-unit purchaser; providing conditions by which a
93 person may become a bulk-unit purchaser following
94 acquisition of title to timeshare interests that are
95 or ultimately will be included in a timeshare plan;
96 requiring disclosure to purchasers by certain bulk-
97 unit purchasers of timeshare interests; amending s.
98 719.104, F.S.; revising what constitutes the official
99 records of an association; amending s. 719.106, F.S.;
100 revising the requirements for board of administration
101 and shareholder meetings; amending s. 719.108, F.S.;
102 revising applicability; revising the effect of a claim
103 of lien; creating s. 719.129, F.S.; authorizing
104 cooperative associations to conduct elections by
105 electronic voting under certain conditions; providing
106 that a member voting electronically is counted toward
107 a quorum; requiring that the bylaws allow electronic
108 voting of some or all matters; providing a definition;
109 amending s. 719.303, F.S.; providing that a fine may
110 be levied by the board or its authorized designee
111 under certain conditions; revising the requirements
112 for levying a fine or suspension; amending s. 720.301,
113 F.S.; revising the definition of the term "governing
114 documents"; creating s. 720.3015, F.S.; providing a
115 short title; amending s. 720.305, F.S.; revising the
116 requirements for levying a fine or suspension;

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117 revising the application of certain provisions;
118 amending s. 720.306, F.S.; revising the requirements
119 for the adoption of amendments to the governing
120 documents; revising the requirements for the election
121 of directors; revising the requirements for board of
122 director and member meetings; amending s. 720.3085,
123 F.S.; providing that the association may recover from
124 the parcel owner a reasonable charge imposed by a
125 management or bookkeeping company or a collection
126 agent which are incurred in connection with a
127 delinquent assessment; providing that such charges
128 must be liquidated, noncontingent, and based upon
129 actual time expended; providing that fees for
130 collection are not recoverable in a certain
131 circumstance; specifying the hierarchy for the
132 application of payments received for collection
133 services contracted for by the association; creating
134 s. 720.317, F.S.; authorizing homeowners' associations
135 to conduct elections by electronic voting under
136 certain conditions; providing that a member voting
137 electronically is counted toward a quorum; requiring
138 that the bylaws allow electronic voting of some or all
139 matters; providing a definition; providing an
140 effective date.

141

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

143

144 Section 1. Subsection (9) of section 201.02, Florida
145 Statutes, is amended to read:

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146 201.02 Tax on deeds and other instruments relating to real
147 property or interests in real property.—

148 (9) (a) A certificate of title issued by the clerk of court
149 under s. 45.031(5) in a judicial sale of real property under an
150 order or final judgment issued pursuant to a foreclosure
151 proceeding is subject to the tax imposed by subsection (1).
152 However, the amount of the tax shall be computed based solely on
153 the amount of the highest and best bid received for the property
154 at the foreclosure sale. This paragraph ~~subsection~~ is intended
155 to clarify existing law and shall be applied retroactively.

156 (b) A deed, transfer, or conveyance from an owner of
157 property, subject to assessments authorized by chapter 718,
158 chapter 719, chapter 720, or chapter 721, to an association
159 having lien rights against the property in lieu of the
160 foreclosure of an assessment lien held by the association
161 against such property is subject to the tax imposed by
162 subsection (1). However, the amount of the tax shall be computed
163 based solely on the amount of the unpaid assessments that are
164 due and owing to the association on the date of said deed,
165 transfer, or conveyance.

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

168 617.0721 Voting by members.—

169 (2) A member who is entitled to vote may vote in person or,
170 unless the articles of incorporation or the bylaws otherwise
171 provide, may vote by proxy executed in writing by the member or
172 by his or her duly authorized attorney in fact. Notwithstanding
173 any provision to the contrary in the articles of incorporation
174 or bylaws, any copy, facsimile transmission, or other reliable

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175 reproduction of the original proxy may be substituted or used in
176 lieu of the original proxy for any purpose for which the
177 original proxy could be used if the copy, facsimile
178 transmission, or other reproduction is a complete reproduction
179 of the entire proxy. An appointment of a proxy is not valid
180 after 11 months following the date of its execution unless
181 otherwise provided in the proxy.

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

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

190 Section 3. Present subsections (12) through (30) of section
191 718.103, Florida Statutes, are redesignated as subsections (13)
192 through (31), respectively, a new subsection (12) is added to
193 that section, and present subsection (16) of that section is
194 amended, to read:

195 718.103 Definitions.—As used in this chapter, the term:

196 (12) "Condominium documents" means:

197 (a) The recorded declaration of condominium for a community
198 and all duly adopted and recorded amendments, supplements, and
199 exhibits of the declaration;

200 (b) The recorded articles of incorporation and bylaws of
201 the condominium association and any duly adopted and recorded
202 amendments of the declaration; and

203 (c) Rules and regulations adopted under the authority of

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204 the recorded declaration of condominium, articles of
205 incorporation or bylaws, and duly adopted amendments of the
206 declaration.

207 (17)~~(16)~~ "Developer" means a person who creates a
208 condominium or offers condominium parcels for sale or lease in
209 the ordinary course of business, but does not include:

210 (a) An owner or lessee of a condominium or cooperative unit
211 who has acquired the unit for his or her own occupancy;

212 (b) A cooperative association that creates a condominium by
213 conversion of an existing residential cooperative after control
214 of the association has been transferred to the unit owners if,
215 following the conversion, the unit owners are the same persons
216 who were unit owners of the cooperative and no units are offered
217 for sale or lease to the public as part of the plan of
218 conversion;

219 (c) A bulk-unit purchaser, lender-unit purchaser, bulk
220 assignee, or bulk buyer as defined in s. 718.802 ~~718.703~~;

221 (d) A person who acquires title to 7 or fewer units
222 operated by the same association consisting of 40 or fewer units
223 or who acquires title to less than 20 percent of the units
224 operated by the same association consisting of more than 40
225 units, regardless of whether that person offers any of those
226 units for sale;

227 (e) The trustee and any related trust association of a
228 timeshare trust, interests in which are qualified as timeshare
229 estates pursuant to s. 721.08 or s. 721.53; or

230 (f)~~(d)~~ A state, county, or municipal entity acting as a
231 lessor and not otherwise named as a developer in the declaration
232 of condominium.

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233 Section 4. Subsection (4), paragraph (j) of subsection (11)
234 and paragraph (a) of subsection (12) of section 718.111, Florida
235 Statutes, are amended to read:

236 718.111 The association.—

237 (4) ASSESSMENTS; MANAGEMENT OF COMMON ELEMENTS.—The
238 association has the power to make and collect assessments and to
239 lease, maintain, repair, and replace the common elements or the
240 association property; however, the association may not charge a
241 use fee against a unit owner for the use of common elements or
242 association property unless otherwise provided for in the
243 declaration of condominium or by a majority of the voting
244 interests present, in person or by proxy, at a meeting of the
245 association if a quorum has been established ~~vote of the~~
246 ~~association~~ or unless the charges relate to expenses incurred by
247 an owner having exclusive use of the common elements or
248 association property.

249 (11) INSURANCE.—In order to protect the safety, health, and
250 welfare of the people of the State of Florida and to ensure
251 consistency in the provision of insurance coverage to
252 condominiums and their unit owners, this subsection applies to
253 every residential condominium in the state, regardless of the
254 date of its declaration of condominium. It is the intent of the
255 Legislature to encourage lower or stable insurance premiums for
256 associations described in this subsection.

257 (j) Any portion of the condominium property that must be
258 insured by the association against property loss pursuant to
259 paragraph (f) which is damaged by an insurable event shall be
260 reconstructed, repaired, or replaced as necessary by the
261 association as a common expense. In the absence of an insurable

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262 event, the association or the unit owners shall be responsible
263 for the reconstruction, repair, or replacement, as determined by
264 the maintenance provisions of the declaration or bylaws. All
265 property insurance deductibles, ~~uninsured losses,~~ and other
266 damages in excess of property insurance coverage under the
267 property insurance policies maintained by the association are a
268 common expense of the condominium, except that:

269 1. A unit owner is responsible for the costs of repair or
270 replacement of any portion of the condominium property not paid
271 by insurance proceeds if such damage is caused by intentional
272 conduct, negligence, or failure to comply with the terms of the
273 declaration or the rules of the association by a unit owner, the
274 members of his or her family, unit occupants, tenants, guests,
275 or invitees, without compromise of the subrogation rights of the
276 insurer.

277 2. The provisions of subparagraph 1. regarding the
278 financial responsibility of a unit owner for the costs of
279 repairing or replacing other portions of the condominium
280 property also apply to the costs of repair or replacement of
281 personal property of other unit owners or the association, as
282 well as other property, whether real or personal, which the unit
283 owners are required to insure.

284 3. To the extent the cost of repair or reconstruction for
285 which the unit owner is responsible under this paragraph is
286 reimbursed to the association by insurance proceeds, and the
287 association has collected the cost of such repair or
288 reconstruction from the unit owner, the association shall
289 reimburse the unit owner without the waiver of any rights of
290 subrogation.

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291 4. The association is not obligated to pay for
292 reconstruction or repairs of property losses as a common expense
293 if the property losses were known or should have been known to a
294 unit owner and were not reported to the association until after
295 the insurance claim of the association for that property was
296 settled or resolved with finality, or denied because it was
297 untimely filed.

298 (12) OFFICIAL RECORDS.—

299 (a) From the inception of the association, the association
300 shall maintain each of the following items, if applicable, which
301 constitutes the official records of the association:

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

304 2. A photocopy of the recorded declaration of condominium
305 of each condominium operated by the association and each
306 amendment to each declaration.

307 3. A photocopy of the recorded bylaws of the association
308 and each amendment to the bylaws.

309 4. A certified copy of the articles of incorporation of the
310 association, or other documents creating the association, and
311 each amendment thereto.

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

313 6. A book or books that contain the minutes of all meetings
314 of the association, the board of administration, and the unit
315 owners, which minutes must be retained for at least 7 years.

316 7. A current roster of all unit owners and their mailing
317 addresses, unit identifications, voting certifications, and, if
318 known, telephone numbers. The association shall also maintain
319 the electronic mailing addresses and facsimile numbers of unit

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320 owners consenting to receive notice by electronic transmission.
321 The electronic mailing addresses and facsimile numbers are not
322 accessible to unit owners if consent to receive notice by
323 electronic transmission is not provided in accordance with
324 subparagraph (c)5. However, the association is not liable for an
325 inadvertent disclosure of the electronic mail address or
326 facsimile number for receiving electronic transmission of
327 notices.

328 8. All current insurance policies of the association and
329 condominiums operated by the association.

330 9. A current copy of any management agreement, lease, or
331 other contract to which the association is a party or under
332 which the association or the unit owners have an obligation or
333 responsibility.

334 10. Bills of sale or transfer for all property owned by the
335 association.

336 11. Accounting records for the association and separate
337 accounting records for each condominium that the association
338 operates. All accounting records must be maintained for at least
339 7 years. Any person who knowingly or intentionally defaces or
340 destroys such records, or who knowingly or intentionally fails
341 to create or maintain such records, with the intent of causing
342 harm to the association or one or more of its members, is
343 personally subject to a civil penalty pursuant to s.
344 718.501(1)(d). The accounting records must include, but are not
345 limited to:

346 a. Accurate, itemized, and detailed records of all receipts
347 and expenditures.

348 b. A current account and a monthly, bimonthly, or quarterly

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349 statement of the account for each unit designating the name of
350 the unit owner, the due date and amount of each assessment, the
351 amount paid on the account, and the balance due.

352 c. All audits, reviews, accounting statements, and
353 financial reports of the association or condominium.

354 d. All contracts for work to be performed. Bids for work to
355 be performed are also considered official records and must be
356 maintained by the association.

357 12. Ballots, sign-in sheets, voting proxies, and all other
358 papers relating to voting by unit owners, which must be
359 maintained for 1 year from the date of the election, vote, or
360 meeting to which the document relates, notwithstanding paragraph
361 (b).

362 13. All rental records if the association is acting as
363 agent for the rental of condominium units.

364 14. A copy of the current question and answer sheet as
365 described in s. 718.504.

366 15. All other written records of the association not
367 specifically included in the foregoing which are related to the
368 operation of the association.

369 16. A copy of the inspection report as described in s.
370 718.301(4)(p).

371 Section 5. Paragraphs (c), (d), and (f) of subsection (2)
372 of section 718.112, Florida Statutes, are amended to read:

373 718.112 Bylaws.—

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

377 (c) *Board of administration meetings.*—Meetings of the board

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378 of administration at which a quorum of the members is present
379 are open to all unit owners. Members of the board of
380 administration may use e-mail as a means of communication but
381 may not cast a vote on an association matter via e-mail. A unit
382 owner may tape record or videotape the meetings; however, a unit
383 owner may not post the recordings on any website or other media
384 that can readily be viewed by persons who are not members of the
385 association. The right to attend such meetings includes the
386 right to speak at such meetings with reference to all designated
387 agenda items. The division shall adopt reasonable rules
388 governing the tape recording and videotaping of the meeting. The
389 association may adopt written reasonable rules governing the
390 frequency, duration, and manner of unit owner statements.

391 1. Adequate notice of all board meetings, which must
392 specifically identify all agenda items, must be posted
393 conspicuously on the condominium property or association
394 property at least 48 continuous hours before the meeting except
395 in an emergency. If 20 percent of the voting interests petition
396 the board to address an item of business, the board, within 60
397 days after receipt of the petition, shall place the item on the
398 agenda at its next regular board meeting or at a special meeting
399 called for that purpose. An item not included on the notice may
400 be taken up on an emergency basis by a vote of at least a
401 majority plus one of the board members. Such emergency action
402 must be noticed and ratified at the next regular board meeting.
403 However, written notice of a meeting at which a nonemergency
404 special assessment or an amendment to rules regarding unit use
405 will be considered must be mailed, delivered, or electronically
406 transmitted to the unit owners and posted conspicuously on the

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407 condominium property or association property at least 14 days
408 before the meeting. Evidence of compliance with this 14-day
409 notice requirement must be made by an affidavit executed by the
410 person providing the notice and filed with the official records
411 of the association. Upon notice to the unit owners, the board
412 shall, by duly adopted rule, designate a specific location on
413 the condominium or association property where all notices of
414 board meetings must be posted. If there is no condominium
415 property or association property where notices can be posted,
416 notices shall be mailed, delivered, or electronically
417 transmitted to each unit owner at least 14 days before the
418 meeting. In lieu of or in addition to the physical posting of
419 the notice on the condominium property or association property,
420 the association may, by reasonable rule, adopt a procedure for
421 conspicuously posting and repeatedly broadcasting the notice and
422 the agenda on a closed-circuit cable television system serving
423 the condominium association. However, if broadcast notice is
424 used in lieu of a notice physically posted on condominium
425 property or association property, the notice and agenda must be
426 broadcast at least four times every broadcast hour of each day
427 that a posted notice is otherwise required under this section.
428 If broadcast notice is provided, the notice and agenda must be
429 broadcast in a manner and for a sufficient continuous length of
430 time so as to allow an average reader to observe the notice and
431 read and comprehend the entire content of the notice and the
432 agenda. Notice of any meeting in which regular or special
433 assessments against unit owners are to be considered must
434 specifically state that assessments will be considered and
435 provide the nature, estimated cost, and description of the

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436 purposes for such assessments.

437 2. Meetings of a committee to take final action on behalf
438 of the board or make recommendations to the board regarding the
439 association budget are subject to this paragraph. Meetings of a
440 committee that does not take final action on behalf of the board
441 or make recommendations to the board regarding the association
442 budget are subject to this section, unless those meetings are
443 exempted from this section by the bylaws of the association.

444 3. Notwithstanding any other law, the requirement that
445 board meetings and committee meetings be open to the unit owners
446 does not apply to:

447 a. Meetings between the board or a committee and the
448 association's attorney, with respect to proposed or pending
449 litigation, if the meeting is held for the purpose of seeking or
450 rendering legal advice; or

451 b. Board meetings held for the purpose of discussing
452 personnel matters.

453 (d) *Unit owner meetings.*—

454 1. An annual meeting of the unit owners shall be held at
455 the location provided in the association bylaws and, if the
456 bylaws are silent as to the location, the meeting shall be held
457 within 45 miles of the condominium property. However, such
458 distance requirement does not apply to an association governing
459 a timeshare condominium.

460 2. Unless the bylaws provide otherwise, a vacancy on the
461 board caused by the expiration of a director's term shall be
462 filled by electing a new board member, and the election must be
463 by secret ballot. An election is not required if the number of
464 vacancies equals or exceeds the number of candidates. For

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465 purposes of this paragraph, the term "candidate" means an
466 eligible person who has timely submitted the written notice, as
467 described in sub-subparagraph 4.a., of his or her intention to
468 become a candidate. Except in a timeshare or nonresidential
469 condominium, or if the staggered term of a board member does not
470 expire until a later annual meeting, or if all members' terms
471 would otherwise expire but there are no candidates, the terms of
472 all board members expire at the annual meeting, and such members
473 may stand for reelection unless prohibited by the bylaws. If the
474 bylaws or articles of incorporation permit terms of no more than
475 2 years, the association board members may serve 2-year terms.
476 If the number of board members whose terms expire at the annual
477 meeting equals or exceeds the number of candidates, the
478 candidates become members of the board effective upon the
479 adjournment of the annual meeting. Unless the bylaws provide
480 otherwise, any remaining vacancies shall be filled by the
481 affirmative vote of the majority of the directors making up the
482 newly constituted board even if the directors constitute less
483 than a quorum or there is only one director. In a residential
484 condominium association of more than 10 units or in a
485 residential condominium association that does not include
486 timeshare units or timeshare interests, coowners of a unit may
487 not serve as members of the board of directors at the same time
488 unless they own more than one unit or unless there are not
489 enough eligible candidates to fill the vacancies on the board at
490 the time of the vacancy. A unit owner in a residential
491 condominium desiring to be a candidate for board membership must
492 comply with sub-subparagraph 4.a. and must be eligible to be a
493 candidate to serve on the board of directors at the time of the

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494 deadline for submitting a notice of intent to run in order to
495 have his or her name listed as a proper candidate on the ballot
496 or to serve on the board. A person who has been suspended or
497 removed by the division under this chapter, or who is delinquent
498 in the payment of any monetary obligation due to the
499 association, is not eligible to be a candidate for board
500 membership and may not be listed on the ballot. A person who has
501 been convicted of any felony in this state or in a United States
502 District or Territorial Court, or who has been convicted of any
503 offense in another jurisdiction which would be considered a
504 felony if committed in this state, is not eligible for board
505 membership unless such felon's civil rights have been restored
506 for at least 5 years as of the date such person seeks election
507 to the board. The validity of an action by the board is not
508 affected if it is later determined that a board member is
509 ineligible for board membership due to having been convicted of
510 a felony. This subparagraph does not limit the term of a member
511 of the board of a nonresidential condominium.

512 3. The bylaws must provide the method of calling meetings
513 of unit owners, including annual meetings. Written notice must
514 include an agenda, must be mailed, hand delivered, or
515 electronically transmitted to each unit owner at least 14 days
516 before the annual meeting, and must be posted in a conspicuous
517 place on the condominium property or association property at
518 least 14 continuous days before the annual meeting. Upon notice
519 to the unit owners, the board shall, by duly adopted rule,
520 designate a specific location on the condominium property or
521 association property where all notices of unit owner meetings
522 shall be posted. This requirement does not apply if there is no

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523 condominium property or association property for posting
524 notices. In lieu of, or in addition to, the physical posting of
525 meeting notices, the association may, by reasonable rule, adopt
526 a procedure for conspicuously posting and repeatedly
527 broadcasting the notice and the agenda on a closed-circuit cable
528 television system serving the condominium association. However,
529 if broadcast notice is used in lieu of a notice posted
530 physically on the condominium property or association property,
531 the notice and agenda must be broadcast at least four times
532 every broadcast hour of each day that a posted notice is
533 otherwise required under this section. If broadcast notice is
534 provided, the notice and agenda must be broadcast in a manner
535 and for a sufficient continuous length of time so as to allow an
536 average reader to observe the notice and read and comprehend the
537 entire content of the notice and the agenda. Unless a unit owner
538 waives in writing the right to receive notice of the annual
539 meeting, such notice must be hand delivered, mailed, or
540 electronically transmitted to each unit owner. Notice for
541 meetings and notice for all other purposes must be mailed to
542 each unit owner at the address last furnished to the association
543 by the unit owner, or hand delivered to each unit owner.
544 However, if a unit is owned by more than one person, the
545 association must provide notice to the address that the
546 developer identifies for that purpose and thereafter as one or
547 more of the owners of the unit advise the association in
548 writing, or if no address is given or the owners of the unit do
549 not agree, to the address provided on the deed of record. An
550 officer of the association, or the manager or other person
551 providing notice of the association meeting, must provide an

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552 affidavit or United States Postal Service certificate of
553 mailing, to be included in the official records of the
554 association affirming that the notice was mailed or hand
555 delivered in accordance with this provision.

556 4. The members of the board of a residential condominium
557 shall be elected by written ballot or voting machine. Proxies
558 may not be used in electing the board in general elections or
559 elections to fill vacancies caused by recall, resignation, or
560 otherwise, unless otherwise provided in this chapter. This
561 subparagraph does not apply to an association governing a
562 timeshare condominium.

563 a. At least 60 days before a scheduled election, the
564 association shall mail, deliver, or electronically transmit, by
565 separate association mailing or included in another association
566 mailing, delivery, or transmission, including regularly
567 published newsletters, to each unit owner entitled to a vote, a
568 first notice of the date of the election. A unit owner or other
569 eligible person desiring to be a candidate for the board must
570 give written notice of his or her intent to be a candidate to
571 the association at least 40 days before a scheduled election.
572 Together with the written notice and agenda as set forth in
573 subparagraph 3., the association shall mail, deliver, or
574 electronically transmit a second notice of the election to all
575 unit owners entitled to vote, together with a ballot that lists
576 all candidates. Upon request of a candidate, an information
577 sheet, no larger than 8 1/2 inches by 11 inches, which must be
578 furnished by the candidate at least 35 days before the election,
579 must be included with the mailing, delivery, or transmission of
580 the ballot, with the costs of mailing, delivery, or electronic

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581 transmission and copying to be borne by the association. The
582 association is not liable for the contents of the information
583 sheets prepared by the candidates. In order to reduce costs, the
584 association may print or duplicate the information sheets on
585 both sides of the paper. The division shall by rule establish
586 voting procedures consistent with this sub-subparagraph,
587 including rules establishing procedures for giving notice by
588 electronic transmission and rules providing for the secrecy of
589 ballots. Elections shall be decided by a plurality of ballots
590 cast. There is no quorum requirement; however, at least 20
591 percent of the eligible voters must cast a ballot in order to
592 have a valid election. A unit owner may not permit any other
593 person to vote his or her ballot, and any ballots improperly
594 cast are invalid. A unit owner who violates this provision may
595 be fined by the association in accordance with s. 718.303. A
596 unit owner who needs assistance in casting the ballot for the
597 reasons stated in s. 101.051 may obtain such assistance. The
598 regular election must occur on the date of the annual meeting.
599 Notwithstanding this sub-subparagraph, an election is not
600 required unless more candidates file notices of intent to run or
601 are nominated than board vacancies exist.

602 b. Within 90 days after being elected or appointed to the
603 board of an association of a residential condominium, each newly
604 elected or appointed director shall certify in writing to the
605 secretary of the association that he or she has read the
606 association's declaration of condominium, articles of
607 incorporation, bylaws, and current written policies; that he or
608 she will work to uphold such documents and policies to the best
609 of his or her ability; and that he or she will faithfully

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610 discharge his or her fiduciary responsibility to the
611 association's members. In lieu of this written certification,
612 within 90 days after being elected or appointed to the board,
613 the newly elected or appointed director may submit a certificate
614 of having satisfactorily completed the educational curriculum
615 administered by a division-approved condominium education
616 provider within 1 year before or 90 days after the date of
617 election or appointment. The written certification or
618 educational certificate is valid and does not have to be
619 resubmitted as long as the director serves on the board without
620 interruption. A director of an association of a residential
621 condominium who fails to timely file the written certification
622 or educational certificate is suspended from service on the
623 board until he or she complies with this sub-subparagraph. The
624 board may temporarily fill the vacancy during the period of
625 suspension. The secretary shall cause the association to retain
626 a director's written certification or educational certificate
627 for inspection by the members for 5 years after a director's
628 election or the duration of the director's uninterrupted tenure,
629 whichever is longer. Failure to have such written certification
630 or educational certificate on file does not affect the validity
631 of any board action.

632 c. Any challenge to the election process must be commenced
633 within 60 days after the election results are announced.

634 5. Any approval by unit owners called for by this chapter
635 or the applicable declaration or bylaws, including, but not
636 limited to, the approval requirement in s. 718.111(8), must be
637 made at a duly noticed meeting of unit owners and is subject to
638 all requirements of this chapter or the applicable condominium

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639 documents relating to unit owner decisionmaking, except that
640 unit owners may take action by written agreement, without
641 meetings, on matters for which action by written agreement
642 without meetings is expressly allowed by the applicable bylaws
643 or declaration or any law that provides for such action.

644 6. Unit owners may waive notice of specific meetings if
645 allowed by the applicable bylaws or declaration or any law. If
646 authorized by the bylaws, notice of meetings of the board of
647 administration, unit owner meetings, except unit owner meetings
648 called to recall board members under paragraph (j), and
649 committee meetings may be given by electronic transmission to
650 unit owners who consent to receive notice by electronic
651 transmission.

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

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

661 9. Unless otherwise provided in the bylaws, any vacancy
662 occurring on the board before the expiration of a term may be
663 filled by the affirmative vote of the majority of the remaining
664 directors, even if the remaining directors constitute less than
665 a quorum, or by the sole remaining director. In the alternative,
666 a board may hold an election to fill the vacancy, in which case
667 the election procedures must conform to sub-subparagraph 4.a.

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668 unless the association governs 10 units or fewer and has opted
669 out of the statutory election process, in which case the bylaws
670 of the association control. Unless otherwise provided in the
671 bylaws, a board member appointed or elected under this section
672 shall fill the vacancy for the unexpired term of the seat being
673 filled. Filling vacancies created by recall is governed by
674 paragraph (j) and rules adopted by the division.

675 10. This chapter does not limit the use of general or
676 limited proxies, require the use of general or limited proxies,
677 or require the use of a written ballot or voting machine for any
678 agenda item or election at any meeting of a timeshare
679 condominium association or nonresidential condominium
680 association.

681
682 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
683 association of 10 or fewer units may, by affirmative vote of a
684 majority of the total voting interests, provide for different
685 voting and election procedures in its bylaws, which may be by a
686 proxy specifically delineating the different voting and election
687 procedures. The different voting and election procedures may
688 provide for elections to be conducted by limited or general
689 proxy.

690 (f) *Annual budget.*—

691 1. The proposed annual budget of estimated revenues and
692 expenses must be detailed and must show the amounts budgeted by
693 accounts and expense classifications, including, at a minimum,
694 any if applicable, ~~but not limited to,~~ those expenses listed in
695 s. 718.504(21). A multicondominium association shall adopt a
696 separate budget of common expenses for each condominium the

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697 association operates and shall adopt a separate budget of common
698 expenses for the association. In addition, if the association
699 maintains limited common elements with the cost to be shared
700 only by those entitled to use the limited common elements as
701 provided for in s. 718.113(1), the budget or a schedule attached
702 to it must show the amount budgeted for this maintenance. If,
703 after turnover of control of the association to the unit owners,
704 any of the expenses listed in s. 718.504(21) are not applicable,
705 they need not be listed.

706 2.a. In addition to annual operating expenses, the budget
707 must include reserve accounts for capital expenditures and
708 deferred maintenance. These accounts must include, but are not
709 limited to, roof replacement, building painting, and pavement
710 resurfacing, regardless of the amount of deferred maintenance
711 expense or replacement cost, and ~~for~~ any other item that has a
712 deferred maintenance expense or replacement cost that exceeds
713 \$10,000. The amount to be reserved must be computed using a
714 formula based upon estimated remaining useful life and estimated
715 replacement cost or deferred maintenance expense of each reserve
716 item. The association may adjust replacement reserve assessments
717 annually to take into account any changes in estimates or
718 extension of the useful life of a reserve item caused by
719 deferred maintenance. This subsection does not apply to an
720 adopted budget in which the members of an association have
721 determined, by a majority vote at a duly called meeting of the
722 association, to provide no reserves or less reserves than
723 required by this subsection.

724 b. Before ~~However, prior to~~ turnover of control of an
725 association by a developer to unit owners other than a developer

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726 pursuant to s. 718.301, the developer may vote the voting
727 interests allocated to its units to waive the reserves or reduce
728 the funding of reserves through the period expiring at the end
729 of the second fiscal year after the fiscal year in which the
730 certificate of a surveyor and mapper is recorded pursuant to s.
731 718.104(4)(e) or an instrument that transfers title to a unit in
732 the condominium which is not accompanied by a recorded
733 assignment of developer rights in favor of the grantee of such
734 unit is recorded, whichever occurs first, after which time
735 reserves may be waived or reduced only upon the vote of a
736 majority of all nondeveloper voting interests voting in person
737 or by limited proxy at a duly called meeting of the association.
738 If a meeting of the unit owners has been called to determine
739 whether to waive or reduce the funding of reserves, and no such
740 result is achieved or a quorum is not attained, the reserves
741 included in the budget shall go into effect. After the turnover,
742 the developer may vote its voting interest to waive or reduce
743 the funding of reserves.

744 3. Reserve funds and any interest accruing thereon shall
745 remain in the reserve account or accounts, and may be used only
746 for authorized reserve expenditures unless their use for other
747 purposes is approved in advance by a majority vote at a duly
748 called meeting of the association. Before ~~Prior to~~ turnover of
749 control of an association by a developer to unit owners other
750 than the developer pursuant to s. 718.301, the developer-
751 controlled association may ~~shall~~ not vote to use reserves for
752 purposes other than those ~~that~~ for which they were intended
753 without the approval of a majority of all nondeveloper voting
754 interests, voting in person or by limited proxy at a duly called

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755 meeting of the association.

756 4. The only voting interests that are eligible to vote on
757 questions that involve waiving or reducing the funding of
758 reserves, or using existing reserve funds for purposes other
759 than purposes for which the reserves were intended, are the
760 voting interests of the units subject to assessment to fund the
761 reserves in question. Proxy questions relating to waiving or
762 reducing the funding of reserves or using existing reserve funds
763 for purposes other than purposes for which the reserves were
764 intended must ~~shall~~ contain the following statement in
765 capitalized, bold letters in a font size larger than any other
766 used on the face of the proxy ballot: WAIVING OF RESERVES, IN
767 WHOLE OR IN PART, OR ALLOWING ALTERNATIVE USES OF EXISTING
768 RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF
769 UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

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

772 718.113 Maintenance; limitation upon improvement; display
773 of flag; hurricane shutters and protection; display of religious
774 decorations.-

775 (7) Notwithstanding the provisions of this section or the
776 condominium governing ~~governing~~ documents of a condominium or a
777 multicondominium association, the board of administration may,
778 without any requirement for approval of the unit owners, install
779 upon or within the common elements or association property solar
780 collectors, clotheslines, or other energy-efficient devices
781 based on renewable resources for the benefit of the unit owners.

782 Section 7. Paragraphs (a) and (b) of subsection (1),
783 subsection (3), and paragraph (b) of subsection (5) of section

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784 718.116, Florida Statutes, are amended to read:

785 718.116 Assessments; liability; lien and priority;
786 interest; collection.—

787 (1) (a) A unit owner, regardless of how the unit owner has
788 acquired his or her title has been acquired, including, but not
789 limited to, ~~by~~ purchase at a foreclosure sale or ~~by~~ deed in lieu
790 of foreclosure, is liable for all assessments that which come
791 due while he or she is the unit owner, including any special
792 assessments or installments on special assessments coming due
793 during the period of ownership, regardless of when the special
794 assessment was levied. Additionally, a unit owner is jointly and
795 severally liable with the previous unit owner for all unpaid
796 monthly and special assessments, interest and late fees on both
797 unpaid assessments and unpaid special assessments, and costs and
798 reasonable attorney fees incurred by the association in an
799 attempt to collect all such amounts that came due up to the time
800 of transfer of title. This joint and several liability of a
801 subsequent unit owner does not apply to an owner who acquires
802 title through purchase of a tax deed and is without prejudice to
803 any right the present unit owner may have to recover from the
804 previous unit owner the amounts paid by the present unit owner.
805 For the purposes of this section paragraph, the term "previous
806 unit owner" does not include an association that acquires title
807 to a unit delinquent property through foreclosure or by deed in
808 lieu of foreclosure. A present unit owner's liability for unpaid
809 assessments, interest, late fees, and costs and reasonable
810 attorney fees is limited to any unpaid assessments, interest,
811 late fees, and costs and reasonable attorney fees that accrued
812 before the association acquired title to the unit delinquent

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813 ~~property~~ through foreclosure or by deed in lieu of foreclosure.

814 (b)1. The liability of a first mortgagee or its successor
815 or assignees who acquire title to a unit by foreclosure or by
816 deed in lieu of foreclosure for the unpaid assessments,
817 interest, late fees, costs and reasonable attorney fees, and any
818 other fee, cost, or expense incurred by or on behalf of the
819 association in the collection process which ~~that~~ became due
820 before the mortgagee's acquisition of title is limited to the
821 lesser of:

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

826 b. One percent of the original mortgage debt. The
827 provisions of this paragraph apply only if the first mortgagee
828 joined the association as a defendant in the foreclosure action.
829 Joinder of the association is not required if, on the date the
830 complaint is filed, the association was dissolved or did not
831 maintain an office or agent for service of process at a location
832 which was known to or reasonably discoverable by the mortgagee.

833 2. An association, or its successor or assignee, that
834 acquires title to a unit through the foreclosure of its lien for
835 assessments is not liable for any unpaid assessments, late fees,
836 interest, or reasonable attorney ~~attorney's~~ fees and costs that
837 came due before the association's acquisition of title in favor
838 of any other association, as defined in s. 718.103(2) or s.
839 720.301(9), which holds a superior lien interest on the unit.
840 This subparagraph is intended to clarify existing law.

841 (3) Assessments and installments on assessments which are

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842 not paid when due bear interest at the rate provided in the
843 declaration, from the due date until paid. The rate may not
844 exceed the rate allowed by law, and, if no rate is provided in
845 the declaration, interest accrues at the rate of 18 percent per
846 year. If provided by the declaration or bylaws, the association
847 may, in addition to such interest, charge an administrative late
848 fee of up to the greater of \$25 or 5 percent of each delinquent
849 installment for which the payment is late. The association may
850 also recover from the unit owner any reasonable charges imposed
851 upon the association under a written contract with its
852 management or bookkeeping company or collection agent which are
853 incurred in connection with collecting a delinquent assessment.
854 Such charges must be in a liquidated and noncontingent amount
855 and must be based on the actual time expended performing
856 necessary, nonduplicative services. Fees for collection are not
857 recoverable for the period after referral of the matter to an
858 association's legal counsel. Any payment received by an
859 association must be applied first to any interest accrued by the
860 association, then to any administrative late fee, then to any
861 costs and reasonable attorney ~~attorney's~~ fees incurred in
862 collection, then to any reasonable costs for collection services
863 contracted by the association, and then to the delinquent
864 assessment. The foregoing is applicable notwithstanding s.
865 673.3111, any purported accord and satisfaction, or any
866 restrictive endorsement, designation, or instruction placed on
867 or accompanying a payment. The preceding sentence is intended to
868 clarify existing law. A late fee is not subject to chapter 687
869 or s. 718.303(4).

(5)

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871 (b) To be valid, a claim of lien must state the description
872 of the condominium parcel, the name of the record owner, the
873 name and address of the association, the amount due, and the due
874 dates. It must be executed and acknowledged by an officer or
875 authorized agent of the association. The lien is not effective 1
876 year after the claim of lien was recorded unless, within that
877 time, an action to enforce the lien is commenced. The 1-year
878 period is automatically extended for any length of time during
879 which the association is prevented from filing a foreclosure
880 action by an automatic stay resulting from a bankruptcy petition
881 filed by the parcel owner or any other person claiming an
882 interest in the parcel. The claim of lien secures all unpaid
883 assessments that are due and that may accrue after the claim of
884 lien is recorded and through the entry of a final judgment, as
885 well as interest, authorized administrative late fees, and all
886 reasonable costs and attorney ~~attorney's~~ fees incurred by the
887 association incident to the collection process, including, but
888 not limited to, any reasonable costs for collection services
889 contracted for by the association. Upon payment in full, the
890 person making the payment is entitled to a satisfaction of the
891 lien.

892 Section 8. Section 718.128, Florida Statutes, is created to
893 read:

894 718.128 Electronic voting.—The association may conduct
895 elections by electronic voting if a member consents, in writing,
896 to voting electronically and the following requirements are met:

897 (1) The association provides each member with:

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

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

903 (c) A method to communicate with the electronic voting
904 system.

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

907 (e) A method to transmit an electronic ballot to the
908 electronic voting system which ensures the secrecy and integrity
909 of each ballot.

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

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

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

918 (2) The association uses an electronic voting system that
919 is:

920 (a) Accessible to members with disabilities.

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

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

924 (d) Able to communicate with each member's electronic
925 voting platform.

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

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

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929 system to each member who casts an electronic ballot.

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

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

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

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

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

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

946 718.301 Transfer of association control; claims of defect
947 by association.—

948 (1) If unit owners other than the developer own 15 percent
949 or more of the units ~~in a condominium~~ that ultimately will be
950 operated ~~ultimately~~ by an association, as provided in the
951 declaration, articles of incorporation, or bylaws as originally
952 recorded, the unit owners other than the developer are entitled
953 to elect at least one-third of the members of the board of
954 administration of the association. Unit owners other than the
955 developer are entitled to elect at least a majority of the
956 members of the board of administration of an association, ~~7~~ upon
957 the first ~~to occur of any~~ of the following events that occur:

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958 (a) Three years after 50 percent of the units that
959 ultimately will be operated ~~ultimately~~ by the association, as
960 provided in the declaration, articles of incorporation, or
961 bylaws as originally recorded, have been conveyed to
962 purchasers.~~†~~

963 (b) Three months after 90 percent of the units that
964 ultimately will be operated ~~ultimately~~ by the association, as
965 provided in the declaration, articles of incorporation, or
966 bylaws as originally recorded, have been conveyed to
967 purchasers.~~†~~

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

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

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

979 (f) When a bulk-unit purchaser who owns a majority of the
980 units that ultimately will be operated by the association, as
981 provided in the declaration, articles of incorporation, or
982 bylaws as originally recorded, files a petition seeking
983 protection in bankruptcy.

984 (g) ~~(f)~~ When a receiver for the developer is appointed by a
985 circuit court and is not discharged within 30 days after such
986 appointment, unless the court determines within 30 days after

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987 appointment of the receiver that transfer of control would be
988 detrimental to the association or its members.~~;~~ ~~or~~

989 (h) When a receiver for a bulk-unit purchaser who owns a
990 majority of the units that ultimately will be operated by the
991 association, as provided in the declaration, articles of
992 incorporation, or bylaws as originally recorded, is appointed by
993 a circuit court and is not discharged within 30 days after such
994 appointment, unless the court determines within 30 days after
995 appointment of the receiver that transfer of control would be
996 detrimental to the association or its members.

997 (i) Five years after the date of recording of the first
998 conveyance to a bulk-unit purchaser who owns a majority of the
999 units that ultimately will be operated by the association, as
1000 provided in the declaration, articles of incorporation, or
1001 bylaws as originally recorded. Notwithstanding that unit owners
1002 other than the developer are entitled to elect a majority of the
1003 members of the board of administration and notwithstanding s.
1004 718.112(2)(f)2., 5 years after the date of recording of the
1005 first conveyance of a unit to a bulk-unit purchaser who owns a
1006 majority of the units, the bulk-unit purchaser may exercise the
1007 right to vote for each unit owned by the bulk-unit purchaser in
1008 the same manner as any other unit owner except for the purposes
1009 of reacquiring control of the association or electing or
1010 appointing a majority of the members of the board of
1011 administration.

1012 (j)~~(g)~~ Seven years after the date of the recording of the
1013 certificate of a surveyor and mapper pursuant to s.
1014 718.104(4)(e) or the recording of an instrument that transfers
1015 title to a unit in the condominium which is not accompanied by a

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1016 recorded assignment of developer rights in favor of the grantee
1017 of such unit, whichever occurs first; or, in the case of an
1018 association that ~~may~~ ultimately may operate more than one
1019 condominium, 7 years after the date of the recording of the
1020 certificate of a surveyor and mapper pursuant to s.

1021 718.104(4)(e) or the recording of an instrument that transfers
1022 title to a unit which is not accompanied by a recorded
1023 assignment of developer rights in favor of the grantee of such
1024 unit, whichever occurs first, for the first condominium it
1025 operates; or, in the case of an association operating a phase
1026 condominium created pursuant to s. 718.403, 7 years after the
1027 date of the recording of the certificate of a surveyor and
1028 mapper pursuant to s. 718.104(4)(e) or the recording of an
1029 instrument that transfers title to a unit which is not
1030 accompanied by a recorded assignment of developer rights in
1031 favor of the grantee of such unit, whichever occurs first.

1032

1033 The developer is entitled to elect at least one member of the
1034 board of administration of an association as long as the
1035 developer holds for sale in the ordinary course of business at
1036 least 5 percent, in condominiums with fewer than 500 units, and
1037 2 percent, in condominiums with more than 500 units, of the
1038 units in a condominium operated by the association. After the
1039 developer relinquishes control of the association, the developer
1040 may exercise the right to vote any developer-owned units in the
1041 same manner as any other unit owner except for purposes of
1042 reacquiring control of the association or selecting a ~~the~~
1043 majority of the members of the board of administration.

1044 (4) At the time that unit owners other than the developer

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1045 elect a majority of the members of the board of administration
1046 of an association, the developer or bulk-unit purchaser shall
1047 relinquish control of the association, and the unit owners shall
1048 accept control. Simultaneously, or for the purposes of paragraph
1049 (c) not more than 90 days thereafter, the developer or bulk-unit
1050 purchaser shall deliver to the association, at the developer's
1051 or bulk-unit purchaser's expense, all property of the unit
1052 owners and of the association which is held or controlled by the
1053 developer or bulk-unit purchaser, including, but not limited to,
1054 the following items, if applicable, as to each condominium
1055 operated by the association:

1056 (a)1. The original or a photocopy of the recorded
1057 declaration of condominium and all amendments thereto. If a
1058 photocopy is provided, it must be certified by affidavit of the
1059 developer, a bulk-unit purchaser, or an officer or agent of the
1060 developer or bulk-unit purchaser as being a complete copy of the
1061 actual recorded declaration.

1062 2. A certified copy of the articles of incorporation of the
1063 association or, if the association was created before ~~prior to~~
1064 the effective date of this act and it is not incorporated,
1065 copies of the documents creating the association.

1066 3. A copy of the bylaws.

1067 4. The minute books, including all minutes, and other books
1068 and records of the association, if any.

1069 5. Any house rules and regulations that have been adopted
1070 ~~promulgated~~.

1071 (b) Resignations of officers and members of the board of
1072 administration who are required to resign because the developer
1073 or bulk-unit purchaser is required to relinquish control of the

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1074 association.

1075 (c) The financial records, including financial statements
1076 of the association, and source documents from the incorporation
1077 of the association through the date of turnover. The records
1078 must be audited for the period from the incorporation of the
1079 association or from the period covered by the last audit, if an
1080 audit has been performed for each fiscal year since
1081 incorporation, by an independent certified public accountant.
1082 All financial statements must be prepared in accordance with
1083 generally accepted accounting principles and must be audited in
1084 accordance with generally accepted auditing standards, as
1085 prescribed by the Florida Board of Accountancy, pursuant to
1086 chapter 473. The accountant performing the audit shall examine
1087 to the extent necessary supporting documents and records,
1088 including the cash disbursements and related paid invoices, to
1089 determine whether ~~if~~ expenditures were for association purposes
1090 and the billings, cash receipts, and related records to
1091 determine whether ~~that~~ the developer or bulk-unit purchaser was
1092 charged and paid the proper amounts of assessments.

1093 (d) Association funds or control thereof.

1094 (e) All tangible personal property that is property of the
1095 association, which is represented by the developer or bulk-unit
1096 purchaser to be part of the common elements or which is
1097 ostensibly part of the common elements, and an inventory of that
1098 property.

1099 (f) A copy of the plans and specifications used ~~utilized~~ in
1100 the construction or remodeling of improvements and the supplying
1101 of equipment to the condominium and in the construction and
1102 installation of all mechanical components serving the

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1103 improvements and the site with a certificate in affidavit form
1104 of the developer, the bulk-unit purchaser, or the developer's or
1105 bulk-unit purchaser's agent or an architect or engineer
1106 authorized to practice in this state that such plans and
1107 specifications represent, to the best of his or her knowledge
1108 and belief, the actual plans and specifications used ~~utilized~~ in
1109 the construction and improvement of the condominium property and
1110 for the construction and installation of the mechanical
1111 components serving the improvements. If the condominium property
1112 has been declared a condominium more than 3 years after the
1113 completion of construction or remodeling of the improvements,
1114 ~~the requirements of this paragraph~~ does ~~de~~ not apply.

1115 (g) A list of the names and addresses of all contractors,
1116 subcontractors, and suppliers used ~~utilized~~ in the construction
1117 or remodeling of the improvements and in the landscaping of the
1118 condominium or association property which the developer or bulk-
1119 unit purchaser had knowledge of at any time in the development
1120 of the condominium.

1121 (h) Insurance policies.

1122 (i) Copies of any certificates of occupancy that may have
1123 been issued for the condominium property.

1124 (j) Any other permits applicable to the condominium
1125 property which have been issued by governmental bodies and are
1126 in force or were issued within 1 year before ~~prior to~~ the date
1127 the unit owners other than the developer or bulk-unit purchaser
1128 took control of the association.

1129 (k) All written warranties of the contractor,
1130 subcontractors, suppliers, and manufacturers, if any, that are
1131 still effective.

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1132 (l) A roster of unit owners and their addresses and
1133 telephone numbers, if known, as shown on the developer's or
1134 bulk-unit purchaser's records.

1135 (m) Leases of the common elements and other leases to which
1136 the association is a party.

1137 (n) Employment contracts or service contracts in which the
1138 association is one of the contracting parties or service
1139 contracts in which the association or the unit owners have an
1140 obligation or responsibility, directly or indirectly, to pay
1141 some or all of the fee or charge of the person or persons
1142 performing the service.

1143 (o) All other contracts to which the association is a
1144 party.

1145 (p) A report included in the official records, under seal
1146 of an architect or engineer authorized to practice in this
1147 state, attesting to required maintenance, useful life, and
1148 replacement costs of the following applicable common elements
1149 comprising a turnover inspection report:

- 1150 1. Roof.
- 1151 2. Structure.
- 1152 3. Fireproofing and fire protection systems.
- 1153 4. Elevators.
- 1154 5. Heating and cooling systems.
- 1155 6. Plumbing.
- 1156 7. Electrical systems.
- 1157 8. Swimming pool or spa and equipment.
- 1158 9. Seawalls.
- 1159 10. Pavement and parking areas.
- 1160 11. Drainage systems.

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1161 12. Painting.

1162 13. Irrigation systems.

1163 (q) A copy of the certificate of a surveyor and mapper
1164 recorded pursuant to s. 718.104(4)(e) or the recorded instrument
1165 that transfers title to a unit in the condominium which is not
1166 accompanied by a recorded assignment of developer or bulk-unit
1167 purchaser rights in favor of the grantee of such unit, whichever
1168 occurred first.

1169 Section 10. Subsections (1) through (4) of section 718.302,
1170 Florida Statutes, are amended to read:

1171 718.302 Agreements entered into by the association.—

1172 (1) A ~~Any~~ grant or reservation made by a declaration,
1173 lease, or other document, and a ~~any~~ contract made by an
1174 association before ~~prior to~~ assumption of control of the
1175 association by unit owners other than the developer, a bulk-unit
1176 purchaser, or a lender-unit purchaser, which ~~that~~ provides for
1177 operation, maintenance, or management of a condominium
1178 association or property serving the unit owners of a condominium
1179 must ~~shall~~ be fair and reasonable, and such grant, reservation,
1180 or contract may be canceled by unit owners other than the
1181 developer or a bulk-unit purchaser. A lender-unit purchaser may
1182 not vote on cancellation of a grant, reservation, or contract
1183 made by the association while the association is under control
1184 of that lender-unit purchaser.:

1185 (a) If the association operates only one condominium and
1186 the unit owners other than the developer, a bulk-unit purchaser,
1187 or a lender-unit purchaser have assumed control of the
1188 association, or if the unit owners other than the developer, a
1189 bulk-unit purchaser, or a lender-unit purchaser own at least ~~not~~

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1190 ~~less than~~ 75 percent of the voting interests in the condominium,
1191 the cancellation shall be by concurrence of the owners of at
1192 least ~~not less than~~ 75 percent of the voting interests other
1193 than the voting interests owned by the developer, a bulk-unit
1194 purchaser, or a lender-unit purchaser. If a grant, reservation,
1195 or contract is so canceled and the unit owners other than the
1196 developer or a bulk-unit purchaser have not assumed control of
1197 the association, the association shall make a new contract or
1198 otherwise provide for maintenance, management, or operation in
1199 lieu of the canceled obligation, at the direction of the owners
1200 of ~~not less than~~ a majority of the voting interests in the
1201 condominium other than the voting interests owned by the
1202 developer, a bulk-unit purchaser, or a lender-unit purchaser.

1203 (b) If the association operates more than one condominium
1204 and the unit owners other than the developer, a bulk-unit
1205 purchaser, or a lender-unit purchaser have not assumed control
1206 of the association, and if the unit owners other than the
1207 developer or a bulk-unit purchaser own at least 75 percent of
1208 the voting interests in a condominium operated by the
1209 association, any grant, reservation, or contract for
1210 maintenance, management, or operation of buildings containing
1211 the units in that condominium or of improvements used only by
1212 the unit owners of that condominium may be canceled by
1213 concurrence of the owners of at least 75 percent of the voting
1214 interests in the condominium other than the voting interests
1215 owned by the developer or a bulk-unit purchaser. A ~~No~~ grant,
1216 reservation, or contract for maintenance, management, or
1217 operation of recreational areas or any other property serving
1218 more than one condominium, and operated by more than one

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1219 association, may not be canceled except pursuant to paragraph
1220 (d).

1221 (c) If the association operates more than one condominium
1222 and the unit owners other than the developer, a bulk-unit
1223 purchaser, or a lender-unit purchaser have assumed control of
1224 the association, the cancellation shall be by concurrence of the
1225 owners of at least ~~not less than~~ 75 percent of the total number
1226 of voting interests in all condominiums operated by the
1227 association other than the voting interests owned by the
1228 developer or a bulk-unit purchaser.

1229 (d) If the owners of units in a condominium have the right
1230 to use property in common with owners of units in other
1231 condominiums and those condominiums are operated by more than
1232 one association, a ~~no~~ grant, reservation, or contract for
1233 maintenance, management, or operation of the property serving
1234 more than one condominium may not be canceled until the unit
1235 owners other than the developer, a bulk-unit purchaser, or a
1236 lender-unit purchaser have assumed control of all of the
1237 associations operating the condominiums that are to be served by
1238 the recreational area or other property, after which
1239 cancellation may be effected by concurrence of the owners of at
1240 least ~~not less than~~ 75 percent of the total number of voting
1241 interests in those condominiums other than voting interests
1242 owned by the developer, a bulk-unit purchaser, or a lender-unit
1243 purchaser.

1244 (2) A ~~Any~~ grant or reservation made by a declaration,
1245 lease, or other document, or a ~~any~~ contract made by the
1246 developer or association before ~~prior to the time when~~ unit
1247 owners other than the developer or a bulk-unit purchaser elect a

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1248 majority of the board of administration, which grant,
1249 reservation, or contract requires the association to purchase
1250 condominium property or to lease condominium property to another
1251 party, shall be deemed ratified unless rejected by a majority of
1252 the voting interests of the unit owners other than the developer
1253 or a bulk-unit purchaser within 18 months after the unit owners
1254 other than the developer or a bulk-unit purchaser elect a
1255 majority of the board of administration. A lender-unit purchaser
1256 may not vote on cancellation of a grant, reservation, or
1257 contract made by the association while the association is under
1258 control of that lender-unit purchaser. This subsection does not
1259 apply to a any grant or reservation made by a declaration under
1260 which ~~whereby~~ persons other than the developer or the
1261 developer's or bulk-unit purchaser's heirs, assigns, affiliates,
1262 directors, officers, or employees are granted the right to use
1263 the condominium property, ~~if so long as~~ such persons are
1264 obligated to pay at least, ~~at a minimum~~, a proportionate share
1265 of the cost associated with such property.

1266 (3) A ~~Any~~ grant or reservation made by a declaration,
1267 lease, or other document, and a ~~any~~ contract made by an
1268 association, whether before or after assumption of control of
1269 the association by unit owners other than the developer, a bulk-
1270 unit purchaser, or a lender-unit purchaser, which ~~that~~ provides
1271 for operation, maintenance, or management of a condominium
1272 association or property serving the unit owners of a condominium
1273 may ~~shall~~ not be in conflict with the powers and duties of the
1274 association or the rights of the unit owners as provided in this
1275 chapter. This subsection is intended only as a clarification of
1276 existing law.

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1277 (4) A ~~Any~~ grant or reservation made by a declaration,
1278 lease, or other document, and a ~~any~~ contract made by an
1279 association before ~~prior to~~ assumption of control of the
1280 association by unit owners other than the developer, a bulk-unit
1281 purchaser, or a lender-unit purchaser, must ~~shall~~ be fair and
1282 reasonable.

1283 Section 11. Subsections (3), (4), and (5) of section
1284 718.303, Florida Statutes, are amended, and subsection (7) is
1285 added to that section, to read:

1286 718.303 Obligations of owners and occupants; remedies.—

1287 (3) The association may levy reasonable fines for the
1288 failure of the owner of the unit or its occupant, licensee, or
1289 invitee to comply with any provision of the declaration, the
1290 association bylaws, or reasonable rules of the association. A
1291 fine may not become a lien against a unit. A fine may be levied
1292 by the board or its authorized designee on the basis of each day
1293 of a continuing violation, with a single notice and opportunity
1294 for hearing before an impartial committee as provided in
1295 paragraph (b). However, the fine may not exceed \$100 per
1296 violation, or \$1,000 in the aggregate.

1297 (a) An association may suspend, for a reasonable period of
1298 time, the right of a unit owner, or a unit owner's tenant,
1299 guest, or invitee, to use the common elements, common
1300 facilities, or any other association property for failure to
1301 comply with any provision of the declaration, the association
1302 bylaws, or reasonable rules of the association. This paragraph
1303 does not apply to limited common elements intended to be used
1304 only by that unit, common elements needed to access the unit,
1305 utility services provided to the unit, parking spaces, or

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1306 elevators.

1307 (b) A fine or suspension levied by the board of
1308 administration or its authorized designee may not be imposed
1309 unless the board ~~association~~ first provides at least 14 days'
1310 written notice and an opportunity for a hearing to the unit
1311 owner and, if applicable, its occupant, licensee, or invitee.
1312 The hearing must be held before an impartial ~~a~~ committee of
1313 other unit owners who are neither board members, ~~nor~~ persons
1314 residing in a board member's household, the board's authorized
1315 designee, nor persons residing in the household of the board's
1316 authorized designee. The role of the impartial committee is
1317 limited to determining whether to confirm or reject the fine or
1318 suspension levied by the board. If the impartial committee does
1319 not agree, the fine or suspension may not be imposed.

1320 (4) If a unit owner is more than 90 days delinquent in
1321 paying a fee, fine, or other monetary obligation due to the
1322 association, the association may suspend the right of the unit
1323 owner or the unit's occupant, licensee, or invitee to use common
1324 elements, common facilities, or any other association property
1325 until the fee, fine, or other monetary obligation is paid in
1326 full. This subsection does not apply to limited common elements
1327 intended to be used only by that unit, common elements needed to
1328 access the unit, utility services provided to the unit, parking
1329 spaces, or elevators. The notice and hearing requirements under
1330 subsection (3) do not apply to suspensions imposed under this
1331 subsection.

1332 (5) An association may suspend the voting rights of a unit
1333 or member due to nonpayment of any fee, fine, or other monetary
1334 obligation due to the association which is more than 90 days

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1335 delinquent. A voting interest or consent right allocated to a
1336 unit or member which has been suspended by the association shall
1337 be subtracted from ~~may not be counted towards~~ the total number
1338 of voting interests in the association, which shall be reduced
1339 by the number of suspended voting interests when calculating the
1340 total percentage or number of all voting interests available to
1341 take or approve any action, and the suspended voting interests
1342 may not be considered for any purpose, including, but not
1343 limited to, the percentage or number of voting interests
1344 necessary to constitute a quorum, the percentage or number of
1345 voting interests required to conduct an election, or the
1346 percentage or number of voting interests required to approve an
1347 action under this chapter or pursuant to the declaration,
1348 articles of incorporation, or bylaws. The suspension ends upon
1349 full payment of all obligations currently due or overdue the
1350 association. The notice and hearing requirements under
1351 subsection (3) do not apply to a suspension imposed under this
1352 subsection.

1353 (7) The suspensions permitted by paragraph (3) (a) and
1354 subsections (4) and (5) apply to a member and, when appropriate,
1355 the member's tenants, guests, or invitees, even if the
1356 delinquency or failure that resulted in the suspension arose
1357 from less than all of the multiple units owned by the member.

1358 Section 12. Subsection (1) of section 718.501, Florida
1359 Statutes, is amended to read:

1360 718.501 Authority, responsibility, and duties of Division
1361 of Florida Condominiums, Timeshares, and Mobile Homes.—

1362 (1) The division may enforce and ensure compliance with ~~the~~
1363 ~~provisions of~~ this chapter and rules relating to the

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1364 development, construction, sale, lease, ownership, operation,
1365 and management of residential condominium units. In performing
1366 its duties, the division has complete jurisdiction to
1367 investigate complaints and enforce compliance with respect to
1368 associations that are still under the control of the developer,
1369 the control of a bulk-unit purchaser or lender-unit purchaser,
1370 or the control of a bulk assignee or bulk buyer pursuant to part
1371 VII of this chapter and complaints against developers, bulk-unit
1372 purchasers, lender-unit purchasers, bulk assignees, or bulk
1373 buyers involving improper turnover or failure to turnover,
1374 pursuant to s. 718.301. However, after turnover has occurred,
1375 the division has jurisdiction to investigate only complaints
1376 related ~~only~~ to financial issues, elections, and unit owner
1377 access to association records pursuant to s. 718.111(12).

1378 (a)1. The division may make necessary public or private
1379 investigations within or outside this state to determine whether
1380 any person has violated this chapter or any rule or order
1381 hereunder, to aid in the enforcement of this chapter, or to aid
1382 in the adoption of rules or forms.

1383 2. The division may submit any official written report,
1384 worksheet, or other related paper, or a duly certified copy
1385 thereof, compiled, prepared, drafted, or otherwise made by and
1386 duly authenticated by a financial examiner or analyst to be
1387 admitted as competent evidence in any hearing in which the
1388 financial examiner or analyst is available for cross-examination
1389 and attests under oath that such documents were prepared as a
1390 result of an examination or inspection conducted pursuant to
1391 this chapter.

1392 (b) The division may require or permit any person to file a

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1393 statement in writing, under oath or otherwise, as the division
1394 determines, as to the facts and circumstances concerning a
1395 matter to be investigated.

1396 (c) For the purpose of any investigation under this
1397 chapter, the division director or any officer or employee
1398 designated by the division director may administer oaths or
1399 affirmations, subpoena witnesses and compel their attendance,
1400 take evidence, and require the production of any matter that
1401 ~~which~~ is relevant to the investigation, including the existence,
1402 description, nature, custody, condition, and location of any
1403 books, documents, or other tangible things and the identity and
1404 location of persons having knowledge of relevant facts or any
1405 other matter reasonably calculated to lead to the discovery of
1406 material evidence. Upon the failure of ~~by~~ a person to obey a
1407 subpoena or to answer questions propounded by the investigating
1408 officer and upon reasonable notice to all affected persons, the
1409 division may apply to the circuit court for an order compelling
1410 compliance.

1411 (d) Notwithstanding any remedies available to unit owners
1412 and associations, if the division has reasonable cause to
1413 believe that a violation of ~~any provision of~~ this chapter or a
1414 related rule has occurred, the division may institute
1415 enforcement proceedings in its own name against any developer,
1416 bulk-unit purchaser, lender-unit purchaser, bulk assignee, bulk
1417 buyer, association, officer, or member of the board of
1418 administration, or his or her ~~its~~ assignees or agents, as
1419 follows:

1420 1. The division may permit a person whose conduct or
1421 actions may be under investigation to waive formal proceedings

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1422 and enter into a consent proceeding under which ~~whereby~~ orders,
1423 rules, or letters of censure or warning, whether formal or
1424 informal, may be entered against the person.

1425 2. The division may issue an order requiring the developer,
1426 bulk-unit purchaser, lender-unit purchaser, bulk assignee, bulk
1427 buyer, association, developer-designated officer, or developer-
1428 designated member of the board of administration, or his or her
1429 ~~developer-designated~~ assignees or agents, the bulk assignee-
1430 ~~designated assignees or agents, bulk buyer-designated assignees~~
1431 ~~or agents,~~ community association manager, or the community
1432 ~~association~~ management firm to cease and desist from the
1433 unlawful practice and take such affirmative action as in the
1434 judgment of the division to carry out the purposes of this
1435 chapter. If the division finds that a developer, bulk-unit
1436 purchaser, lender-unit purchaser, bulk assignee, bulk buyer,
1437 association, officer, or member of the board of administration,
1438 or his or her ~~its~~ assignees or agents, is violating or is about
1439 to violate ~~any provision of~~ this chapter, any rule adopted or
1440 order issued by the division, or any written agreement entered
1441 into with the division, ~~and~~ the violation presents an immediate
1442 danger to the public requiring an immediate final order, it may
1443 issue an emergency cease and desist order reciting with
1444 particularity the facts underlying such findings. The emergency
1445 cease and desist order is effective for 90 days. If the division
1446 begins nonemergency cease and desist proceedings, the emergency
1447 cease and desist order remains effective until the conclusion of
1448 the proceedings under ss. 120.569 and 120.57.

1449 3. If a developer, bulk-unit purchaser, lender-unit
1450 purchaser, bulk assignee, or bulk buyer, ~~fails to pay any~~

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1451 restitution determined by the division to be owed ~~and, plus~~ any
1452 accrued interest charged at the highest rate permitted by law,
1453 within 30 days after expiration of any appellate time period of
1454 a final order requiring payment of restitution or the conclusion
1455 of any appeal thereof, whichever is later, the division shall
1456 ~~must~~ bring an action in circuit or county court on behalf of any
1457 association, class of unit owners, lessees, or purchasers for
1458 restitution, declaratory relief, injunctive relief, or any other
1459 available remedy. The division may also temporarily revoke its
1460 acceptance of the filing for the developer, bulk-unit purchaser,
1461 or lender-unit purchaser, to which the restitution relates until
1462 payment of restitution is made.

1463 4. The division may petition the court for appointment of a
1464 receiver or conservator who, ~~if appointed, the receiver or~~
1465 ~~conservator~~ may take action to implement the court order to
1466 ensure the performance of the order and to remedy any breach
1467 thereof. In addition to all other means provided by law for the
1468 enforcement of an injunction or temporary restraining order, the
1469 circuit court may impound or sequester the property of a party
1470 defendant, including books, papers, documents, and related
1471 records, and allow the examination and use of the property by
1472 the division and a court-appointed receiver or conservator.

1473 5. The division may apply to the circuit court for an order
1474 of restitution under which ~~whereby~~ the defendant in an action
1475 brought pursuant to subparagraph 4. is ordered to make
1476 restitution of those sums shown by the division to have been
1477 obtained by the defendant in violation of this chapter. At the
1478 option of the court, such restitution is payable to the
1479 conservator or receiver appointed pursuant to subparagraph 4. or

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1480 directly to the persons whose funds or assets were obtained in
1481 violation of this chapter.

1482 6. The division may impose a civil penalty against a
1483 developer, bulk-unit purchaser, lender-unit purchaser, bulk
1484 assignee, ~~or~~ bulk buyer, or association, or its assignee or
1485 agent, for a ~~any~~ violation of this chapter or a related rule.
1486 The division may impose a civil penalty individually against an
1487 officer or board member who willfully and knowingly violates ~~a~~
1488 ~~provision of~~ this chapter, an adopted rule, or a final order of
1489 the division; may order the removal of such individual as an
1490 officer or from the board of administration or as an officer of
1491 the association; and may prohibit such individual from serving
1492 as an officer or on the board of a community association for a
1493 period of time. The term "willfully and knowingly" means that
1494 the division informed the officer or board member that his or
1495 her action or intended action violates this chapter, a rule
1496 adopted under this chapter, or a final order of the division and
1497 that the officer or board member refused to comply with ~~the~~
1498 ~~requirements of~~ this chapter, a rule adopted under this chapter,
1499 or a final order of the division. ~~The division,~~ Before
1500 initiating formal agency action under chapter 120, the division
1501 must afford the officer or board member an opportunity to
1502 voluntarily comply, and an officer or board member who complies
1503 within 10 days is not subject to a civil penalty. A penalty may
1504 be imposed on the basis of each day of continuing violation, but
1505 the penalty for any offense may not exceed \$5,000. ~~By January 1,~~
1506 ~~1998,~~ The division shall adopt, by rule, penalty guidelines
1507 applicable to possible violations or to categories of violations
1508 of this chapter or rules adopted by the division. The guidelines

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1509 must specify a meaningful range of civil penalties for each such
1510 violation of the statute and rules and must be based upon the
1511 harm caused by the violation, the repetition of the violation,
1512 and upon such other factors deemed relevant by the division. ~~For~~
1513 ~~example,~~ The division may consider whether the violations were
1514 committed by a developer, bulk-unit purchaser, lender-unit
1515 purchaser, bulk assignee, or bulk buyer, or owner-controlled
1516 association, the size of the association, and other factors. The
1517 guidelines must designate the possible mitigating or aggravating
1518 circumstances that justify a departure from the range of
1519 penalties provided by the rules. It is the legislative intent
1520 that minor violations be distinguished from those that ~~which~~
1521 endanger the health, safety, or welfare of ~~the~~ condominium
1522 residents or other persons and that such guidelines provide
1523 reasonable and meaningful notice to the public of likely
1524 penalties that may be imposed for proscribed conduct. This
1525 subsection does not limit the ability of the division to
1526 informally dispose of administrative actions or complaints by
1527 stipulation, agreed settlement, or consent order. All amounts
1528 collected shall be deposited with the Chief Financial Officer to
1529 the credit of the Division of Florida Condominiums, Timeshares,
1530 and Mobile Homes Trust Fund. If a developer, bulk-unit
1531 purchaser, lender-unit purchaser, bulk assignee, or bulk buyer
1532 fails to pay the civil penalty and the amount deemed to be owed
1533 to the association, the division shall issue an order directing
1534 that such developer, bulk-unit purchaser, lender-unit purchaser,
1535 bulk assignee, or bulk buyer cease and desist from further
1536 operation until such time as the civil penalty is paid or may
1537 pursue enforcement of the penalty in a court of competent

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1538 jurisdiction. If an association fails to pay the civil penalty,
1539 the division shall pursue enforcement in a court of competent
1540 jurisdiction, and the order imposing the civil penalty or the
1541 cease and desist order is not effective until 20 days after the
1542 date of such order. Any action commenced by the division shall
1543 be brought in the county in which the division has its executive
1544 offices or in the county where the violation occurred.

1545 7. If a unit owner presents the division with proof that
1546 the unit owner has requested access to official records in
1547 writing by certified mail, and that after 10 days the unit owner
1548 again made the same request for access to official records in
1549 writing by certified mail, and that more than 10 days has
1550 elapsed since the second request and the association has still
1551 failed or refused to provide access to official records as
1552 required by this chapter, the division shall issue a subpoena
1553 requiring production of the requested records where the records
1554 are kept pursuant to s. 718.112.

1555 8. In addition to subparagraph 6., the division may seek
1556 the imposition of a civil penalty through the circuit court for
1557 any violation for which the division may issue a notice to show
1558 cause under paragraph (r). The civil penalty shall be at least
1559 \$500 but no more than \$5,000 for each violation. The court may
1560 also award to the prevailing party court costs and reasonable
1561 attorney ~~attorney's~~ fees and, if the division prevails, may also
1562 award reasonable costs of investigation.

1563 (e) The division may prepare and disseminate a prospectus
1564 and other information to assist prospective owners, purchasers,
1565 lessees, and developers of residential condominiums in assessing
1566 the rights, privileges, and duties pertaining thereto.

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1567 (f) The division may adopt rules to administer and enforce
1568 ~~the provisions of~~ this chapter.

1569 (g) The division shall establish procedures for providing
1570 notice to an association and the developer, bulk-unit purchaser,
1571 lender-unit purchaser, bulk assignee, or bulk buyer during the
1572 period in which the developer, bulk-unit purchaser, lender-unit
1573 purchaser, bulk assignee, or bulk buyer controls the association
1574 if the division is considering the issuance of a declaratory
1575 statement with respect to the declaration of condominium or any
1576 related document governing such condominium community.

1577 (h) The division shall furnish each association that pays
1578 the fees required by paragraph (2) (a) a copy of this chapter, as
1579 amended, and the rules adopted thereto on an annual basis.

1580 (i) The division shall annually provide each association
1581 with a summary of declaratory statements and formal legal
1582 opinions relating to the operations of condominiums which were
1583 rendered by the division during the previous year.

1584 (j) The division shall provide training and educational
1585 programs for condominium association board members and unit
1586 owners. The training may, at ~~in~~ the division's discretion,
1587 include web-based electronic media, and live training and
1588 seminars in various locations throughout the state. The division
1589 may review and approve education and training programs for board
1590 members and unit owners offered by providers, ~~and~~ and shall maintain
1591 a current list of approved programs and providers, and shall
1592 make such list available to board members and unit owners in a
1593 reasonable and cost-effective manner.

1594 (k) The division shall maintain a toll-free telephone
1595 number accessible to condominium unit owners.

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1596 (1) The division shall develop a program to certify both
1597 volunteer and paid mediators to provide mediation of condominium
1598 disputes. Upon request, the division shall provide, ~~upon~~
1599 ~~request,~~ a list of such mediators to any association, unit
1600 owner, or other participant in arbitration proceedings under s.
1601 718.1255 requesting a copy of the list. The division shall
1602 include on the list of volunteer mediators only the names of
1603 individuals ~~persons~~ who have received at least 20 hours of
1604 training in mediation techniques or who have mediated at least
1605 20 disputes. In order to become initially certified by the
1606 division, paid mediators must be certified by the Supreme Court
1607 to mediate court cases in county or circuit courts. However, the
1608 division may adopt, by rule, additional factors for the
1609 certification of paid mediators, which must be related to
1610 experience, education, or background. In order to continue to be
1611 certified, an individual ~~Any person~~ initially certified as a
1612 paid mediator by the division must, ~~in order to continue to be~~
1613 ~~certified,~~ comply with the factors or requirements adopted by
1614 rule.

1615 (m) If a complaint is made, the division shall ~~must~~ conduct
1616 its inquiry with due regard for the interests of the affected
1617 parties. Within 30 days after receipt of a complaint, the
1618 division shall acknowledge the complaint in writing and notify
1619 the complainant as to whether the complaint is within the
1620 jurisdiction of the division and whether additional information
1621 is needed by the division from the complainant. The division
1622 shall conduct its investigation and, within 90 days after
1623 receipt of the original complaint or of timely requested
1624 additional information, take action upon the complaint. However,

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1625 the failure to complete the investigation within 90 days does
1626 not prevent the division from continuing the investigation,
1627 accepting or considering evidence obtained or received after 90
1628 days, or taking administrative action if reasonable cause exists
1629 to believe that a violation of this chapter or a rule has
1630 occurred. If an investigation is not completed within the time
1631 limits established in this paragraph, the division shall, on a
1632 monthly basis, notify the complainant in writing of the status
1633 of the investigation. When reporting its action to the
1634 complainant, the division shall inform the complainant of any
1635 right to a hearing pursuant to ss. 120.569 and 120.57.

1636 (n) Condominium association directors, officers, and
1637 employees; condominium developers; bulk-unit purchasers, lender-
1638 unit purchasers, bulk assignees, bulk buyers, and community
1639 association managers; and community association management firms
1640 have an ongoing duty to reasonably cooperate with the division
1641 in any investigation pursuant to this section. The division
1642 shall refer to local law enforcement authorities any person who
1643 ~~whom~~ the division believes has altered, destroyed, concealed, or
1644 removed any record, document, or thing required to be kept or
1645 maintained by this chapter with the purpose to impair its verity
1646 or availability in the department's investigation.

1647 (o) The division may:

- 1648 1. Contract with agencies in this state or other
1649 jurisdictions to perform investigative functions; or
1650 2. Accept grants-in-aid from any source.

1651 (p) The division shall cooperate with similar agencies in
1652 other jurisdictions to establish uniform filing procedures and
1653 forms, public offering statements, advertising standards, and

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1654 rules and common administrative practices.

1655 (q) The division shall consider notice to a developer,
1656 bulk-unit purchaser, lender-unit purchaser, bulk assignee, or
1657 bulk buyer to be complete when it is delivered to the address of
1658 the developer, bulk-unit purchaser, lender-unit purchaser, bulk
1659 assignee, or bulk buyer currently on file with the division.

1660 (r) In addition to its enforcement authority, the division
1661 may issue a notice to show cause, which must provide for a
1662 hearing, upon written request, in accordance with chapter 120.

1663 (s) The division shall submit to the Governor, the
1664 President of the Senate, the Speaker of the House of
1665 Representatives, and the chairs of the legislative
1666 appropriations committees an annual report that includes, but
1667 need not be limited to, the number of training programs provided
1668 for condominium association board members and unit owners;; the
1669 number of complaints received, by type; the number and percent
1670 of complaints acknowledged in writing within 30 days and the
1671 number and percent of investigations acted upon within 90 days
1672 in accordance with paragraph (m);; and the number of
1673 investigations exceeding the 90-day requirement. The annual
1674 report must also include an evaluation of the division's core
1675 business processes and make recommendations for improvements,
1676 including statutory changes. The report shall be submitted by
1677 September 30 following the end of the fiscal year.

1678 Section 13. Section 718.709, Florida Statutes, is created
1679 to read:

1680 718.709 Applicability.—Sections 718.701-718.708, relating
1681 to the Distressed Condominium Relief Act, apply to title to
1682 units acquired on or after July 1, 2010, but before July 1,

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1683 2016.

1684 Section 14. Part VIII of chapter 718, Florida Statutes,
1685 consisting of sections 718.801-718.813, is created to read:

1686 PART VIII

1687 BULK-UNIT PURCHASERS AND LENDER-UNIT PURCHASERS

1688 718.801 Legislative intent.—The Legislature declares that
1689 it is the public policy of this state to protect the interests
1690 of developers, lenders, unit owners, and condominium
1691 associations with regard to bulk-unit purchasers or lender-unit
1692 purchasers of condominium units and that there is a need to
1693 balance such interests by limiting the applicability of the
1694 Distressed Condominium Relief Act. Notwithstanding the
1695 limitation, the Distressed Condominium Relief Act applies to
1696 title acquired on or after July 1, 2010, but before July 1,
1697 2016.

1698 718.802 Definitions.—As used in this part, the term:

1699 (1) "Bulk assignee" means a person who is not a bulk buyer
1700 and who:

1701 (a) Acquires more than seven condominium parcels in a
1702 single condominium;

1703 (b) Receives an assignment of any of the developer rights,
1704 other than or in addition to those rights described in
1705 subsection (3), as set forth in the declaration of condominium
1706 or this chapter:

1707 1. By a written instrument recorded as part of or as an
1708 exhibit of the deed;

1709 2. By a separate instrument recorded in the public records
1710 of the county in which the condominium is located; or

1711 3. Pursuant to a final judgment or certificate of title

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1712 issued in favor of a purchaser at a foreclosure sale; and

1713 (c) Acquired condominium parcels on or after July 1, 2010,
1714 but before July 1, 2016. The date of such acquisition shall be
1715 determined by the date of recording a deed or other instrument
1716 of conveyance for such parcels in the public records of the
1717 county in which the condominium is located, or by the date of
1718 issuing a certificate of title in a foreclosure proceeding with
1719 respect to such condominium parcels.

1720
1721 A mortgagee or its assignee may not be deemed a bulk assignee or
1722 developer by reason of the acquisition of condominium units and
1723 receipt of an assignment of some or all of a developer's rights
1724 unless the mortgage or its assignee exercises any of the
1725 developer rights other than those described in subsection (3).

1726 (2) "Bulk-unit purchaser" means a person who acquires title
1727 to the greater of at least eight units or 20 percent of the
1728 units that ultimately will be operated by the same association,
1729 as provided in the declaration, articles of incorporation, or
1730 bylaws as originally recorded. Multiple bulk-unit purchasers may
1731 be members of an association simultaneously or successively.
1732 There may be one or more bulk-unit purchasers while the
1733 developer still owns units operated by the association. A person
1734 who acquires title to units or timeshare interests in a
1735 condominium, which units or timeshare interests are or
1736 ultimately will be included in a timeshare plan governed by
1737 chapter 721, may elect to be a bulk-unit purchaser pursuant to
1738 s. 718.813. The term does not include a lender-unit purchaser.
1739 Further, the term does not include an acquirer of units if any
1740 transfer of title to the acquirer is made:

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1741 (a) With intent to defraud or materially harm a purchaser,
1742 a unit owner, or the association;

1743 (b) Where the acquirer is a person or limited liability
1744 company that would be an insider, as defined in s. 726.102, of
1745 the bulk-unit purchaser or of the developer; or

1746 (c) As a fraudulent transfer under chapter 726.

1747 (3) "Bulk buyer" means a person who acquired condominium
1748 parcels on or after July 1, 2010, but before July 1, 2016, and
1749 the date of acquisition shall be determined in the same manner
1750 as in subsection (1). Further, the term means a person who
1751 acquires more than seven condominium parcels in a single
1752 condominium but who does not receive an assignment of any
1753 developer rights or receives only some or all of the following
1754 rights:

1755 (a) The right to conduct sales, leasing, and marketing
1756 activities within the condominium.

1757 (b) The right to be exempt from the payment of working
1758 capital contributions to the condominium association arising out
1759 of, or in connection with, the bulk buyer's acquisition of the
1760 units.

1761 (c) The right to be exempt from any rights of first refusal
1762 which may be held by the condominium association and would
1763 otherwise be applicable to subsequent transfers of title from
1764 the bulk buyer to a third-party purchaser concerning one or more
1765 units.

1766 (4) "Lender-unit purchaser" means a person, or the person's
1767 successors, assigns, or wholly owned subsidiaries, who holds a
1768 mortgage from a developer or from a bulk-unit purchaser on the
1769 greater of at least eight units or 20 percent of the units that,

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1770 as provided in the declaration, articles of incorporation, or
1771 bylaws as originally recorded, ultimately will be operated by
1772 the same association; who subsequently obtains title to such
1773 units through foreclosure or deed in lieu of foreclosure; and
1774 who makes the election to become a lender-unit purchaser
1775 pursuant to 718.808(4). However, a mortgagee or its wholly owned
1776 subsidiary that acquires and sells units to one or more bulk-
1777 unit purchasers is not a developer or a lender-unit purchaser
1778 with respect to the sale.

1779 718.803 Exercise of rights.-

1780 (1) A bulk-unit purchaser may exercise only the following
1781 developer rights, provided such rights are contained in the
1782 declaration:

1783 (a) The right to conduct sales, leasing, and marketing
1784 activities within the condominium, including the use of the
1785 sales and leasing office.

1786 (b) The right to assign limited common elements and use
1787 rights to common elements and association property which were
1788 not assigned before the bulk-unit purchaser acquired title to
1789 the units. Such rights may include, without limitation, the
1790 rights to garages, parking spaces, storage areas, and cabanas.
1791 If there is more than one bulk-unit purchaser, this right must
1792 be established in a written assignment from the developer which
1793 specifies the bulk-unit purchaser who has such a right as to
1794 specified limited common elements, common elements, and
1795 association property.

1796 (c) For a phase condominium, the right to add phases.

1797 (2) If the initial purchaser of a unit from the developer
1798 is required to make a working capital contribution to the

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1799 association, a bulk-unit purchaser shall pay a working capital
1800 contribution to the association, which must be calculated in the
1801 same manner for each unit acquired, upon the earlier of:

1802 (a) Sale of a unit by the bulk-unit purchaser to a third
1803 party other than the bulk-unit purchaser; or

1804 (b) Five years from the date of acquisition of title to a
1805 unit by the bulk-unit purchaser.

1806 (3) If a bulk-unit purchaser exercises developer rights
1807 other than those specified in subsection (1), he or she is no
1808 longer deemed to be a bulk-unit purchaser, and this part does
1809 not apply to such person.

1810 (4) Except as set forth in this part, a lender-unit
1811 purchaser may exercise any developer rights that the lender-unit
1812 purchaser acquires.

1813 718.804 Compliance.—A bulk-unit purchaser and a lender-unit
1814 purchaser shall comply with all applicable requirements of s.
1815 718.202 and part V of this chapter in connection with any units
1816 that they own or sell.

1817 718.805 Voting rights.—

1818 (1) For the first 2 fiscal years following the first
1819 conveyance of a unit to a bulk-unit purchaser or lender-unit
1820 purchaser, the bulk-unit purchaser or lender-unit purchaser may
1821 vote the voting interests allocated to his or her units to waive
1822 reserves or reduce the funding of reserves. After these 2 fiscal
1823 years, the bulk-unit purchaser or lender-unit purchaser may not
1824 vote his or her voting interests to waive reserves or reduce the
1825 funding of reserves until the bulk-unit purchaser or lender-unit
1826 purchaser holds less than a majority of the voting interests in
1827 the association.

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1828 (2) A bulk-unit purchaser or lender-unit purchaser may not
1829 transfer his or her right to vote to waive reserves or reduce
1830 the funding of reserves to other bulk-unit purchasers or lender-
1831 unit purchasers to extend the time period in subsection (1).

1832 718.806 Assessment liability; election of directors.-

1833 (1) BULK-UNIT PURCHASER ASSESSMENT LIABILITY.-A bulk-unit
1834 purchaser is liable for all assessments on his or her units
1835 which become due while the bulk-unit purchaser holds title to
1836 such units. Additionally, the bulk-unit purchaser is jointly and
1837 severally liable with the previous owner for all unpaid regular
1838 periodic assessments and special assessments that became due
1839 before the acquisition of title, for all other monetary
1840 obligations accrued which are secured by the association's lien,
1841 and for all costs advanced by the association for the
1842 maintenance and repair of the units acquired by the bulk-unit
1843 purchaser.

1844 (2) LENDER-UNIT PURCHASER ASSESSMENT LIABILITY.-The
1845 liability of a lender-unit purchaser or his or her successors or
1846 assignees for the units that the lender-unit purchaser owns is
1847 limited to the lesser of:

1848 (a) The units' unpaid common expenses and the regular
1849 periodic assessments that accrued or became due during the 12
1850 months immediately preceding the lender-unit purchaser's
1851 acquisition of title and for which payment in full has not been
1852 received by the association; or

1853 (b) One percent of the original mortgage debt.

1854
1855 The lender-unit purchaser acquiring title must comply with s.
1856 718.116(1)(c).

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1857 (3) DIRECTOR ELECTED BY BULK-UNIT PURCHASER.—A director who
1858 has been elected or appointed by a bulk-unit purchaser is
1859 automatically suspended from board service for 30 days following
1860 the failure of the bulk-unit purchaser to timely pay monetary
1861 obligations on a unit the bulk-unit purchaser owns. The
1862 remaining directors may temporarily fill the vacancy created by
1863 the suspension. Once the bulk-unit purchaser has cured all
1864 outstanding delinquencies on the unit, the suspended director
1865 shall replace the temporary appointee and resume service on the
1866 board for the unexpired term.

1867 718.807 Amendments and material alterations.—

1868 (1) The following amendments or alterations may not go into
1869 effect unless approved by a majority vote of unit owners other
1870 than the developer, a bulk-unit purchaser, or a lender-unit
1871 purchaser:

1872 (a) An amendment described in s. 718.110(4) or (8).

1873 (b) An amendment creating, changing, or terminating leasing
1874 restrictions.

1875 (c) An amendment of the declaration pertaining to the
1876 condominium's status as housing for older persons.

1877 (d) An amendment pursuant to s. 718.110(14) or an amendment
1878 that otherwise reclassifies a portion of the common elements as
1879 a limited common element or that authorizes the association to
1880 change the limited common elements assigned to any unit.

1881 (e) Material alterations or substantial additions to the
1882 common elements or association property any time one of the
1883 following owns a percentage of voting interests equal to or
1884 greater than the percentage required to approve the amendment:

1885 1. A bulk-unit purchaser;

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1886 2. A lender-unit purchaser;
1887 3. The developer and a bulk-unit purchaser;
1888 4. The developer and a lender-unit purchaser; or
1889 5. A bulk-unit purchaser and a lender-unit purchaser.
1890 (2) Notwithstanding subsection (1), consent of the
1891 developer, a bulk-unit purchaser, or a lender-unit purchaser is
1892 required for an amendment that would otherwise require the
1893 approval of such voting interests based upon the requirements of
1894 the declaration, articles of incorporation, or bylaws or s.
1895 718.110 or s. 718.113.
1896 718.808 Warranties and disclosures.—
1897 (1) As the seller, a bulk-unit purchaser or lender-unit
1898 purchaser is deemed to have granted an implied warranty of
1899 fitness and merchantability to a purchaser of each unit sold for
1900 a period of 3 years, which begins on the date of the completion
1901 of repairs or improvements that the bulk-unit purchaser or
1902 lender-unit purchaser makes to the unit, common elements, or
1903 limited common elements. The bulk-unit purchaser or lender-unit
1904 purchaser is not deemed to have granted a warranty on
1905 improvements, repairs, or alterations to the condominium which
1906 he or she did not undertake.
1907 (2) The statute of limitations in s. 718.203 is tolled
1908 while the bulk-unit purchaser begins the process of appointing
1909 or electing a majority of the board of administration.
1910 (3) As the seller, the bulk-unit purchaser shall include
1911 the following disclosure to purchasers in conspicuous type on
1912 the first page of the sales contract:
1913
1914 SELLER IS A BULK-UNIT PURCHASER UNDER THE CONDOMINIUM ACT.

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1915 SELLER IS NOT THE DEVELOPER OF THE CONDOMINIUM FOR ANY PURPOSE
1916 UNDER THE CONDOMINIUM ACT.

1917
1918 (4) A mortgagee who acquires units may elect to become a
1919 lender-unit purchaser by providing written notice of the
1920 election to the association addressed to the registered agent at
1921 the address specified in the records of the Department of State.
1922 The notice shall be delivered within the time period ending upon
1923 the earliest of:

1924 (a) The date on which the mortgagee exercises any developer
1925 rights other than the developer rights described in s.
1926 718.803(1) (a);

1927 (b) Before the sale of a unit by the mortgagee; or

1928 (c) One hundred eighty days after the recording of the
1929 certificate of title or of the deed in lieu of foreclosure if
1930 the mortgagee acquired the units by foreclosure or by deed in
1931 lieu of foreclosure.

1932 (5) As the seller, the lender-unit purchaser shall include
1933 the following disclosure to purchasers in conspicuous type on
1934 the first page of the sales contract:

1935
1936 SELLER IS A LENDER-UNIT PURCHASER UNDER THE CONDOMINIUM ACT.
1937 SELLER IS NOT THE DEVELOPER OF THE CONDOMINIUM FOR ANY PURPOSE
1938 UNDER THE CONDOMINIUM ACT. SELLER TOOK TITLE TO THE UNIT(S)
1939 BEING SOLD TO PURCHASER BY FORECLOSURE OR DEED IN LIEU OF
1940 FORECLOSURE.

1941
1942 (6) (a) At or before the signing of a contract to sell a
1943 unit, the bulk-unit purchaser and the lender-unit purchaser must

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1944 provide a condition report that complies with s. 718.616(2) and
1945 (3) and this section to the prospective purchaser and must
1946 obtain verification of delivery of such condition report. A
1947 condition report is not required in connection with a sale to a
1948 bulk-unit purchaser or in connection with a deed in lieu of
1949 foreclosure to a lender-unit purchaser. A mortgagee is not
1950 required to deliver to a bulk-unit purchaser a condition report
1951 even if the mortgagee acquires and transfers developer rights to
1952 such bulk-unit purchaser.

1953 (b) The condition report must include a reasonably detailed
1954 description of the repairs or replacements necessary to cure
1955 defective construction identified in the condition report.

1956 (c) If, during the course of preparing the condition
1957 report, the architect or engineer becomes aware of a component
1958 that violates an applicable building code or federal or state
1959 law or that deviates from the building plans approved by the
1960 permitting authority, the architect or engineer shall disclose
1961 such information in the condition report. The architect or
1962 engineer shall make written inquiry to the applicable local
1963 government authority of any building code violations and shall
1964 include in the condition report any of the authority's responses
1965 or its failure to respond.

1966 (d) The condition report shall be prepared before the bulk-
1967 unit purchaser or the lender-unit purchaser enters into his or
1968 her first sales contract, but the condition report may not be
1969 prepared more than 6 months before the first sales contract is
1970 agreed upon. If the bulk-unit purchaser or lender-unit purchaser
1971 remains engaged in selling units, the condition report shall be
1972 updated no later than 1 year after the closing of the first

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1973 sales contract and each year thereafter.

1974 (e) If a bulk-unit purchaser or lender-unit purchaser fails
1975 to provide the condition report in accordance with this section,
1976 the bulk-unit purchaser or lender-unit purchaser is deemed to
1977 grant implied warranties of fitness and merchantability which
1978 are not limited to the construction, improvements, or repairs
1979 that he or she undertakes to the units, common elements, or
1980 limited common elements.

1981 718.809 Joint and several liability.—For purposes of this
1982 chapter, if there are multiple bulk-unit purchasers within the
1983 same association, the units owned by the multiple bulk-unit
1984 purchasers and the rights of the bulk-unit purchasers shall be
1985 aggregated as if there were only one bulk-unit purchaser. Each
1986 bulk-unit purchaser is jointly and severally liable with his or
1987 her predecessor bulk-unit purchasers for compliance with this
1988 chapter.

1989 718.810 Construction disputes.—A board of administration
1990 composed of a majority of directors elected or appointed by a
1991 bulk-unit purchaser may not resolve a construction dispute that
1992 is subject to chapter 558 unless such resolution is approved by
1993 a majority of the voting interests of the unit owners other than
1994 the developer and a bulk-unit purchaser.

1995 718.811 Noncompliance.—A bulk-unit purchaser or a lender-
1996 unit purchaser who fails to substantially comply with the
1997 requirements of this chapter pertaining to the obligations and
1998 rights of bulk-unit purchasers and lender-unit purchasers
1999 forfeits all protections or exemptions provided under the
2000 Condominium Act.

2001 718.812 Documents to be delivered upon turnover.—If a bulk-

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2002 unit purchaser elects a majority of the board of administration
2003 and the unit owners other than the bulk-unit purchaser elect a
2004 majority, the bulk-unit purchaser must deliver all of the items
2005 specified in s. 718.301(4) to the association. However, the
2006 bulk-unit purchaser is not required to deliver items that were
2007 never in the possession of the bulk-unit purchaser. In
2008 conjunction with the acquisition of units, the bulk-unit
2009 purchaser shall undertake a good faith effort to obtain the
2010 items specified in s. 718.301(4) which must be delivered to the
2011 association. If the bulk-unit purchaser cannot obtain such
2012 items, the bulk-unit purchaser must deliver a certificate in
2013 writing to the association which names or describes items that
2014 were not obtainable by the bulk-unit purchaser and which
2015 describes the good faith efforts that were undertaken to obtain
2016 the items. Delivery of the certificate relieves the bulk-unit
2017 purchaser of his or her responsibility under s. 718.301 to
2018 deliver the documents and materials referenced in the
2019 certificate. The responsibility of the bulk-unit purchaser to
2020 conduct the audit required by s. 718.301(4)(c) begins on the
2021 date the bulk-unit purchaser elects or appoints a majority of
2022 the members of the board of administration and ends on the date
2023 the bulk-unit purchaser no longer controls the board.

2024 718.813 Timeshare Condominiums.—With respect to the
2025 acquisition of title to units or timeshare interests in a
2026 condominium, which units or timeshare interests are or
2027 ultimately will be included in a timeshare plan governed by
2028 chapter 721:

2029 (1) Any person otherwise qualified to be a bulk-unit
2030 purchaser pursuant to s. 718.802 is not a bulk-unit purchaser

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2031 unless that person makes an election to become a bulk-unit
 2032 purchaser by providing notice to the association addressed to
 2033 the registered agent at the address specified in the records of
 2034 the Department of State. The notice shall be delivered within
 2035 the time period ending upon the earliest of:

2036 (a) The date on which the person exercises any developer
 2037 rights other than the developer rights described in s.
 2038 718.803(1) (a);

2039 (b) The sale of any unit or timeshare interest by the
 2040 person; or

2041 (c) One hundred eighty days after the recording of the deed
 2042 or other instrument of conveyance by which the person acquired
 2043 the units or timeshare interests.

2044 (2) If a person has made an election to be a bulk-unit
 2045 purchaser pursuant to subsection (1), the bulk-unit purchaser,
 2046 when selling units or timeshare interests, shall include the
 2047 following disclosure to purchasers in conspicuous type on the
 2048 first page of the contract for sale of units or timeshare
 2049 interests:

2050 SELLER IS A BULK-UNIT PURCHASER UNDER THE CONDOMINIUM ACT.
 2051 SELLER IS NOT THE DEVELOPER OF THE CONDOMINIUM FOR ANY PURPOSE
 2052 UNDER THE CONDOMINIUM.

2053 Section 15. Paragraph (a) of subsection (2) of section
 2054 719.104, Florida Statutes, is amended to read:

2055 719.104 Cooperatives; access to units; records; financial
 2056 reports; assessments; purchase of leases.—

2057 (2) OFFICIAL RECORDS.—

2058 (a) From the inception of the association, the association
 2059 shall maintain a copy of each of the following, where

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2060 applicable, which shall constitute the official records of the
2061 association:

2062 1. The plans, permits, warranties, and other items provided
2063 by the developer pursuant to s. 719.301(4).

2064 2. A photocopy of the cooperative documents.

2065 3. A copy of the current rules of the association.

2066 4. A book or books containing the minutes of all meetings
2067 of the association, of the board of directors, and of the unit
2068 owners, which minutes shall be retained for a period of not less
2069 than 7 years.

2070 5. A current roster of all unit owners and their mailing
2071 addresses, unit identifications, voting certifications, and, if
2072 known, telephone numbers. The association shall also maintain
2073 the electronic mailing addresses and the numbers designated by
2074 unit owners for receiving notice sent by electronic transmission
2075 of those unit owners consenting to receive notice by electronic
2076 transmission. The electronic mailing addresses and numbers
2077 provided by unit owners to receive notice by electronic
2078 transmission shall be removed from association records when
2079 consent to receive notice by electronic transmission is revoked.
2080 However, the association is not liable for an erroneous
2081 disclosure of the electronic mail address or the number for
2082 receiving electronic transmission of notices.

2083 6. All current insurance policies of the association.

2084 7. A current copy of any management agreement, lease, or
2085 other contract to which the association is a party or under
2086 which the association or the unit owners have an obligation or
2087 responsibility.

2088 8. Bills of sale or transfer for all property owned by the

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2089 association.

2090 9. Accounting records for the association and separate
2091 accounting records for each unit it operates, according to good
2092 accounting practices. All accounting records shall be maintained
2093 for a period of not less than 7 years. The accounting records
2094 shall include, but not be limited to:

2095 a. Accurate, itemized, and detailed records of all receipts
2096 and expenditures.

2097 b. A current account and a monthly, bimonthly, or quarterly
2098 statement of the account for each unit designating the name of
2099 the unit owner, the due date and amount of each assessment, the
2100 amount paid upon the account, and the balance due.

2101 c. All audits, reviews, accounting statements, and
2102 financial reports of the association.

2103 d. All contracts for work to be performed. Bids for work to
2104 be performed shall also be considered official records and shall
2105 be maintained for a period of 1 year.

2106 10. Ballots, sign-in sheets, voting proxies, and all other
2107 papers relating to voting by unit owners, which shall be
2108 maintained for a period of 1 year after the date of the
2109 election, vote, or meeting to which the document relates.

2110 11. All rental records where the association is acting as
2111 agent for the rental of units.

2112 12. A copy of the current question and answer sheet as
2113 described in s. 719.504.

2114 13. All other written records of the association not
2115 specifically included in the foregoing which are related to the
2116 operation of the association.

2117 Section 16. Paragraphs (c) and (d) of subsection (1) of

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2118 section 719.106, Florida Statutes, are amended to read:

2119 719.106 Bylaws; cooperative ownership.-

2120 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
2121 documents shall provide for the following, and if they do not,
2122 they shall be deemed to include the following:

2123 (c) *Board of administration meetings.*—Meetings of the board
2124 of administration at which a quorum of the members is present
2125 shall be open to all unit owners. Any unit owner may tape record
2126 or videotape meetings of the board of administration; however, a
2127 unit owner may not post the recordings on any website or other
2128 media that can readily be viewed by persons who are not members
2129 of the association. The right to attend such meetings includes
2130 the right to speak at such meetings with reference to all
2131 designated agenda items. The division shall adopt reasonable
2132 rules governing the tape recording and videotaping of the
2133 meeting. The association may adopt reasonable written rules
2134 governing the frequency, duration, and manner of unit owner
2135 statements. Adequate notice of all meetings shall be posted in a
2136 conspicuous place upon the cooperative property at least 48
2137 continuous hours preceding the meeting, except in an emergency.
2138 Any item not included on the notice may be taken up on an
2139 emergency basis by at least a majority plus one of the members
2140 of the board. Such emergency action shall be noticed and
2141 ratified at the next regular meeting of the board. However,
2142 written notice of any meeting at which nonemergency special
2143 assessments, or at which amendment to rules regarding unit use,
2144 will be considered shall be mailed, delivered, or electronically
2145 transmitted to the unit owners and posted conspicuously on the
2146 cooperative property not less than 14 days before the meeting.

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2147 Evidence of compliance with this 14-day notice shall be made by
2148 an affidavit executed by the person providing the notice and
2149 filed among the official records of the association. Upon notice
2150 to the unit owners, the board shall by duly adopted rule
2151 designate a specific location on the cooperative property upon
2152 which all notices of board meetings shall be posted. In lieu of
2153 or in addition to the physical posting of notice of any meeting
2154 of the board of administration on the cooperative property, the
2155 association may, by reasonable rule, adopt a procedure for
2156 conspicuously posting and repeatedly broadcasting the notice and
2157 the agenda on a closed-circuit cable television system serving
2158 the cooperative association. However, if broadcast notice is
2159 used in lieu of a notice posted physically on the cooperative
2160 property, the notice and agenda must be broadcast at least four
2161 times every broadcast hour of each day that a posted notice is
2162 otherwise required under this section. When broadcast notice is
2163 provided, the notice and agenda must be broadcast in a manner
2164 and for a sufficient continuous length of time so as to allow an
2165 average reader to observe the notice and read and comprehend the
2166 entire content of the notice and the agenda. Notice of any
2167 meeting in which regular assessments against unit owners are to
2168 be considered for any reason shall specifically contain a
2169 statement that assessments will be considered and the nature of
2170 any such assessments. Meetings of a committee to take final
2171 action on behalf of the board or to make recommendations to the
2172 board regarding the association budget are subject to the
2173 provisions of this paragraph. Meetings of a committee that does
2174 not take final action on behalf of the board or make
2175 recommendations to the board regarding the association budget

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2176 are subject to the provisions of this section, unless those
2177 meetings are exempted from this section by the bylaws of the
2178 association. Notwithstanding any other law to the contrary, the
2179 requirement that board meetings and committee meetings be open
2180 to the unit owners does not apply to board or committee meetings
2181 held for the purpose of discussing personnel matters or meetings
2182 between the board or a committee and the association's attorney,
2183 with respect to proposed or pending litigation, if the meeting
2184 is held for the purpose of seeking or rendering legal advice.

2185 (d) *Shareholder meetings.*—There shall be an annual meeting
2186 of the shareholders. All members of the board of administration
2187 shall be elected at the annual meeting unless the bylaws provide
2188 for staggered election terms or for their election at another
2189 meeting. Any unit owner desiring to be a candidate for board
2190 membership must comply with subparagraph 1. The bylaws must
2191 provide the method for calling meetings, including annual
2192 meetings. Written notice, which must incorporate an
2193 identification of agenda items, shall be given to each unit
2194 owner at least 14 days before the annual meeting and posted in a
2195 conspicuous place on the cooperative property at least 14
2196 continuous days preceding the annual meeting. Upon notice to the
2197 unit owners, the board must by duly adopted rule designate a
2198 specific location on the cooperative property upon which all
2199 notice of unit owner meetings are posted. In lieu of or in
2200 addition to the physical posting of the meeting notice, the
2201 association may, by reasonable rule, adopt a procedure for
2202 conspicuously posting and repeatedly broadcasting the notice and
2203 the agenda on a closed-circuit cable television system serving
2204 the cooperative association. However, if broadcast notice is

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2205 used in lieu of a posted notice, the notice and agenda must be
2206 broadcast at least four times every broadcast hour of each day
2207 that a posted notice is otherwise required under this section.
2208 If broadcast notice is provided, the notice and agenda must be
2209 broadcast in a manner and for a sufficient continuous length of
2210 time to allow an average reader to observe the notice and read
2211 and comprehend the entire content of the notice and the agenda.
2212 Unless a unit owner waives in writing the right to receive
2213 notice of the annual meeting, the notice of the annual meeting
2214 must be sent by mail, hand delivered, or electronically
2215 transmitted to each unit owner. An officer of the association
2216 must provide an affidavit or United States Postal Service
2217 certificate of mailing, to be included in the official records
2218 of the association, affirming that notices of the association
2219 meeting were mailed, hand delivered, or electronically
2220 transmitted, in accordance with this provision, to each unit
2221 owner at the address last furnished to the association.

2222 1. The board of administration shall be elected by written
2223 ballot or voting machine. A proxy may not be used in electing
2224 the board of administration in general elections or elections to
2225 fill vacancies caused by recall, resignation, or otherwise
2226 unless otherwise provided in this chapter.

2227 a. At least 60 days before a scheduled election, the
2228 association shall mail, deliver, or transmit, whether by
2229 separate association mailing, delivery, or electronic
2230 transmission or included in another association mailing,
2231 delivery, or electronic transmission, including regularly
2232 published newsletters, to each unit owner entitled to vote, a
2233 first notice of the date of the election. Any unit owner or

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2234 other eligible person desiring to be a candidate for the board
2235 of administration must give written notice to the association at
2236 least 40 days before a scheduled election. Together with the
2237 written notice and agenda as set forth in this section, the
2238 association shall mail, deliver, or electronically transmit a
2239 second notice of election to all unit owners entitled to vote,
2240 together with a ballot that lists all candidates. Upon request
2241 of a candidate, the association shall include an information
2242 sheet, no larger than 8 1/2 inches by 11 inches, which must be
2243 furnished by the candidate at least 35 days before the election,
2244 to be included with the mailing, delivery, or electronic
2245 transmission of the ballot, with the costs of mailing, delivery,
2246 or transmission and copying to be borne by the association. The
2247 association is not liable for the contents of the information
2248 sheets provided by the candidates. In order to reduce costs, the
2249 association may print or duplicate the information sheets on
2250 both sides of the paper. The division shall by rule establish
2251 voting procedures consistent with this subparagraph, including
2252 rules establishing procedures for giving notice by electronic
2253 transmission and rules providing for the secrecy of ballots.
2254 Elections shall be decided by a plurality of those ballots cast.
2255 There is no quorum requirement. However, at least 20 percent of
2256 the eligible voters must cast a ballot in order to have a valid
2257 election. A unit owner may not permit any other person to vote
2258 his or her ballot, and any such ballots improperly cast are
2259 invalid. A unit owner who needs assistance in casting the ballot
2260 for the reasons stated in s. 101.051 may obtain assistance in
2261 casting the ballot. Any unit owner violating this provision may
2262 be fined by the association in accordance with s. 719.303. The

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2263 regular election must occur on the date of the annual meeting.
2264 This subparagraph does not apply to timeshare cooperatives.
2265 Notwithstanding this subparagraph, an election and balloting are
2266 not required unless more candidates file a notice of intent to
2267 run or are nominated than vacancies exist on the board. Any
2268 challenge to the election process must be commenced within 60
2269 days after the election results are announced.

2270 b. Within 90 days after being elected or appointed to the
2271 board, each new director shall certify in writing to the
2272 secretary of the association that he or she has read the
2273 association's bylaws, articles of incorporation, proprietary
2274 lease, and current written policies; that he or she will work to
2275 uphold such documents and policies to the best of his or her
2276 ability; and that he or she will faithfully discharge his or her
2277 fiduciary responsibility to the association's members. Within 90
2278 days after being elected or appointed to the board, in lieu of
2279 this written certification, the newly elected or appointed
2280 director may submit a certificate of having satisfactorily
2281 completed the educational curriculum administered by an
2282 education provider as approved by the division pursuant to the
2283 requirements established in chapter 718 within 1 year before or
2284 90 days after the date of election or appointment. The
2285 educational certificate is valid and does not have to be
2286 resubmitted as long as the director serves on the board without
2287 interruption. A director who fails to timely file the written
2288 certification or educational certificate is suspended from
2289 service on the board until he or she complies with this sub-
2290 subparagraph. The board may temporarily fill the vacancy during
2291 the period of suspension. The secretary of the association shall

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2292 cause the association to retain a director's written
2293 certification or educational certificate for inspection by the
2294 members for 5 years after a director's election or the duration
2295 of the director's uninterrupted tenure, whichever is longer.
2296 Failure to have such written certification or educational
2297 certificate on file does not affect the validity of any board
2298 action.

2299 2. Any approval by unit owners called for by this chapter,
2300 or the applicable cooperative documents, must be made at a duly
2301 noticed meeting of unit owners and is subject to this chapter or
2302 the applicable cooperative documents relating to unit owner
2303 decisionmaking, except that unit owners may take action by
2304 written agreement, without meetings, on matters for which action
2305 by written agreement without meetings is expressly allowed by
2306 the applicable cooperative documents or law which provides for
2307 the unit owner action.

2308 3. Unit owners may waive notice of specific meetings if
2309 allowed by the applicable cooperative documents or law. If
2310 authorized by the bylaws, notice of meetings of the board of
2311 administration, shareholder meetings, except shareholder
2312 meetings called to recall board members under paragraph (f), and
2313 committee meetings may be given by electronic transmission to
2314 unit owners who consent to receive notice by electronic
2315 transmission.

2316 4. Unit owners have the right to participate in meetings of
2317 unit owners with reference to all designated agenda items.
2318 However, the association may adopt reasonable rules governing
2319 the frequency, duration, and manner of unit owner participation.

2320 5. Any unit owner may tape record or videotape meetings of

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2321 the unit owners subject to reasonable rules adopted by the
2322 division; however, a unit owner may not post the recordings on
2323 any website or other media that can readily be viewed by persons
2324 who are not members of the association.

2325 6. Unless otherwise provided in the bylaws, a vacancy
2326 occurring on the board before the expiration of a term may be
2327 filled by the affirmative vote of the majority of the remaining
2328 directors, even if the remaining directors constitute less than
2329 a quorum, or by the sole remaining director. In the alternative,
2330 a board may hold an election to fill the vacancy, in which case
2331 the election procedures must conform to the requirements of
2332 subparagraph 1. unless the association has opted out of the
2333 statutory election process, in which case the bylaws of the
2334 association control. Unless otherwise provided in the bylaws, a
2335 board member appointed or elected under this subparagraph shall
2336 fill the vacancy for the unexpired term of the seat being
2337 filled. Filling vacancies created by recall is governed by
2338 paragraph (f) and rules adopted by the division.

2339
2340 Notwithstanding subparagraphs (b)2. and (d)1., an association
2341 may, by the affirmative vote of a majority of the total voting
2342 interests, provide for a different voting and election procedure
2343 in its bylaws, which vote may be by a proxy specifically
2344 delineating the different voting and election procedures. The
2345 different voting and election procedures may provide for
2346 elections to be conducted by limited or general proxy.

2347 Section 17. Subsections (3) and (4) of section 719.108,
2348 Florida Statutes, are amended to read:

2349 719.108 Rents and assessments; liability; lien and

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2350 priority; interest; collection; cooperative ownership.—
2351 (3) Rents and assessments, and installments on them, not
2352 paid when due bear interest at the rate provided in the
2353 cooperative documents from the date due until paid. This rate
2354 may not exceed the rate allowed by law and, if a rate is not
2355 provided in the cooperative documents, accrues at 18 percent per
2356 annum. If the cooperative documents or bylaws so provide, the
2357 association may charge an administrative late fee in addition to
2358 such interest, not to exceed the greater of \$25 or 5 percent of
2359 each installment of the assessment for each delinquent
2360 installment that the payment is late. The association may also
2361 recover from the unit owner any reasonable charges imposed upon
2362 the association under a written contract with its management or
2363 bookkeeping company or collection agent which are incurred in
2364 connection with collecting a delinquent assessment. Such charges
2365 must be in a liquidated and noncontingent amount and must be
2366 based on the actual time expended performing necessary,
2367 nonduplicative services. Fees for collection are not recoverable
2368 for the period after referral of the matter to an association's
2369 legal counsel. Any payment received by an association must be
2370 applied first to any interest accrued by the association, then
2371 to any administrative late fee, then to any costs and reasonable
2372 attorney fees incurred in collection, then to any reasonable
2373 costs for collection services contracted for by the association,
2374 and then to the delinquent assessment. The foregoing applies
2375 notwithstanding s. 673.3111, any purported accord and
2376 satisfaction, or any restrictive endorsement, designation, or
2377 instruction placed on or accompanying a payment. The preceding
2378 sentence is intended to clarify existing law. A late fee is not

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2379 subject to chapter 687 or s. 719.303(4).

2380 (4) The association has a lien on each cooperative parcel
2381 for any unpaid rents and assessments, plus interest, any
2382 reasonable costs for collection services contracted for by the
2383 association, and any ~~authorized~~ administrative late fees. If
2384 authorized by the cooperative documents, the lien also secures
2385 reasonable attorney fees incurred by the association incident to
2386 the collection of the rents and assessments or enforcement of
2387 such lien. The lien is effective from and after recording a
2388 claim of lien in the public records in the county in which the
2389 cooperative parcel is located which states the description of
2390 the cooperative parcel, the name of the unit owner, the amount
2391 due, and the due dates. Except as otherwise provided in this
2392 chapter, a lien may not be filed by the association against a
2393 cooperative parcel until 30 days after the date on which a
2394 notice of intent to file a lien has been delivered to the owner.

2395 (a) The notice must be sent to the unit owner at the
2396 address of the unit by first-class United States mail, and the
2397 notice must be in substantially the following form:

2398 NOTICE OF INTENT

2399 TO RECORD A CLAIM OF LIEN

2400 RE: Unit ...(unit number)... of ...(name of cooperative)..
2401 The following amounts are currently due on your account to
2402 ...(name of association)..., and must be paid within 30 days
2403 after your receipt of this letter. This letter shall serve as
2404 the association's notice of intent to record a Claim of Lien
2405 against your property no sooner than 30 days after your receipt
2406 of this letter, unless you pay in full the amounts set forth
2407 below:

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2408 Maintenance due ...(dates)... \$.....

2409 Late fee, if applicable \$.....

2410 Interest through ...(dates)...* \$.....

2411 Certified mail charges \$.....

2412 Other costs \$.....

2413 TOTAL OUTSTANDING \$.....

2414 *Interest accrues at the rate of percent per annum.

2415 1. If the most recent address of the unit owner on the
2416 records of the association is the address of the unit, the
2417 notice must be sent by certified mail, return receipt requested,
2418 to the unit owner at the address of the unit.

2419 2. If the most recent address of the unit owner on the
2420 records of the association is in the United States, but is not
2421 the address of the unit, the notice must be sent by certified
2422 mail, return receipt requested, to the unit owner at his or her
2423 most recent address.

2424 3. If the most recent address of the unit owner on the
2425 records of the association is not in the United States, the
2426 notice must be sent by first-class United States mail to the
2427 unit owner at his or her most recent address.

2428 (b) A notice that is sent pursuant to this subsection is
2429 deemed delivered upon mailing. A claim of lien must be executed
2430 and acknowledged by an officer or authorized agent of the
2431 association. The lien is not effective 1 year after the claim of
2432 lien was recorded unless, within that time, an action to enforce
2433 the lien is commenced. The 1-year period is automatically
2434 extended for any length of time during which the association is
2435 prevented from filing a foreclosure action by an automatic stay
2436 resulting from a bankruptcy petition filed by the parcel owner

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2437 or any other person claiming an interest in the parcel. The
2438 claim of lien secures all unpaid rents and assessments that are
2439 due and that may accrue after the claim of lien is recorded and
2440 through the entry of a final judgment, as well as interest and
2441 all reasonable costs and attorney fees incurred by the
2442 association incident to the collection process. Upon payment in
2443 full, the person making the payment is entitled to a
2444 satisfaction of the lien.

2445 (c) By recording a notice in substantially the following
2446 form, a unit owner or the unit owner's agent or attorney may
2447 require the association to enforce a recorded claim of lien
2448 against his or her cooperative parcel:

2449 NOTICE OF CONTEST OF LIEN

2450 TO: ...(Name and address of association)...:

2451 You are notified that the undersigned contests the claim of lien
2452 filed by you on, ...(year)..., and recorded in Official
2453 Records Book at Page, of the public records of
2454 County, Florida, and that the time within which you may file
2455 suit to enforce your lien is limited to 90 days from the date of
2456 service of this notice. Executed this day of,
2457 ...(year)....

2458 Signed: ...(Owner or Attorney)...

2459 After notice of contest of lien has been recorded, the clerk of
2460 the circuit court shall mail a copy of the recorded notice to
2461 the association by certified mail, return receipt requested, at
2462 the address shown in the claim of lien or most recent amendment
2463 to it and shall certify to the service on the face of the
2464 notice. Service is complete upon mailing. After service, the
2465 association has 90 days in which to file an action to enforce

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2466 the lien. If the action is not filed within the 90-day period,
 2467 the lien is void. However, the 90-day period shall be extended
 2468 for any length of time during which the association is prevented
 2469 from filing its action because of an automatic stay resulting
 2470 from the filing of a bankruptcy petition by the unit owner or by
 2471 any other person claiming an interest in the parcel.

2472 (d) A release of lien must be in substantially the
 2473 following form:

2474 RELEASE OF LIEN

2475 The undersigned lienor, in consideration of the final payment in
 2476 the amount of \$...., hereby waives and releases its lien and
 2477 right to claim a lien for unpaid assessments through,
 2478 ...(year)..., recorded in the Official Records Book at Page
 2479, of the public records of County, Florida, for the
 2480 following described real property:

2481 THAT COOPERATIVE PARCEL WHICH INCLUDES UNIT NO. OF ... (NAME
 2482 OF COOPERATIVE)..., A COOPERATIVE AS SET FORTH IN THE
 2483 COOPERATIVE DOCUMENTS AND THE EXHIBITS ANNEXED THERETO AND
 2484 FORMING A PART THEREOF, RECORDED IN OFFICIAL RECORDS BOOK,
 2485 PAGE, OF THE PUBLIC RECORDS OF COUNTY, FLORIDA.

2486 ...(Signature of Authorized Agent)... ...(Signature of
 2487 Witness)...

2488 ...(Print Name)... ...(Print Name)...

2489 ...(Signature of Witness)...

2490 ...(Print Name)...

2491 Sworn to (or affirmed) and subscribed before me this day of
 2492, ...(year)..., by ...(name of person making statement)....

2493 ...(Signature of Notary Public)...

2494 ...(Print, type, or stamp commissioned name of Notary Public)...

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2495 Personally Known OR Produced as identification.

2496 Section 18. Section 719.129, Florida Statutes, is created
2497 to read:

2498 719.129 Electronic voting.—The association may conduct
2499 elections by electronic voting if a member consents, in writing,
2500 to voting electronically and the following requirements are met:

2501 (1) The association provides each member with:

2502 (a) A method to authenticate the member's identity to the
2503 electronic voting system.

2504 (b) A method to secure the member's vote from, among other
2505 things, malicious software and the ability of others to remotely
2506 monitor or control the electronic voting platform.

2507 (c) A method to communicate with the electronic voting
2508 system.

2509 (d) A method to review an electronic ballot before its
2510 transmission to the electronic voting system.

2511 (e) A method to transmit an electronic ballot to the
2512 electronic voting system which ensures the secrecy and integrity
2513 of each ballot.

2514 (f) A method to allow members to verify the authenticity of
2515 receipts sent from the electronic voting system.

2516 (g) A method to confirm, at least 14 days before the voting
2517 deadline, that the member's electronic voting platform can
2518 successfully communicate with the electronic voting system.

2519 (h) In the event of a disruption of the electronic voting
2520 system, the ability to vote by mail or to deliver a ballot in
2521 person.

2522 (2) The association uses an electronic voting system that
2523 is:

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- 2524 (a) Accessible to members with disabilities.
- 2525 (b) Secure from, among other things, malicious software and
2526 the ability of others to remotely monitor or control the system.
- 2527 (c) Able to authenticate the member's identity.
- 2528 (d) Able to communicate with each member's electronic
2529 voting platform.
- 2530 (e) Able to authenticate the validity of each electronic
2531 ballot to ensure that the ballot is not altered in transit.
- 2532 (f) Able to transmit a receipt from the electronic voting
2533 system to each member who casts an electronic ballot.
- 2534 (g) Able to permanently separate any authentication or
2535 identifying information from the electronic ballot, rendering it
2536 impossible to tie a ballot to a specific member.
- 2537 (h) Able to allow the member to confirm that his or her
2538 ballot has been received and counted.
- 2539 (i) Able to store and keep electronic ballots accessible to
2540 election officials for recount, inspection, and review purposes.
- 2541 (3) A member voting electronically pursuant to this section
2542 shall be counted as being in attendance at the meeting for
2543 purposes of determining a quorum.
- 2544 (4) The bylaws of an association must provide for and allow
2545 voting pursuant to this section before this section shall apply.
2546 This section may apply to some or all matters for which a vote
2547 of the membership is required.
- 2548 Section 19. Subsection (3) of section 719.303, Florida
2549 Statutes, is amended to read:
- 2550 719.303 Obligations of owners.—
- 2551 (3) The association may levy reasonable fines for failure
2552 of the unit owner or the unit's occupant, licensee, or invitee

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2553 to comply with any provision of the cooperative documents or
2554 reasonable rules of the association. A fine may not become a
2555 lien against a unit. A fine may be levied by the board of
2556 administration or its authorized designee on the basis of each
2557 day of a continuing violation, with a single notice and
2558 opportunity for hearing before an impartial committee as
2559 provided in paragraph (b). However, the fine may not exceed \$100
2560 per violation, or \$1,000 in the aggregate.

2561 (a) An association may suspend, for a reasonable period of
2562 time, the right of a unit owner, or a unit owner's tenant,
2563 guest, or invitee, to use the common elements, common
2564 facilities, or any other association property for failure to
2565 comply with any provision of the cooperative documents or
2566 reasonable rules of the association. This paragraph does not
2567 apply to limited common elements intended to be used only by
2568 that unit, common elements needed to access the unit, utility
2569 services provided to the unit, parking spaces, or elevators.

2570 (b) A fine or suspension levied by the board of
2571 administration or its authorized designee may not be imposed
2572 unless the board first provides at least 14 days' written ~~except~~
2573 ~~after giving reasonable~~ notice and an opportunity for a hearing
2574 to the unit owner and, if applicable, its occupant, the unit's
2575 licensee, or invitee. The hearing must be held before an
2576 impartial a committee of other unit owners who are neither board
2577 members, persons residing in a board member's household, nor the
2578 authorized designee or members of the authorized designee's
2579 household. The role of the impartial committee is limited to
2580 determining whether to confirm or reject the fine or suspension
2581 levied by the board or its authorized designee. If the impartial

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2582 committee does not agree with the fine or suspension, it may not
2583 be imposed.

2584 Section 20. Subsection (8) of section 720.301, Florida
2585 Statutes, is amended to read:

2586 720.301 Definitions.—As used in this chapter, the term:

2587 (8) "Governing documents" means:

2588 (a) The recorded declaration of covenants for a community~~7~~
2589 and all duly adopted and recorded amendments, supplements, and
2590 recorded exhibits thereto; ~~and~~

2591 (b) The articles of incorporation and bylaws of the
2592 homeowners' association~~7~~ and any duly adopted amendments
2593 thereto; and

2594 (c) Rules and regulations adopted under the authority of
2595 the recorded declaration, articles of incorporation, or bylaws
2596 and duly adopted amendments thereto.

2597 Section 21. Section 720.3015, Florida Statutes, is created
2598 to read:

2599 720.3015 Short title.—This chapter may be cited as the
2600 "Homeowners' Association Act."

2601 Section 22. Section 720.305, Florida Statutes, is amended
2602 to read:

2603 720.305 Obligations of members; remedies at law or in
2604 equity; levy of fines and suspension of use rights.—

2605 (1) Each member and the member's tenants, guests, and
2606 invitees, and each association, are governed by, and must comply
2607 with, this chapter, the governing documents of the community,
2608 and the rules of the association. Actions at law or in equity,
2609 or both, to redress alleged failure or refusal to comply with
2610 these provisions may be brought by the association or by any

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2611 member against:

2612 (a) The association;

2613 (b) A member;

2614 (c) Any director or officer of an association who willfully
2615 and knowingly fails to comply with these provisions; and

2616 (d) Any tenants, guests, or invitees occupying a parcel or
2617 using the common areas.

2618

2619 The prevailing party in any such litigation is entitled to
2620 recover reasonable attorney ~~attorney's~~ fees and costs. A member
2621 prevailing in an action between the association and the member
2622 under this section, in addition to recovering his or her
2623 reasonable attorney ~~attorney's~~ fees, may recover additional
2624 amounts as determined by the court to be necessary to reimburse
2625 the member for his or her share of assessments levied by the
2626 association to fund its expenses of the litigation. This relief
2627 does not exclude other remedies provided by law. This section
2628 does not deprive any person of any other available right or
2629 remedy.

2630 (2) The association may levy reasonable fines. A fine may
2631 not exceed ~~of up to~~ \$100 per violation against any member or any
2632 member's tenant, guest, or invitee for the failure of the owner
2633 of the parcel or its occupant, licensee, or invitee to comply
2634 with any provision of the declaration, the association bylaws,
2635 or reasonable rules of the association unless otherwise provided
2636 in the governing documents. A fine may be levied by the board or
2637 its authorized designee for each day of a continuing violation,
2638 with a single notice and opportunity for hearing, except that
2639 the fine may not exceed \$1,000 in the aggregate unless otherwise

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2640 provided in the governing documents. A fine of less than \$1,000
2641 may not become a lien against a parcel. In any action to recover
2642 a fine, the prevailing party is entitled to reasonable attorney
2643 fees and costs from the nonprevailing party as determined by the
2644 court.

2645 (a) An association may suspend, for a reasonable period of
2646 time, the right of a member, or a member's tenant, guest, or
2647 invitee, to use common areas and facilities for the failure of
2648 the owner of the parcel or its occupant, licensee, or invitee to
2649 comply with any provision of the declaration, the association
2650 bylaws, or reasonable rules of the association. This paragraph
2651 does not apply to that portion of common areas used to provide
2652 access or utility services to the parcel. A suspension may not
2653 prohibit ~~impair the right of~~ an owner or tenant of a parcel from
2654 having to have vehicular and pedestrian ingress to and egress
2655 from the parcel, including, but not limited to, the right to
2656 park.

2657 (b) A fine or suspension may not be imposed by the board of
2658 administration or its authorized designee without at least 14
2659 days' notice to the person sought to be fined or suspended and
2660 an opportunity for a hearing before an impartial ~~a~~ committee of
2661 at least three members appointed by the board who are not
2662 officers, directors, or employees of the association, or the
2663 spouse, parent, child, brother, or sister of an officer,
2664 director, ~~or~~ employee, or the board's designee or the designee's
2665 family. If the committee, by majority vote, does not approve a
2666 proposed fine or suspension, it may not be imposed. The role of
2667 the impartial committee is limited to determining whether to
2668 confirm or reject the fine or suspension levied by the board or

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2669 its authorized designee. If the board of administration or its
2670 authorized designee ~~association~~ imposes a fine or suspension,
2671 the association must provide written notice of such fine or
2672 suspension by mail or hand delivery to the parcel owner and, if
2673 applicable, to any tenant, licensee, or invitee of the parcel
2674 owner.

2675 (3) If a member is more than 90 days delinquent in paying
2676 any fee, fine, or other a monetary obligation due to the
2677 association, the association may suspend the rights of the
2678 member, or the member's tenant, guest, or invitee, to use common
2679 areas and facilities until the fee, fine, or other monetary
2680 obligation is paid in full. This subsection does not apply to
2681 that portion of common areas used to provide access or utility
2682 services to the parcel. A suspension may ~~does not~~ prohibit
2683 ~~impair the right of~~ an owner or tenant of a parcel from having
2684 ~~to have~~ vehicular and pedestrian ingress to and egress from the
2685 parcel, including, but not limited to, the right to park. The
2686 notice and hearing requirements under subsection (2) do not
2687 apply to a suspension imposed under this subsection.

2688 (4) An association may suspend the voting rights of a
2689 parcel or member for the nonpayment of any fee, fine, or other
2690 monetary obligation due to the association which ~~that~~ is more
2691 than 90 days delinquent. A voting interest or consent right
2692 allocated to a parcel or member which has been suspended by the
2693 association shall be subtracted from ~~may not be counted towards~~
2694 the total number of voting interests in the association, which
2695 shall be reduced by the number of suspended voting interests
2696 when calculating the total percentage or number of all voting
2697 interests available to take or approve any action, and the

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2698 suspended voting interests may not be considered for any
2699 purpose, including, but not limited to, the percentage or number
2700 of voting interests necessary to constitute a quorum, the
2701 percentage or number of voting interests required to conduct an
2702 election, or the percentage or number of voting interests
2703 required to approve an action under this chapter or pursuant to
2704 the governing documents. The notice and hearing requirements
2705 under subsection (2) do not apply to a suspension imposed under
2706 this subsection. The suspension ends upon full payment of all
2707 obligations currently due or overdue to the association.

2708 (5) All suspensions imposed pursuant to subsection (3) or
2709 subsection (4) must be approved at a properly noticed board
2710 meeting. Upon approval, the association must notify the parcel
2711 owner and, if applicable, the parcel's occupant, licensee, or
2712 invitee by mail or hand delivery.

2713 (6) The suspensions permitted by paragraph (2) (a) and
2714 subsections (3) and (4) apply to a member and, when appropriate,
2715 the member's tenants, guests, or invitees, even if the
2716 delinquency or failure that resulted in the suspension arose
2717 from less than all of the multiple parcels owned by the member.

2718 Section 23. Paragraph (b) of subsection (1) and subsections
2719 (9) and (10) of section 720.306, Florida Statutes, are amended
2720 to read:

2721 720.306 Meetings of members; voting and election
2722 procedures; amendments.—

2723 (1) QUORUM; AMENDMENTS.—

2724 (b) Unless otherwise provided in the governing documents or
2725 required by law, and other than those matters set forth in
2726 paragraph (c), any governing document of an association may be

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2727 amended by the affirmative vote of two-thirds of the voting
2728 interests of the association. Within 30 days after recording an
2729 amendment to the governing documents, the association shall
2730 provide copies of the amendment to the members. However, if a
2731 copy of the proposed amendment is provided to the members before
2732 they vote on the amendment ~~and the proposed amendment is not~~
2733 ~~changed before the vote~~, the association, in lieu of providing a
2734 copy of the amendment, may provide notice to the members that
2735 the amendment was adopted, identifying the official book and
2736 page number or instrument number of the recorded amendment and
2737 that a copy of the amendment is available at no charge to the
2738 member upon written request to the association. The copies and
2739 notice described in this paragraph may be provided
2740 electronically to those owners who previously consented to
2741 receive notice electronically. The failure to timely provide
2742 notice of the recording of the amendment does not affect the
2743 validity or enforceability of the amendment.

2744 (9) ELECTIONS AND BOARD VACANCIES.—

2745 (a) Elections of directors must be conducted in accordance
2746 with the procedures set forth in the governing documents of the
2747 association. Except as provided in paragraph (b), all members of
2748 the association are eligible to serve on the board of directors,
2749 and a member may nominate himself or herself as a candidate for
2750 the board at a meeting where the election is to be held;
2751 provided, however, that if the election process allows
2752 candidates to be nominated in advance of the meeting, the
2753 association is not required to allow nominations at the meeting.
2754 An election is not required unless more candidates are nominated
2755 than vacancies exist. Except as otherwise provided in the

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2756 governing documents, boards of directors must be elected by a
2757 plurality of the votes cast by eligible voters. Any challenge to
2758 the election process must be commenced within 60 days after the
2759 election results are announced.

2760 (b) A person who is delinquent in the payment of any fee,
2761 fine, or other monetary obligation to the association on the day
2762 that he or she could last nominate himself or herself or be
2763 nominated for the board may not seek election to the board, and
2764 his or her name may not be listed on the ballot. A person
2765 serving as a board member who becomes more than 90 days
2766 delinquent in the payment of any fee, fine, or other monetary
2767 obligation to the association shall be deemed to have abandoned
2768 his or her seat on the board, creating a vacancy on the board to
2769 be filled according to law. For purposes of this paragraph, the
2770 term "any fee, fine, or other monetary obligation" means any
2771 delinquency to the association with respect to any parcel ~~for~~
2772 ~~more than 90 days is not eligible for board membership.~~ A person
2773 who has been convicted of any felony in this state or in a
2774 United States District or Territorial Court, or has been
2775 convicted of any offense in another jurisdiction which would be
2776 considered a felony if committed in this state, may not seek
2777 election to the board and is not eligible for board membership
2778 unless such felon's civil rights have been restored for at least
2779 5 years as of the date on which such person seeks election to
2780 the board. The validity of any action by the board is not
2781 affected if it is later determined that a person was ineligible
2782 to seek election to the board or that a member of the board is
2783 ineligible for board membership.

2784 (c) Any election dispute between a member and an

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2785 association must be submitted to mandatory binding arbitration
2786 with the division. Such proceedings must be conducted in the
2787 manner provided by s. 718.1255 and the procedural rules adopted
2788 by the division. Unless otherwise provided in the bylaws, any
2789 vacancy occurring on the board before the expiration of a term
2790 may be filled by an affirmative vote of the majority of the
2791 remaining directors, even if the remaining directors constitute
2792 less than a quorum, or by the sole remaining director. In the
2793 alternative, a board may hold an election to fill the vacancy,
2794 in which case the election procedures must conform to the
2795 requirements of the governing documents. Unless otherwise
2796 provided in the bylaws, a board member appointed or elected
2797 under this section is appointed for the unexpired term of the
2798 seat being filled. Filling vacancies created by recall is
2799 governed by s. 720.303(10) and rules adopted by the division.

2800 (10) RECORDING.—Any parcel owner may tape record or
2801 videotape meetings of the board of directors and meetings of the
2802 members; however, a parcel owner may not post the recordings on
2803 any website or other media that can readily be viewed by persons
2804 who are not members of the association. The board of directors
2805 of the association may adopt reasonable rules governing the
2806 taping of meetings of the board and the membership.

2807 Section 24. Paragraph (a) of subsection (1) and subsection
2808 (3) of section 720.3085, Florida Statutes, are amended to read:
2809 720.3085 Payment for assessments; lien claims.—

2810 (1) When authorized by the governing documents, the
2811 association has a lien on each parcel to secure the payment of
2812 assessments and other amounts provided for by this section.
2813 Except as otherwise set forth in this section, the lien is

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2814 effective from and shall relate back to the date on which the
2815 original declaration of the community was recorded. However, as
2816 to first mortgages of record, the lien is effective from and
2817 after recording of a claim of lien in the public records of the
2818 county in which the parcel is located. This subsection does not
2819 bestow upon any lien, mortgage, or certified judgment of record
2820 on July 1, 2008, including the lien for unpaid assessments
2821 created in this section, a priority that, by law, the lien,
2822 mortgage, or judgment did not have before July 1, 2008.

2823 (a) To be valid, a claim of lien must state the description
2824 of the parcel, the name of the record owner, the name and
2825 address of the association, the assessment amount due, and the
2826 due date. The claim of lien secures all unpaid assessments that
2827 are due and that may accrue subsequent to the recording of the
2828 claim of lien and before entry of a certificate of title, as
2829 well as interest, late charges, and reasonable collection costs
2830 and attorney fees incurred by the association incident to the
2831 collection process. The person making payment is entitled to a
2832 satisfaction of the lien upon payment in full.

2833 (3) Assessments and installments on assessments that are
2834 not paid when due bear interest from the due date until paid at
2835 the rate provided in the declaration of covenants or the bylaws
2836 of the association, which rate may not exceed the rate allowed
2837 by law. If no rate is provided in the declaration or bylaws,
2838 interest accrues at the rate of 18 percent per year.

2839 (a) If the declaration or bylaws so provide, the
2840 association may also charge an administrative late fee not to
2841 exceed the greater of \$25 or 5 percent of the amount of each
2842 installment that is paid past the due date. The association may

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2843 also recover from the parcel owner any reasonable charges
2844 imposed upon the association under a written contract with its
2845 management or bookkeeping company or collection agent which are
2846 incurred in connection with collecting a delinquent assessment.
2847 Such charges must be in a liquidated and noncontingent amount
2848 and must be based on the actual time expended performing
2849 necessary, nonduplicative services. Fees for collection are not
2850 recoverable for the period after referral of the matter to an
2851 association's legal counsel.

2852 (b) Any payment received by an association and accepted
2853 shall be applied first to any interest accrued, then to any
2854 administrative late fee, then to any costs and reasonable
2855 attorney fees incurred in collection, then to any reasonable
2856 costs for collection services contracted for by the association,
2857 and then to the delinquent assessment. This paragraph applies
2858 notwithstanding any restrictive endorsement, designation, or
2859 instruction placed on or accompanying a payment. A late fee is
2860 not subject to the provisions of chapter 687 and is not a fine.

2861 Section 25. Section 720.317, Florida Statutes, is created
2862 to read:

2863 720.317 Electronic voting.—The association may conduct
2864 elections by electronic voting if a member consents, in writing,
2865 to voting electronically and the following requirements are met:

2866 (1) The association provides each member with:

2867 (a) A method to authenticate the member's identity to the
2868 electronic voting system.

2869 (b) A method to secure the member's vote from, among other
2870 things, malicious software and the ability of others to remotely
2871 monitor or control the electronic voting platform.

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2872 (c) A method to communicate with the electronic voting
2873 system.

2874 (d) A method to review an electronic ballot before its
2875 transmission to the electronic voting system.

2876 (e) A method to transmit an electronic ballot to the
2877 electronic voting system which ensures the secrecy and integrity
2878 of each ballot.

2879 (f) A method to allow members to verify the authenticity of
2880 receipts sent from the electronic voting system.

2881 (g) A method to confirm, at least 14 days before the voting
2882 deadline, that the member's electronic voting platform can
2883 successfully communicate with the electronic voting system.

2884 (h) In the event of a disruption of the electronic voting
2885 system, the ability to vote by mail or to deliver a ballot in
2886 person.

2887 (2) The association uses an electronic voting system that
2888 is:

2889 (a) Accessible to members with disabilities.

2890 (b) Secure from, among other things, malicious software and
2891 the ability of others to remotely monitor or control the system.

2892 (c) Able to authenticate the member's identity.

2893 (d) Able to communicate with each member's electronic
2894 voting platform.

2895 (e) Able to authenticate the validity of each electronic
2896 ballot to ensure that the ballot is not altered in transit.

2897 (f) Able to transmit a receipt from the electronic voting
2898 system to each member who casts an electronic ballot.

2899 (g) Able to permanently separate any authentication or
2900 identifying information from the electronic ballot, rendering it

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2901 impossible to tie a ballot to a specific member.

2902 (h) Able to allow the member to confirm that his or her
2903 ballot has been received and counted.

2904 (i) Able to store and keep electronic ballots accessible to
2905 election officials for recount, inspection, and review purposes.

2906 (3) A member voting electronically pursuant to this section
2907 shall be counted as being in attendance at the meeting for
2908 purposes of determining a quorum.

2909 (4) The bylaws of an association must provide for and allow
2910 voting pursuant to this section before this section shall apply.
2911 This section may apply to some or all matters for which a vote
2912 of the membership is required.

2913 Section 26. This act shall take effect July 1, 2015.