



1 A bill to be entitled
2 An act relating to residential properties; amending s.
3 617.0721, F.S.; authorizing the use of a copy,
4 facsimile transmission, or other reliable reproduction
5 of an original proxy vote for certain purposes;
6 amending s. 718.111, F.S.; revising liability of unit
7 owners under certain conditions; revising what
8 constitutes official records of an association;
9 amending s. 718.112, F.S.; authorizing the electronic
10 transmission of notices of certain meetings of a
11 condominium association irrespective of whether
12 authorized by the association's bylaws; revising
13 provisions relating to the voting process for
14 providing reserves; creating s. 718.128, F.S.;
15 authorizing condominium associations to conduct votes
16 of the membership by online voting under certain
17 conditions; providing that a member voting
18 electronically is counted toward the determination of
19 a quorum; providing applicability; amending s.
20 719.106, F.S.; authorizing the electronic transmission
21 of notices of certain meetings of a cooperative
22 association irrespective of whether authorized by the
23 association's bylaws; creating s. 719.129, F.S.;
24 authorizing cooperative associations to conduct votes
25 of the membership by online voting under certain
26 conditions; providing that a member voting



27 | electronically is counted toward the determination of
28 | a quorum; providing applicability; amending s.
29 | 720.303, F.S.; authorizing the electronic transmission
30 | of notices of certain meetings of a homeowners'
31 | association irrespective of whether authorized by the
32 | association's bylaws; creating s. 720.317, F.S.;
33 | authorizing homeowners' associations to conduct votes
34 | of the membership by online voting under certain
35 | conditions; providing that a member voting
36 | electronically is counted toward the determination of
37 | a quorum; providing applicability; amending s.
38 | 718.116, F.S.; revising applicability; revising effect
39 | of a claim of lien; amending s. 718.303, F.S.;
40 | providing that a fine may be levied by the board under
41 | certain conditions; revising requirements for levying
42 | a fine or suspension; amending s. 718.707, F.S.;
43 | extending the time period for classification as bulk
44 | assignee or bulk buyer; amending s. 719.104, F.S.;
45 | revising what constitutes the official records of an
46 | association; amending s. 719.108, F.S.; revising
47 | applicability; revising effect of a claim of lien;
48 | amending s. 719.303, F.S.; providing that a fine may
49 | be levied by the board under certain conditions;
50 | revising requirements for levying a fine or
51 | suspension; amending s. 720.301, F.S.; revising the
52 | definition of the term "governing documents"; creating



CS/CS/HB 791, Engrossed 1

2015

53 | s. 720.3015, F.S.; providing a short title; amending
54 | s. 720.305, F.S.; revising requirements for levying a
55 | fine or suspension; revising application of certain
56 | provisions; amending s. 720.306, F.S.; revising
57 | requirements for the adoption of amendments to the
58 | governing documents; revising requirements for the
59 | election of directors; providing an effective date.
60 |

61 | Be It Enacted by the Legislature of the State of Florida:
62 |

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

65 | 617.0721 Voting by members.—

66 | (2) A member who is entitled to vote may vote in person
67 | or, unless the articles of incorporation or the bylaws otherwise
68 | provide, may vote by proxy executed in writing by the member or
69 | by his or her duly authorized attorney in fact. Notwithstanding
70 | any provision to the contrary in the articles of incorporation
71 | or bylaws, any copy, facsimile transmission, or other reliable
72 | reproduction of the original proxy may be substituted or used in
73 | lieu of the original proxy for any purpose for which the
74 | original proxy could be used if the copy, facsimile
75 | transmission, or other reproduction is a complete reproduction
76 | of the entire proxy. An appointment of a proxy is not valid
77 | after 11 months following the date of its execution unless
78 | otherwise provided in the proxy.



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

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

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

90 718.111 The association.—

91 (11) INSURANCE.—In order to protect the safety, health,
92 and welfare of the people of the State of Florida and to ensure
93 consistency in the provision of insurance coverage to
94 condominiums and their unit owners, this subsection applies to
95 every residential condominium in the state, regardless of the
96 date of its declaration of condominium. It is the intent of the
97 Legislature to encourage lower or stable insurance premiums for
98 associations described in this subsection.

99 (j) Any portion of the condominium property that must be
100 insured by the association against property loss pursuant to
101 paragraph (f) which is damaged by an insurable event shall be
102 reconstructed, repaired, or replaced as necessary by the
103 association as a common expense. In the absence of an insurable
104 event, the association or the unit owners shall be responsible



105 | for the reconstruction, repair, or replacement, as determined by
106 | the maintenance provisions of the declaration or bylaws. All
107 | property insurance deductibles, ~~uninsured losses,~~ and other
108 | damages in excess of property insurance coverage under the
109 | property insurance policies maintained by the association are a
110 | common expense of the condominium, except that:

111 | 1. A unit owner is responsible for the costs of repair or
112 | replacement of any portion of the condominium property not paid
113 | by insurance proceeds if such damage is caused by intentional
114 | conduct, negligence, or failure to comply with the terms of the
115 | declaration or the rules of the association by a unit owner, the
116 | members of his or her family, unit occupants, tenants, guests,
117 | or invitees, without compromise of the subrogation rights of the
118 | insurer.

119 | 2. The provisions of subparagraph 1. regarding the
120 | financial responsibility of a unit owner for the costs of
121 | repairing or replacing other portions of the condominium
122 | property also apply to the costs of repair or replacement of
123 | personal property of other unit owners or the association, as
124 | well as other property, whether real or personal, which the unit
125 | owners are required to insure.

126 | 3. To the extent the cost of repair or reconstruction for
127 | which the unit owner is responsible under this paragraph is
128 | reimbursed to the association by insurance proceeds, and the
129 | association has collected the cost of such repair or
130 | reconstruction from the unit owner, the association shall



131 reimburse the unit owner without the waiver of any rights of
132 subrogation.

133 4. The association is not obligated to pay for
134 reconstruction or repairs of property losses as a common expense
135 if the property losses were known or should have been known to a
136 unit owner and were not reported to the association until after
137 the insurance claim of the association for that property was
138 settled or resolved with finality, or denied because it was
139 untimely filed.

140 (12) OFFICIAL RECORDS.—

141 (a) From the inception of the association, the association
142 shall maintain each of the following items, if applicable, which
143 constitutes the official records of the association:

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

146 2. A photocopy of the recorded declaration of condominium
147 of each condominium operated by the association and each
148 amendment to each declaration.

149 3. A photocopy of the recorded bylaws of the association
150 and each amendment to the bylaws.

151 4. A certified copy of the articles of incorporation of
152 the association, or other documents creating the association,
153 and each amendment thereto.

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

155 6. A book or books that contain the minutes of all
156 meetings of the association, the board of administration, and



157 the unit owners, which minutes must be retained for at least 7
158 years.

159 7. A current roster of all unit owners and their mailing
160 addresses, unit identifications, voting certifications, and, if
161 known, telephone numbers. The association shall also maintain
162 the electronic mailing addresses and facsimile numbers of unit
163 owners consenting to receive notice by electronic transmission.
164 The electronic mailing addresses and facsimile numbers are not
165 accessible to unit owners if consent to receive notice by
166 electronic transmission is not provided in accordance with
167 subparagraph (c)5. However, the association is not liable for an
168 inadvertent disclosure of the electronic mail address or
169 facsimile number for receiving electronic transmission of
170 notices.

171 8. All current insurance policies of the association and
172 condominiums operated by the association.

173 9. A current copy of any management agreement, lease, or
174 other contract to which the association is a party or under
175 which the association or the unit owners have an obligation or
176 responsibility.

177 10. Bills of sale or transfer for all property owned by
178 the association.

179 11. Accounting records for the association and separate
180 accounting records for each condominium that the association
181 operates. All accounting records must be maintained for at least
182 7 years. Any person who knowingly or intentionally defaces or



183 destroys such records, or who knowingly or intentionally fails
184 to create or maintain such records, with the intent of causing
185 harm to the association or one or more of its members, is
186 personally subject to a civil penalty pursuant to s.

187 718.501(1)(d). The accounting records must include, but are not
188 limited to:

189 a. Accurate, itemized, and detailed records of all
190 receipts and expenditures.

191 b. A current account and a monthly, bimonthly, or
192 quarterly statement of the account for each unit designating the
193 name of the unit owner, the due date and amount of each
194 assessment, the amount paid on the account, and the balance due.

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

197 d. All contracts for work to be performed. Bids for work
198 to be performed are also considered official records and must be
199 maintained by the association.

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

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

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



209 15. All other written records of the association not
210 specifically included in the foregoing which are related to the
211 operation of the association.

212 16. A copy of the inspection report as described in s.
213 718.301(4) (p).

214 Section 3. Paragraphs (d) and (f) of subsection (2) of
215 section 718.112, Florida Statutes, are amended to read:

216 718.112 Bylaws.—

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

220 (d) Unit owner meetings.—

221 1. An annual meeting of the unit owners shall be held at
222 the location provided in the association bylaws and, if the
223 bylaws are silent as to the location, the meeting shall be held
224 within 45 miles of the condominium property. However, such
225 distance requirement does not apply to an association governing
226 a timeshare condominium.

227 2. Unless the bylaws provide otherwise, a vacancy on the
228 board caused by the expiration of a director's term shall be
229 filled by electing a new board member, and the election must be
230 by secret ballot. An election is not required if the number of
231 vacancies equals or exceeds the number of candidates. For
232 purposes of this paragraph, the term "candidate" means an
233 eligible person who has timely submitted the written notice, as
234 described in sub-subparagraph 4.a., of his or her intention to



235 | become a candidate. Except in a timeshare or nonresidential
236 | condominium, or if the staggered term of a board member does not
237 | expire until a later annual meeting, or if all members' terms
238 | would otherwise expire but there are no candidates, the terms of
239 | all board members expire at the annual meeting, and such members
240 | may stand for reelection unless prohibited by the bylaws. If the
241 | bylaws or articles of incorporation permit terms of no more than
242 | 2 years, the association board members may serve 2-year terms.
243 | If the number of board members whose terms expire at the annual
244 | meeting equals or exceeds the number of candidates, the
245 | candidates become members of the board effective upon the
246 | adjournment of the annual meeting. Unless the bylaws provide
247 | otherwise, any remaining vacancies shall be filled by the
248 | affirmative vote of the majority of the directors making up the
249 | newly constituted board even if the directors constitute less
250 | than a quorum or there is only one director. In a residential
251 | condominium association of more than 10 units or in a
252 | residential condominium association that does not include
253 | timeshare units or timeshare interests, coowners of a unit may
254 | not serve as members of the board of directors at the same time
255 | unless they own more than one unit or unless there are not
256 | enough eligible candidates to fill the vacancies on the board at
257 | the time of the vacancy. A unit owner in a residential
258 | condominium desiring to be a candidate for board membership must
259 | comply with sub-subparagraph 4.a. and must be eligible to be a
260 | candidate to serve on the board of directors at the time of the



261 deadline for submitting a notice of intent to run in order to
262 have his or her name listed as a proper candidate on the ballot
263 or to serve on the board. A person who has been suspended or
264 removed by the division under this chapter, or who is delinquent
265 in the payment of any monetary obligation due to the
266 association, is not eligible to be a candidate for board
267 membership and may not be listed on the ballot. A person who has
268 been convicted of any felony in this state or in a United States
269 District or Territorial Court, or who has been convicted of any
270 offense in another jurisdiction which would be considered a
271 felony if committed in this state, is not eligible for board
272 membership unless such felon's civil rights have been restored
273 for at least 5 years as of the date such person seeks election
274 to the board. The validity of an action by the board is not
275 affected if it is later determined that a board member is
276 ineligible for board membership due to having been convicted of
277 a felony. This subparagraph does not limit the term of a member
278 of the board of a nonresidential condominium.

279 3. The bylaws must provide the method of calling meetings
280 of unit owners, including annual meetings. Written notice must
281 include an agenda, must be mailed, hand delivered, or
282 electronically transmitted to each unit owner at least 14 days
283 before the annual meeting, and must be posted in a conspicuous
284 place on the condominium property at least 14 continuous days
285 before the annual meeting. Upon notice to the unit owners, the
286 board shall, by duly adopted rule, designate a specific location



287 on the condominium property or association property where all
288 notices of unit owner meetings shall be posted. This requirement
289 does not apply if there is no condominium property or
290 association property for posting notices. In lieu of, or in
291 addition to, the physical posting of meeting notices, the
292 association may, by reasonable rule, adopt a procedure for
293 conspicuously posting and repeatedly broadcasting the notice and
294 the agenda on a closed-circuit cable television system serving
295 the condominium association. However, if broadcast notice is
296 used in lieu of a notice posted physically on the condominium
297 property, the notice and agenda must be broadcast at least four
298 times every broadcast hour of each day that a posted notice is
299 otherwise required under this section. If broadcast notice is
300 provided, the notice and agenda must be broadcast in a manner
301 and for a sufficient continuous length of time so as to allow an
302 average reader to observe the notice and read and comprehend the
303 entire content of the notice and the agenda. Unless a unit owner
304 waives in writing the right to receive notice of the annual
305 meeting, such notice must be hand delivered, mailed, or
306 electronically transmitted to each unit owner. Notice for
307 meetings and notice for all other purposes must be mailed to
308 each unit owner at the address last furnished to the association
309 by the unit owner, or hand delivered to each unit owner.
310 However, if a unit is owned by more than one person, the
311 association must provide notice to the address that the
312 developer identifies for that purpose and thereafter as one or



313 more of the owners of the unit advise the association in
314 writing, or if no address is given or the owners of the unit do
315 not agree, to the address provided on the deed of record. An
316 officer of the association, or the manager or other person
317 providing notice of the association meeting, must provide an
318 affidavit or United States Postal Service certificate of
319 mailing, to be included in the official records of the
320 association affirming that the notice was mailed or hand
321 delivered in accordance with this provision.

322 4. The members of the board of a residential condominium
323 shall be elected by written ballot or voting machine. Proxies
324 may not be used in electing the board in general elections or
325 elections to fill vacancies caused by recall, resignation, or
326 otherwise, unless otherwise provided in this chapter. This
327 subparagraph does not apply to an association governing a
328 timeshare condominium.

329 a. At least 60 days before a scheduled election, the
330 association shall mail, deliver, or electronically transmit, by
331 separate association mailing or included in another association
332 mailing, delivery, or transmission, including regularly
333 published newsletters, to each unit owner entitled to a vote, a
334 first notice of the date of the election. A unit owner or other
335 eligible person desiring to be a candidate for the board must
336 give written notice of his or her intent to be a candidate to
337 the association at least 40 days before a scheduled election.
338 Together with the written notice and agenda as set forth in



339 | subparagraph 3., the association shall mail, deliver, or
340 | electronically transmit a second notice of the election to all
341 | unit owners entitled to vote, together with a ballot that lists
342 | all candidates. Upon request of a candidate, an information
343 | sheet, no larger than 8 1/2 inches by 11 inches, which must be
344 | furnished by the candidate at least 35 days before the election,
345 | must be included with the mailing, delivery, or transmission of
346 | the ballot, with the costs of mailing, delivery, or electronic
347 | transmission and copying to be borne by the association. The
348 | association is not liable for the contents of the information
349 | sheets prepared by the candidates. In order to reduce costs, the
350 | association may print or duplicate the information sheets on
351 | both sides of the paper. The division shall by rule establish
352 | voting procedures consistent with this sub-subparagraph,
353 | including rules establishing procedures for giving notice by
354 | electronic transmission and rules providing for the secrecy of
355 | ballots. Elections shall be decided by a plurality of ballots
356 | cast. There is no quorum requirement; however, at least 20
357 | percent of the eligible voters must cast a ballot in order to
358 | have a valid election. A unit owner may not permit any other
359 | person to vote his or her ballot, and any ballots improperly
360 | cast are invalid. A unit owner who violates this provision may
361 | be fined by the association in accordance with s. 718.303. A
362 | unit owner who needs assistance in casting the ballot for the
363 | reasons stated in s. 101.051 may obtain such assistance. The
364 | regular election must occur on the date of the annual meeting.



365 Notwithstanding this sub-subparagraph, an election is not
366 required unless more candidates file notices of intent to run or
367 are nominated than board vacancies exist.

368 b. Within 90 days after being elected or appointed to the
369 board of an association of a residential condominium, each newly
370 elected or appointed director shall certify in writing to the
371 secretary of the association that he or she has read the
372 association's declaration of condominium, articles of
373 incorporation, bylaws, and current written policies; that he or
374 she will work to uphold such documents and policies to the best
375 of his or her ability; and that he or she will faithfully
376 discharge his or her fiduciary responsibility to the
377 association's members. In lieu of this written certification,
378 within 90 days after being elected or appointed to the board,
379 the newly elected or appointed director may submit a certificate
380 of having satisfactorily completed the educational curriculum
381 administered by a division-approved condominium education
382 provider within 1 year before or 90 days after the date of
383 election or appointment. The written certification or
384 educational certificate is valid and does not have to be
385 resubmitted as long as the director serves on the board without
386 interruption. A director of an association of a residential
387 condominium who fails to timely file the written certification
388 or educational certificate is suspended from service on the
389 board until he or she complies with this sub-subparagraph. The
390 board may temporarily fill the vacancy during the period of



391 suspension. The secretary shall cause the association to retain
392 a director's written certification or educational certificate
393 for inspection by the members for 5 years after a director's
394 election or the duration of the director's uninterrupted tenure,
395 whichever is longer. Failure to have such written certification
396 or educational certificate on file does not affect the validity
397 of any board action.

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

400 5. Any approval by unit owners called for by this chapter
401 or the applicable declaration or bylaws, including, but not
402 limited to, the approval requirement in s. 718.111(8), must be
403 made at a duly noticed meeting of unit owners and is subject to
404 all requirements of this chapter or the applicable condominium
405 documents relating to unit owner decisionmaking, except that
406 unit owners may take action by written agreement, without
407 meetings, on matters for which action by written agreement
408 without meetings is expressly allowed by the applicable bylaws
409 or declaration or any law that provides for such action.

410 6. Unit owners may waive notice of specific meetings if
411 allowed by the applicable bylaws or declaration or any law. ~~If~~
412 ~~authorized by the bylaws,~~ Notice of meetings of the board of
413 administration, unit owner meetings, except unit owner meetings
414 called to recall board members under paragraph (j), and
415 committee meetings may be given by electronic transmission to
416 unit owners who consent to receive notice by electronic



417 transmission.

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

422 8. A unit owner may tape record or videotape a meeting of
423 the unit owners subject to reasonable rules adopted by the
424 division.

425 9. Unless otherwise provided in the bylaws, any vacancy
426 occurring on the board before the expiration of a term may be
427 filled by the affirmative vote of the majority of the remaining
428 directors, even if the remaining directors constitute less than
429 a quorum, or by the sole remaining director. In the alternative,
430 a board may hold an election to fill the vacancy, in which case
431 the election procedures must conform to sub-subparagraph 4.a.
432 unless the association governs 10 units or fewer and has opted
433 out of the statutory election process, in which case the bylaws
434 of the association control. Unless otherwise provided in the
435 bylaws, a board member appointed or elected under this section
436 shall fill the vacancy for the unexpired term of the seat being
437 filled. Filling vacancies created by recall is governed by
438 paragraph (j) and rules adopted by the division.

439 10. This chapter does not limit the use of general or
440 limited proxies, require the use of general or limited proxies,
441 or require the use of a written ballot or voting machine for any
442 agenda item or election at any meeting of a timeshare



443 condominium association or nonresidential condominium
444 association.

445
446 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
447 association of 10 or fewer units may, by affirmative vote of a
448 majority of the total voting interests, provide for different
449 voting and election procedures in its bylaws, which may be by a
450 proxy specifically delineating the different voting and election
451 procedures. The different voting and election procedures may
452 provide for elections to be conducted by limited or general
453 proxy.

454 (f) Annual budget.—

455 1. The proposed annual budget of estimated revenues and
456 expenses must be detailed and must show the amounts budgeted by
457 accounts and expense classifications, including, at a minimum,
458 any if applicable, ~~but not limited to, those~~ expenses listed in
459 s. 718.504(21). A multicondominium association shall adopt a
460 separate budget of common expenses for each condominium the
461 association operates and shall adopt a separate budget of common
462 expenses for the association. In addition, if the association
463 maintains limited common elements with the cost to be shared
464 only by those entitled to use the limited common elements as
465 provided for in s. 718.113(1), the budget or a schedule attached
466 to it must show the amount budgeted for this maintenance. If,
467 after turnover of control of the association to the unit owners,
468 any of the expenses listed in s. 718.504(21) are not applicable,



469 they need not be listed.

470 2.a. In addition to annual operating expenses, the budget
471 must include reserve accounts for capital expenditures and
472 deferred maintenance. These accounts must include, but are not
473 limited to, roof replacement, building painting, and pavement
474 resurfacing, regardless of the amount of deferred maintenance
475 expense or replacement cost, and ~~for~~ any other item that has a
476 deferred maintenance expense or replacement cost that exceeds
477 \$10,000. The amount to be reserved must be computed using a
478 formula based upon estimated remaining useful life and estimated
479 replacement cost or deferred maintenance expense of each reserve
480 item. The association may adjust replacement reserve assessments
481 annually to take into account any changes in estimates or
482 extension of the useful life of a reserve item caused by
483 deferred maintenance. This subsection does not apply to an
484 adopted budget in which the members of an association have
485 determined, by a majority vote at a duly called meeting of the
486 association, to provide no reserves or less reserves than
487 required by this subsection.

488 b. ~~Before However, prior to~~ turnover of control of an
489 association by a developer to unit owners other than a developer
490 pursuant to s. 718.301, the developer may vote the voting
491 interests allocated to its units to waive the reserves or reduce
492 the funding of reserves through the period expiring at the end
493 of the second fiscal year after the fiscal year in which the
494 certificate of a surveyor and mapper is recorded pursuant to s.



495 718.104(4)(e) or an instrument that transfers title to a unit in
496 the condominium which is not accompanied by a recorded
497 assignment of developer rights in favor of the grantee of such
498 unit is recorded, whichever occurs first, after which time
499 reserves may be waived or reduced only upon the vote of a
500 majority of all nondeveloper voting interests voting in person
501 or by limited proxy at a duly called meeting of the association.
502 If a meeting of the unit owners has been called to determine
503 whether to waive or reduce the funding of reserves, and no such
504 result is achieved or a quorum is not attained, the reserves
505 included in the budget shall go into effect. After the turnover,
506 the developer may vote its voting interest to waive or reduce
507 the funding of reserves.

508 3. Reserve funds and any interest accruing thereon shall
509 remain in the reserve account or accounts, and may be used only
510 for authorized reserve expenditures unless their use for other
511 purposes is approved in advance by a majority vote at a duly
512 called meeting of the association. Before ~~Prior to~~ turnover of
513 control of an association by a developer to unit owners other
514 than the developer pursuant to s. 718.301, the developer-
515 controlled association may ~~shall~~ not vote to use reserves for
516 purposes other than those ~~that~~ for which they were intended
517 without the approval of a majority of all nondeveloper voting
518 interests, voting in person or by limited proxy at a duly called
519 meeting of the association.

520 4. The only voting interests that are eligible to vote on



521 questions that involve waiving or reducing the funding of
522 reserves, or using existing reserve funds for purposes other
523 than purposes for which the reserves were intended, are the
524 voting interests of the units subject to assessment to fund the
525 reserves in question. Proxy questions relating to waiving or
526 reducing the funding of reserves or using existing reserve funds
527 for purposes other than purposes for which the reserves were
528 intended must ~~shall~~ contain the following statement in
529 capitalized, bold letters in a font size larger than any other
530 used on the face of the proxy ballot: WAIVING OF RESERVES, IN
531 WHOLE OR IN PART, OR ALLOWING ALTERNATIVE USES OF EXISTING
532 RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF
533 UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

534 Section 4. Section 718.128, Florida Statutes, is created
535 to read:

536 718.128 Electronic voting.—The association may conduct
537 elections and other unit owner votes through an internet-based
538 online voting system if a unit owner consents, in writing, to
539 online voting and if the following requirements are met:

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

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

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

546 (c) A method to confirm, at least 14 days before the



547 voting deadline, that the unit owner's electronic device can
548 successfully communicate with the online voting system.

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

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

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

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

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

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

561 (3) A unit owner voting electronically pursuant to this
562 section shall be counted as being in attendance at the meeting
563 for purposes of determining a quorum. A substantive vote of the
564 unit owners may not be taken on any issue other than the issues
565 specifically identified in the electronic vote, when a quorum is
566 established based on unit owners voting electronically pursuant
567 to this section.

568 (4) This section applies to an association that provides
569 for and authorizes an online voting system pursuant to this
570 section by a board resolution. The board resolution must provide
571 that unit owners receive notice of the opportunity to vote
572 through an online voting system, must establish reasonable



573 procedures and deadlines for unit owners to consent, in writing,
574 to online voting, and must establish reasonable procedures and
575 deadlines for unit owners to opt out of online voting after
576 giving consent. Written notice of a meeting at which the
577 resolution will be considered must be mailed, delivered, or
578 electronically transmitted to the unit owners and posted
579 conspicuously on the condominium property or association
580 property at least 14 days before the meeting. Evidence of
581 compliance with the 14-day notice requirement must be made by an
582 affidavit executed by the person providing the notice and filed
583 with the official records of the association.

584 (5) A unit owner's consent to online voting is valid until
585 the unit owner opts out of online voting according to the
586 procedures established by the board of administration pursuant
587 to subsection (4).

588 (6) This section may apply to any matter that requires a
589 vote of the unit owners who are not members of a timeshare
590 condominium association.

591 Section 5. Paragraph (d) of subsection (1) of section
592 719.106, Florida Statutes, is amended to read:

593 719.106 Bylaws; cooperative ownership.—

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

597 (d) Shareholder meetings.—There shall be an annual meeting
598 of the shareholders. All members of the board of administration



599 shall be elected at the annual meeting unless the bylaws provide
600 for staggered election terms or for their election at another
601 meeting. Any unit owner desiring to be a candidate for board
602 membership must comply with subparagraph 1. The bylaws must
603 provide the method for calling meetings, including annual
604 meetings. Written notice, which must incorporate an
605 identification of agenda items, shall be given to each unit
606 owner at least 14 days before the annual meeting and posted in a
607 conspicuous place on the cooperative property at least 14
608 continuous days preceding the annual meeting. Upon notice to the
609 unit owners, the board must by duly adopted rule designate a
610 specific location on the cooperative property upon which all
611 notice of unit owner meetings are posted. In lieu of or in
612 addition to the physical posting of the meeting notice, the
613 association may, by reasonable rule, adopt a procedure for
614 conspicuously posting and repeatedly broadcasting the notice and
615 the agenda on a closed-circuit cable television system serving
616 the cooperative association. However, if broadcast notice is
617 used in lieu of a posted notice, the notice and agenda must be
618 broadcast at least four times every broadcast hour of each day
619 that a posted notice is otherwise required under this section.
620 If broadcast notice is provided, the notice and agenda must be
621 broadcast in a manner and for a sufficient continuous length of
622 time to allow an average reader to observe the notice and read
623 and comprehend the entire content of the notice and the agenda.
624 Unless a unit owner waives in writing the right to receive



625 notice of the annual meeting, the notice of the annual meeting
626 must be sent by mail, hand delivered, or electronically
627 transmitted to each unit owner. An officer of the association
628 must provide an affidavit or United States Postal Service
629 certificate of mailing, to be included in the official records
630 of the association, affirming that notices of the association
631 meeting were mailed, hand delivered, or electronically
632 transmitted, in accordance with this provision, to each unit
633 owner at the address last furnished to the association.

634 1. The board of administration shall be elected by written
635 ballot or voting machine. A proxy may not be used in electing
636 the board of administration in general elections or elections to
637 fill vacancies caused by recall, resignation, or otherwise
638 unless otherwise provided in this chapter.

639 a. At least 60 days before a scheduled election, the
640 association shall mail, deliver, or transmit, whether by
641 separate association mailing, delivery, or electronic
642 transmission or included in another association mailing,
643 delivery, or electronic transmission, including regularly
644 published newsletters, to each unit owner entitled to vote, a
645 first notice of the date of the election. Any unit owner or
646 other eligible person desiring to be a candidate for the board
647 of administration must give written notice to the association at
648 least 40 days before a scheduled election. Together with the
649 written notice and agenda as set forth in this section, the
650 association shall mail, deliver, or electronically transmit a



651 second notice of election to all unit owners entitled to vote,
652 together with a ballot that lists all candidates. Upon request
653 of a candidate, the association shall include an information
654 sheet, no larger than 8 1/2 inches by 11 inches, which must be
655 furnished by the candidate at least 35 days before the election,
656 to be included with the mailing, delivery, or electronic
657 transmission of the ballot, with the costs of mailing, delivery,
658 or transmission and copying to be borne by the association. The
659 association is not liable for the contents of the information
660 sheets provided by the candidates. In order to reduce costs, the
661 association may print or duplicate the information sheets on
662 both sides of the paper. The division shall by rule establish
663 voting procedures consistent with this subparagraph, including
664 rules establishing procedures for giving notice by electronic
665 transmission and rules providing for the secrecy of ballots.
666 Elections shall be decided by a plurality of those ballots cast.
667 There is no quorum requirement. However, at least 20 percent of
668 the eligible voters must cast a ballot in order to have a valid
669 election. A unit owner may not permit any other person to vote
670 his or her ballot, and any such ballots improperly cast are
671 invalid. A unit owner who needs assistance in casting the ballot
672 for the reasons stated in s. 101.051 may obtain assistance in
673 casting the ballot. Any unit owner violating this provision may
674 be fined by the association in accordance with s. 719.303. The
675 regular election must occur on the date of the annual meeting.
676 This subparagraph does not apply to timeshare cooperatives.



677 Notwithstanding this subparagraph, an election and balloting are
678 not required unless more candidates file a notice of intent to
679 run or are nominated than vacancies exist on the board. Any
680 challenge to the election process must be commenced within 60
681 days after the election results are announced.

682 b. Within 90 days after being elected or appointed to the
683 board, each new director shall certify in writing to the
684 secretary of the association that he or she has read the
685 association's bylaws, articles of incorporation, proprietary
686 lease, and current written policies; that he or she will work to
687 uphold such documents and policies to the best of his or her
688 ability; and that he or she will faithfully discharge his or her
689 fiduciary responsibility to the association's members. Within 90
690 days after being elected or appointed to the board, in lieu of
691 this written certification, the newly elected or appointed
692 director may submit a certificate of having satisfactorily
693 completed the educational curriculum administered by an
694 education provider as approved by the division pursuant to the
695 requirements established in chapter 718 within 1 year before or
696 90 days after the date of election or appointment. The
697 educational certificate is valid and does not have to be
698 resubmitted as long as the director serves on the board without
699 interruption. A director who fails to timely file the written
700 certification or educational certificate is suspended from
701 service on the board until he or she complies with this sub-
702 subparagraph. The board may temporarily fill the vacancy during



703 the period of suspension. The secretary of the association shall
704 cause the association to retain a director's written
705 certification or educational certificate for inspection by the
706 members for 5 years after a director's election or the duration
707 of the director's uninterrupted tenure, whichever is longer.
708 Failure to have such written certification or educational
709 certificate on file does not affect the validity of any board
710 action.

711 2. Any approval by unit owners called for by this chapter,
712 or the applicable cooperative documents, must be made at a duly
713 noticed meeting of unit owners and is subject to this chapter or
714 the applicable cooperative documents relating to unit owner
715 decisionmaking, except that unit owners may take action by
716 written agreement, without meetings, on matters for which action
717 by written agreement without meetings is expressly allowed by
718 the applicable cooperative documents or law which provides for
719 the unit owner action.

720 3. Unit owners may waive notice of specific meetings if
721 allowed by the applicable cooperative documents or law. ~~If~~
722 ~~authorized by the bylaws,~~ Notice of meetings of the board of
723 administration, shareholder meetings, except shareholder
724 meetings called to recall board members under paragraph (f), and
725 committee meetings may be given by electronic transmission to
726 unit owners who consent to receive notice by electronic
727 transmission.

728 4. Unit owners have the right to participate in meetings



729 of unit owners with reference to all designated agenda items.
730 However, the association may adopt reasonable rules governing
731 the frequency, duration, and manner of unit owner participation.

732 5. Any unit owner may tape record or videotape meetings of
733 the unit owners subject to reasonable rules adopted by the
734 division.

735 6. Unless otherwise provided in the bylaws, a vacancy
736 occurring on the board before the expiration of a term may be
737 filled by the affirmative vote of the majority of the remaining
738 directors, even if the remaining directors constitute less than
739 a quorum, or by the sole remaining director. In the alternative,
740 a board may hold an election to fill the vacancy, in which case
741 the election procedures must conform to the requirements of
742 subparagraph 1. unless the association has opted out of the
743 statutory election process, in which case the bylaws of the
744 association control. Unless otherwise provided in the bylaws, a
745 board member appointed or elected under this subparagraph shall
746 fill the vacancy for the unexpired term of the seat being
747 filled. Filling vacancies created by recall is governed by
748 paragraph (f) and rules adopted by the division.

749
750 Notwithstanding subparagraphs (b)2. and (d)1., an association
751 may, by the affirmative vote of a majority of the total voting
752 interests, provide for a different voting and election procedure
753 in its bylaws, which vote may be by a proxy specifically
754 delineating the different voting and election procedures. The



755 different voting and election procedures may provide for
756 elections to be conducted by limited or general proxy.

757 Section 6. Section 719.129, Florida Statutes, is created
758 to read:

759 719.129 Electronic voting.—The association may conduct
760 elections and other unit owner votes through an internet-based
761 online voting system if a unit owner consents, in writing, to
762 online voting and if the following requirements are met:

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

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

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

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

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

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

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

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

778 (d) For elections of the board of administration, able to
779 permanently separate any authentication or identifying
780 information from the electronic election ballot, rendering it



781 impossible to tie an election ballot to a specific unit owner.

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

784 (3) A unit owner voting electronically pursuant to this
785 section shall be counted as being in attendance at the meeting
786 for purposes of determining a quorum. A substantive vote of the
787 unit owners may not be taken on any issue other than the issues
788 specifically identified in the electronic vote, when a quorum is
789 established based on unit owners voting electronically pursuant
790 to this section.

791 (4) This section applies to an association that provides
792 for and authorizes an online voting system pursuant to this
793 section by a board resolution. The board resolution must provide
794 that unit owners receive notice of the opportunity to vote
795 through an online voting system, must establish reasonable
796 procedures and deadlines for unit owners to consent, in writing,
797 to online voting, and must establish reasonable procedures and
798 deadlines for unit owners to opt out of online voting after
799 giving consent. Written notice of a meeting at which the
800 resolution will be considered must be mailed, delivered, or
801 electronically transmitted to the unit owners and posted
802 conspicuously on the condominium property or association
803 property at least 14 days before the meeting. Evidence of
804 compliance with the 14-day notice requirement must be made by an
805 affidavit executed by the person providing the notice and filed
806 with the official records of the association.



807 (5) A unit owner's consent to online voting is valid until
808 the unit owner opts out of online voting pursuant to the
809 procedures established by the board of administration pursuant
810 to subsection (4).

811 (6) This section may apply to any matter that requires a
812 vote of the unit owners who are not members of a timeshare
813 cooperative association.

814 Section 7. Paragraph (c) of subsection (2) of section
815 720.303, Florida Statutes, is amended to read:

816 720.303 Association powers and duties; meetings of board;
817 official records; budgets; financial reporting; association
818 funds; recalls.—

819 (2) BOARD MEETINGS.—

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

823 1. Notices of all board meetings must be posted in a
824 conspicuous place in the community at least 48 hours in advance
825 of a meeting, except in an emergency. In the alternative, if
826 notice is not posted in a conspicuous place in the community,
827 notice of each board meeting must be mailed or delivered to each
828 member at least 7 days before the meeting, except in an
829 emergency. Notwithstanding this general notice requirement, for
830 communities with more than 100 members, the bylaws may provide
831 for a reasonable alternative to posting or mailing of notice for
832 each board meeting, including publication of notice, provision



833 of a schedule of board meetings, or the conspicuous posting and
834 repeated broadcasting of the notice on a closed-circuit cable
835 television system serving the homeowners' association. However,
836 if broadcast notice is used in lieu of a notice posted
837 physically in the community, the notice must be broadcast at
838 least four times every broadcast hour of each day that a posted
839 notice is otherwise required. When broadcast notice is provided,
840 the notice and agenda must be broadcast in a manner and for a
841 sufficient continuous length of time so as to allow an average
842 reader to observe the notice and read and comprehend the entire
843 content of the notice and the agenda. The association bylaws ~~or~~
844 ~~amended bylaws~~ may provide ~~for giving~~ notice by electronic
845 transmission in a manner authorized by law for meetings of the
846 board of directors, committee meetings requiring notice under
847 this section, and annual and special meetings of the members;
848 however, a member must consent in writing to receiving notice by
849 electronic transmission.

850 2. An assessment may not be levied at a board meeting
851 unless the notice of the meeting includes a statement that
852 assessments will be considered and the nature of the
853 assessments. Written notice of any meeting at which special
854 assessments will be considered or at which amendments to rules
855 regarding parcel use will be considered must be mailed,
856 delivered, or electronically transmitted to the members and
857 parcel owners and posted conspicuously on the property or
858 broadcast on closed-circuit cable television not less than 14



859 days before the meeting.

860 3. Directors may not vote by proxy or by secret ballot at
861 board meetings, except that secret ballots may be used in the
862 election of officers. This subsection also applies to the
863 meetings of any committee or other similar body, when a final
864 decision will be made regarding the expenditure of association
865 funds, and to any body vested with the power to approve or
866 disapprove architectural decisions with respect to a specific
867 parcel of residential property owned by a member of the
868 community.

869 Section 8. Section 720.317, Florida Statutes, is created
870 to read:

871 720.317 Electronic voting.—The association may conduct
872 elections and other membership votes through an internet-based
873 online voting system if a member consents, in writing, to online
874 voting and if the following requirements are met:

875 (1) The association provides each member with:

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

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

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

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

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



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

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

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

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

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

900 (4) This section applies to an association that provides
901 for and authorizes an online voting system pursuant to this
902 section by a board resolution. The board resolution must provide
903 that members receive notice of the opportunity to vote through
904 an online voting system, must establish reasonable procedures
905 and deadlines for members to consent, in writing, to online
906 voting, and must establish reasonable procedures and deadlines
907 for members to opt out of online voting after giving consent.
908 Written notice of a meeting at which the board resolution
909 regarding online voting will be considered must be mailed,
910 delivered, or electronically transmitted to the unit owners and



911 posted conspicuously on the condominium property or association
912 property at least 14 days before the meeting. Evidence of
913 compliance with the 14-day notice requirement must be made by an
914 affidavit executed by the person providing the notice and filed
915 with the official records of the association.

916 (5) A member's consent to online voting is valid until the
917 member opts out of online voting pursuant to the procedures
918 established by the board of administration pursuant to
919 subsection (4).

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

922 Section 9. Subsection (3) and paragraph (b) of subsection
923 (5) of section 718.116, Florida Statutes, are amended to read:

924 718.116 Assessments; liability; lien and priority;
925 interest; collection.—

926 (3) Assessments and installments on assessments which are
927 not paid when due bear interest at the rate provided in the
928 declaration, from the due date until paid. The rate may not
929 exceed the rate allowed by law, and, if no rate is provided in
930 the declaration, interest accrues at the rate of 18 percent per
931 year. If provided by the declaration or bylaws, the association
932 may, in addition to such interest, charge an administrative late
933 fee of up to the greater of \$25 or 5 percent of each delinquent
934 installment for which the payment is late. Any payment received
935 by an association must be applied first to any interest accrued
936 by the association, then to any administrative late fee, then to



937 any costs and reasonable attorney ~~attorney's~~ fees incurred in
938 collection, and then to the delinquent assessment. The foregoing
939 is applicable notwithstanding s. 673.3111, any purported accord
940 and satisfaction, or any restrictive endorsement, designation,
941 or instruction placed on or accompanying a payment. The
942 preceding sentence is intended to clarify existing law. A late
943 fee is not subject to chapter 687 or s. 718.303(4).

944 (5)

945 (b) To be valid, a claim of lien must state the
946 description of the condominium parcel, the name of the record
947 owner, the name and address of the association, the amount due,
948 and the due dates. It must be executed and acknowledged by an
949 officer or authorized agent of the association. The lien is not
950 effective 1 year after the claim of lien was recorded unless,
951 within that time, an action to enforce the lien is commenced.
952 The 1-year period is automatically extended for any length of
953 time during which the association is prevented from filing a
954 foreclosure action by an automatic stay resulting from a
955 bankruptcy petition filed by the parcel owner or any other
956 person claiming an interest in the parcel. The claim of lien
957 secures all unpaid assessments that are due and that may accrue
958 after the claim of lien is recorded and through the entry of a
959 final judgment, as well as interest, administrative late fees,
960 and all reasonable costs and attorney ~~attorney's~~ fees incurred
961 by the association incident to the collection process. Upon
962 payment in full, the person making the payment is entitled to a



963 satisfaction of the lien.

964 Section 10. Subsections (3), (4), and (5) of section
965 718.303, Florida Statutes, are amended, and subsection (7) is
966 added to that section, to read:

967 718.303 Obligations of owners and occupants; remedies.—

968 (3) The association may levy reasonable fines for the
969 failure of the owner of the unit or its occupant, licensee, or
970 invitee to comply with any provision of the declaration, the
971 association bylaws, or reasonable rules of the association. A
972 fine may not become a lien against a unit. A fine may be levied
973 by the board on the basis of each day of a continuing violation,
974 with a single notice and opportunity for hearing before a
975 committee as provided in paragraph (b). However, the fine may
976 not exceed \$100 per violation, or \$1,000 in the aggregate.

977 (a) An association may suspend, for a reasonable period of
978 time, the right of a unit owner, or a unit owner's tenant,
979 guest, or invitee, to use the common elements, common
980 facilities, or any other association property for failure to
981 comply with any provision of the declaration, the association
982 bylaws, or reasonable rules of the association. This paragraph
983 does not apply to limited common elements intended to be used
984 only by that unit, common elements needed to access the unit,
985 utility services provided to the unit, parking spaces, or
986 elevators.

987 (b) A fine or suspension levied by the board of
988 administration may not be imposed unless the board ~~association~~



989 first provides at least 14 days' written notice and an
990 opportunity for a hearing to the unit owner and, if applicable,
991 its occupant, licensee, or invitee. The hearing must be held
992 before a committee of other unit owners who are neither board
993 members nor persons residing in a board member's household. The
994 role of the committee is limited to determining whether to
995 confirm or reject the fine or suspension levied by the board. If
996 the committee does not agree, the fine or suspension may not be
997 imposed.

998 (4) If a unit owner is more than 90 days delinquent in
999 paying a fee, fine, or other monetary obligation due to the
1000 association, the association may suspend the right of the unit
1001 owner or the unit's occupant, licensee, or invitee to use common
1002 elements, common facilities, or any other association property
1003 until the fee, fine, or other monetary obligation is paid in
1004 full. This subsection does not apply to limited common elements
1005 intended to be used only by that unit, common elements needed to
1006 access the unit, utility services provided to the unit, parking
1007 spaces, or elevators. The notice and hearing requirements under
1008 subsection (3) do not apply to suspensions imposed under this
1009 subsection.

1010 (5) An association may suspend the voting rights of a unit
1011 or member due to nonpayment of any fee, fine, or other monetary
1012 obligation due to the association which is more than 90 days
1013 delinquent. A voting interest or consent right allocated to a
1014 unit or member which has been suspended by the association shall



1015 be subtracted from ~~may not be counted towards~~ the total number
1016 of voting interests in the association, which shall be reduced
1017 by the number of suspended voting interests when calculating the
1018 total percentage or number of all voting interests available to
1019 take or approve any action, and the suspended voting interests
1020 shall not be considered for any purpose, including, but not
1021 limited to, the percentage or number of voting interests
1022 necessary to constitute a quorum, the percentage or number of
1023 voting interests required to conduct an election, or the
1024 percentage or number of voting interests required to approve an
1025 action under this chapter or pursuant to the declaration,
1026 articles of incorporation, or bylaws. The suspension ends upon
1027 full payment of all obligations currently due or overdue the
1028 association. The notice and hearing requirements under
1029 subsection (3) do not apply to a suspension imposed under this
1030 subsection.

1031 (7) The suspensions permitted by paragraph (3) (a) and
1032 subsections (4) and (5) apply to a member and, when appropriate,
1033 the member's tenants, guests, or invitees, even if the
1034 delinquency or failure that resulted in the suspension arose
1035 from less than all of the multiple units owned by a member.

1036 Section 11. Section 718.707, Florida Statutes, is amended
1037 to read:

1038 718.707 Time limitation for classification as bulk
1039 assignee or bulk buyer.—A person acquiring condominium parcels
1040 may not be classified as a bulk assignee or bulk buyer unless



1041 the condominium parcels were acquired on or after July 1, 2010,
1042 but before July 1, 2018 ~~2016~~. The date of such acquisition shall
1043 be determined by the date of recording a deed or other
1044 instrument of conveyance for such parcels in the public records
1045 of the county in which the condominium is located, or by the
1046 date of issuing a certificate of title in a foreclosure
1047 proceeding with respect to such condominium parcels.

1048 Section 12. Paragraph (a) of subsection (2) of section
1049 719.104, Florida Statutes, is amended to read:

1050 719.104 Cooperatives; access to units; records; financial
1051 reports; assessments; purchase of leases.—

1052 (2) OFFICIAL RECORDS.—

1053 (a) From the inception of the association, the association
1054 shall maintain a copy of each of the following, where
1055 applicable, which shall constitute the official records of the
1056 association:

1057 1. The plans, permits, warranties, and other items
1058 provided by the developer pursuant to s. 719.301(4).

1059 2. A photocopy of the cooperative documents.

1060 3. A copy of the current rules of the association.

1061 4. A book or books containing the minutes of all meetings
1062 of the association, of the board of directors, and of the unit
1063 owners, which minutes shall be retained for a period of not less
1064 than 7 years.

1065 5. A current roster of all unit owners and their mailing
1066 addresses, unit identifications, voting certifications, and, if



1067 known, telephone numbers. The association shall also maintain
1068 the electronic mailing addresses and the numbers designated by
1069 unit owners for receiving notice sent by electronic transmission
1070 of those unit owners consenting to receive notice by electronic
1071 transmission. The electronic mailing addresses and numbers
1072 provided by unit owners to receive notice by electronic
1073 transmission shall be removed from association records when
1074 consent to receive notice by electronic transmission is revoked.
1075 However, the association is not liable for an erroneous
1076 disclosure of the electronic mail address or the number for
1077 receiving electronic transmission of notices.

1078 6. All current insurance policies of the association.

1079 7. A current copy of any management agreement, lease, or
1080 other contract to which the association is a party or under
1081 which the association or the unit owners have an obligation or
1082 responsibility.

1083 8. Bills of sale or transfer for all property owned by the
1084 association.

1085 9. Accounting records for the association and separate
1086 accounting records for each unit it operates, according to good
1087 accounting practices. All accounting records shall be maintained
1088 for a period of not less than 7 years. The accounting records
1089 shall include, but not be limited to:

1090 a. Accurate, itemized, and detailed records of all
1091 receipts and expenditures.

1092 b. A current account and a monthly, bimonthly, or



1093 quarterly statement of the account for each unit designating the
1094 name of the unit owner, the due date and amount of each
1095 assessment, the amount paid upon the account, and the balance
1096 due.

1097 c. All audits, reviews, accounting statements, and
1098 financial reports of the association.

1099 d. All contracts for work to be performed. Bids for work
1100 to be performed shall also be considered official records and
1101 shall be maintained for a period of 1 year.

1102 10. Ballots, sign-in sheets, voting proxies, and all other
1103 papers relating to voting by unit owners, which shall be
1104 maintained for a period of 1 year after the date of the
1105 election, vote, or meeting to which the document relates.

1106 11. All rental records where the association is acting as
1107 agent for the rental of units.

1108 12. A copy of the current question and answer sheet as
1109 described in s. 719.504.

1110 13. All other written records of the association not
1111 specifically included in the foregoing which are related to the
1112 operation of the association.

1113 Section 13. Subsections (3) and (4) of section 719.108,
1114 Florida Statutes, are amended to read:

1115 719.108 Rents and assessments; liability; lien and
1116 priority; interest; collection; cooperative ownership.—

1117 (3) Rents and assessments, and installments on them, not
1118 paid when due bear interest at the rate provided in the



1119 cooperative documents from the date due until paid. This rate
1120 may not exceed the rate allowed by law and, if a rate is not
1121 provided in the cooperative documents, accrues at 18 percent per
1122 annum. If the cooperative documents or bylaws so provide, the
1123 association may charge an administrative late fee in addition to
1124 such interest, not to exceed the greater of \$25 or 5 percent of
1125 each installment of the assessment for each delinquent
1126 installment that the payment is late. Any payment received by an
1127 association must be applied first to any interest accrued by the
1128 association, then to any administrative late fee, then to any
1129 costs and reasonable attorney fees incurred in collection, and
1130 then to the delinquent assessment. The foregoing applies
1131 notwithstanding s. 673.3111, any purported accord and
1132 satisfaction, or any restrictive endorsement, designation, or
1133 instruction placed on or accompanying a payment. The preceding
1134 sentence of is intended to clarify existing law. A late fee is
1135 not subject to chapter 687 or s. 719.303(4).

1136 (4) The association has a lien on each cooperative parcel
1137 for any unpaid rents and assessments, plus interest, and any
1138 ~~authorized~~ administrative late fees. If authorized by the
1139 cooperative documents, the lien also secures reasonable attorney
1140 fees incurred by the association incident to the collection of
1141 the rents and assessments or enforcement of such lien. The lien
1142 is effective from and after recording a claim of lien in the
1143 public records in the county in which the cooperative parcel is
1144 located which states the description of the cooperative parcel,



1145 | the name of the unit owner, the amount due, and the due dates.
 1146 | Except as otherwise provided in this chapter, a lien may not be
 1147 | filed by the association against a cooperative parcel until 30
 1148 | days after the date on which a notice of intent to file a lien
 1149 | has been delivered to the owner.

1150 | (a) The notice must be sent to the unit owner at the
 1151 | address of the unit by first-class United States mail, and the
 1152 | notice must be in substantially the following form:

1153 | NOTICE OF INTENT
 1154 | TO RECORD A CLAIM OF LIEN
 1155 | RE: Unit ...(unit number)... of ...(name of cooperative)...
 1156 | The following amounts are currently due on your account to
 1157 | ...(name of association)..., and must be paid within 30 days
 1158 | after your receipt of this letter. This letter shall serve as
 1159 | the association's notice of intent to record a Claim of Lien
 1160 | against your property no sooner than 30 days after your receipt
 1161 | of this letter, unless you pay in full the amounts set forth
 1162 | below:
 1163 | Maintenance due ...(dates)... \$.....
 1164 | Late fee, if applicable \$.....
 1165 | Interest through ...(dates)...* \$.....
 1166 | Certified mail charges \$.....
 1167 | Other costs \$.....
 1168 | TOTAL OUTSTANDING \$.....

1169 | *Interest accrues at the rate of percent per annum.

1170 | 1. If the most recent address of the unit owner on the



1171 records of the association is the address of the unit, the
1172 notice must be sent by certified mail, return receipt requested,
1173 to the unit owner at the address of the unit.

1174 2. If the most recent address of the unit owner on the
1175 records of the association is in the United States, but is not
1176 the address of the unit, the notice must be sent by certified
1177 mail, return receipt requested, to the unit owner at his or her
1178 most recent address.

1179 3. If the most recent address of the unit owner on the
1180 records of the association is not in the United States, the
1181 notice must be sent by first-class United States mail to the
1182 unit owner at his or her most recent address.

1183 (b) A notice that is sent pursuant to this subsection is
1184 deemed delivered upon mailing. A claim of lien must be executed
1185 and acknowledged by an officer or authorized agent of the
1186 association. The lien is not effective 1 year after the claim of
1187 lien was recorded unless, within that time, an action to enforce
1188 the lien is commenced. The 1-year period is automatically
1189 extended for any length of time during which the association is
1190 prevented from filing a foreclosure action by an automatic stay
1191 resulting from a bankruptcy petition filed by the parcel owner
1192 or any other person claiming an interest in the parcel. The
1193 claim of lien secures all unpaid rents and assessments that are
1194 due and that may accrue after the claim of lien is recorded and
1195 through the entry of a final judgment, as well as interest and
1196 all reasonable costs and attorney fees incurred by the



1197 association incident to the collection process. Upon payment in
 1198 full, the person making the payment is entitled to a
 1199 satisfaction of the lien.

1200 (c) By recording a notice in substantially the following
 1201 form, a unit owner or the unit owner's agent or attorney may
 1202 require the association to enforce a recorded claim of lien
 1203 against his or her cooperative parcel:

1204 NOTICE OF CONTEST OF LIEN

1205 TO: ...(Name and address of association)...

1206 You are notified that the undersigned contests the claim of lien
 1207 filed by you on, ...(year)...., and recorded in Official
 1208 Records Book at Page, of the public records of
 1209 County, Florida, and that the time within which you may file
 1210 suit to enforce your lien is limited to 90 days from the date of
 1211 service of this notice. Executed this day of,
 1212 ...(year)....

1213 Signed: ...(Owner or Attorney)...

1214 After notice of contest of lien has been recorded, the clerk of
 1215 the circuit court shall mail a copy of the recorded notice to
 1216 the association by certified mail, return receipt requested, at
 1217 the address shown in the claim of lien or most recent amendment
 1218 to it and shall certify to the service on the face of the
 1219 notice. Service is complete upon mailing. After service, the
 1220 association has 90 days in which to file an action to enforce
 1221 the lien. If the action is not filed within the 90-day period,
 1222 the lien is void. However, the 90-day period shall be extended



1223 for any length of time during which the association is prevented
 1224 from filing its action because of an automatic stay resulting
 1225 from the filing of a bankruptcy petition by the unit owner or by
 1226 any other person claiming an interest in the parcel.

1227 (d) A release of lien must be in substantially the
 1228 following form:

1229 RELEASE OF LIEN

1230 The undersigned lienor, in consideration of the final payment in
 1231 the amount of \$...., hereby waives and releases its lien and
 1232 right to claim a lien for unpaid assessments through,
 1233 ...(year)..., recorded in the Official Records Book at Page
 1234, of the public records of County, Florida, for the
 1235 following described real property:

1236 THAT COOPERATIVE PARCEL WHICH INCLUDES UNIT NO. OF ...(NAME
 1237 OF COOPERATIVE)..., A COOPERATIVE AS SET FORTH IN THE
 1238 COOPERATIVE DOCUMENTS AND THE EXHIBITS ANNEXED THERETO AND
 1239 FORMING A PART THEREOF, RECORDED IN OFFICIAL RECORDS BOOK,
 1240 PAGE, OF THE PUBLIC RECORDS OF COUNTY, FLORIDA.

1241 ...(Signature of Authorized Agent).....(Signature of Witness)...
 1242 ...(Print Name)... ..(Print Name)...
 1243 ..(Signature of Witness)...
 1244 ..(Print Name)...

1245 Sworn to (or affirmed) and subscribed before me this day of
 1246, ...(year)..., by ...(name of person making statement)....
 1247 ...(Signature of Notary Public)...
 1248 ...(Print, type, or stamp commissioned name of Notary Public)...



1249 Personally Known OR Produced as identification.
 1250 Section 14. Subsection (3) of section 719.303, Florida
 1251 Statutes, is amended to read:
 1252 719.303 Obligations of owners.—
 1253 (3) The association may levy reasonable fines for failure
 1254 of the unit owner or the unit's occupant, licensee, or invitee
 1255 to comply with any provision of the cooperative documents or
 1256 reasonable rules of the association. A fine may not become a
 1257 lien against a unit. A fine may be levied by the board on the
 1258 basis of each day of a continuing violation, with a single
 1259 notice and opportunity for hearing before a committee as
 1260 provided in paragraph (b). However, the fine may not exceed \$100
 1261 per violation, or \$1,000 in the aggregate.
 1262 (a) An association may suspend, for a reasonable period of
 1263 time, the right of a unit owner, or a unit owner's tenant,
 1264 guest, or invitee, to use the common elements, common
 1265 facilities, or any other association property for failure to
 1266 comply with any provision of the cooperative documents or
 1267 reasonable rules of the association. This paragraph does not
 1268 apply to limited common elements intended to be used only by
 1269 that unit, common elements needed to access the unit, utility
 1270 services provided to the unit, parking spaces, or elevators.
 1271 (b) A fine or suspension levied by the board of
 1272 administration may not be imposed unless the board first
 1273 provides at least 14 days' written ~~except after giving~~
 1274 ~~reasonable~~ notice and an opportunity for a hearing to the unit



1275 owner and, if applicable, its occupant, ~~the unit's~~ licensee, or
1276 invitee. The hearing must be held before a committee of other
1277 unit owners who are neither board members nor persons residing
1278 in a board member's household. The role of the committee is
1279 limited to determining whether to confirm or reject the fine or
1280 suspension levied by the board. If the committee does not agree
1281 with the fine or suspension, it may not be imposed.

1282 Section 15. Subsection (8) of section 720.301, Florida
1283 Statutes, is amended to read:

1284 720.301 Definitions.—As used in this chapter, the term:

1285 (8) "Governing documents" means:

1286 (a) The recorded declaration of covenants for a community~~7~~
1287 and all duly adopted and recorded amendments, supplements, and
1288 recorded exhibits thereto; ~~and~~

1289 (b) The articles of incorporation and bylaws of the
1290 homeowners' association~~7~~ and any duly adopted amendments
1291 thereto; and

1292 (c) Rules and regulations adopted under the authority of
1293 the recorded declaration, articles of incorporation, or bylaws
1294 and duly adopted amendments thereto.

1295 Section 16. Section 720.3015, Florida Statutes, is created
1296 to read:

1297 720.3015 Short title.—This chapter may be cited as the
1298 "Homeowners' Association Act."

1299 Section 17. Section 720.305, Florida Statutes, is amended
1300 to read:



1301 720.305 Obligations of members; remedies at law or in
1302 equity; levy of fines and suspension of use rights.—

1303 (1) Each member and the member's tenants, guests, and
1304 invitees, and each association, are governed by, and must comply
1305 with, this chapter, the governing documents of the community,
1306 and the rules of the association. Actions at law or in equity,
1307 or both, to redress alleged failure or refusal to comply with
1308 these provisions may be brought by the association or by any
1309 member against:

1310 (a) The association;

1311 (b) A member;

1312 (c) Any director or officer of an association who
1313 willfully and knowingly fails to comply with these provisions;
1314 and

1315 (d) Any tenants, guests, or invitees occupying a parcel or
1316 using the common areas.

1317
1318 The prevailing party in any such litigation is entitled to
1319 recover reasonable attorney ~~attorney's~~ fees and costs. A member
1320 prevailing in an action between the association and the member
1321 under this section, in addition to recovering his or her
1322 reasonable attorney ~~attorney's~~ fees, may recover additional
1323 amounts as determined by the court to be necessary to reimburse
1324 the member for his or her share of assessments levied by the
1325 association to fund its expenses of the litigation. This relief
1326 does not exclude other remedies provided by law. This section



1327 does not deprive any person of any other available right or
1328 remedy.

1329 (2) The association may levy reasonable fines. A fine may
1330 not exceed ~~of up to~~ \$100 per violation against any member or any
1331 member's tenant, guest, or invitee for the failure of the owner
1332 of the parcel or its occupant, licensee, or invitee to comply
1333 with any provision of the declaration, the association bylaws,
1334 or reasonable rules of the association unless otherwise provided
1335 in the governing documents. A fine may be levied by the board
1336 for each day of a continuing violation, with a single notice and
1337 opportunity for hearing, except that the fine may not exceed
1338 \$1,000 in the aggregate unless otherwise provided in the
1339 governing documents. A fine of less than \$1,000 may not become a
1340 lien against a parcel. In any action to recover a fine, the
1341 prevailing party is entitled to reasonable attorney fees and
1342 costs from the nonprevailing party as determined by the court.

1343 (a) An association may suspend, for a reasonable period of
1344 time, the right of a member, or a member's tenant, guest, or
1345 invitee, to use common areas and facilities for the failure of
1346 the owner of the parcel or its occupant, licensee, or invitee to
1347 comply with any provision of the declaration, the association
1348 bylaws, or reasonable rules of the association. This paragraph
1349 does not apply to that portion of common areas used to provide
1350 access or utility services to the parcel. A suspension may not
1351 prohibit ~~impair the right of~~ an owner or tenant of a parcel from
1352 having ~~to have~~ vehicular and pedestrian ingress to and egress



1353 from the parcel, including, but not limited to, the right to
1354 park.

1355 (b) A fine or suspension may not be imposed by the board
1356 of administration without at least 14 days' notice to the person
1357 sought to be fined or suspended and an opportunity for a hearing
1358 before a committee of at least three members appointed by the
1359 board who are not officers, directors, or employees of the
1360 association, or the spouse, parent, child, brother, or sister of
1361 an officer, director, or employee. If the committee, by majority
1362 vote, does not approve a proposed fine or suspension, it may not
1363 be imposed. The role of the committee is limited to determining
1364 whether to confirm or reject the fine or suspension levied by
1365 the board. If the board of administration ~~association~~ imposes a
1366 fine or suspension, the association must provide written notice
1367 of such fine or suspension by mail or hand delivery to the
1368 parcel owner and, if applicable, to any tenant, licensee, or
1369 invitee of the parcel owner.

1370 (3) If a member is more than 90 days delinquent in paying
1371 any fee, fine, or other ~~a~~ monetary obligation due to the
1372 association, the association may suspend the rights of the
1373 member, or the member's tenant, guest, or invitee, to use common
1374 areas and facilities until the fee, fine, or other monetary
1375 obligation is paid in full. This subsection does not apply to
1376 that portion of common areas used to provide access or utility
1377 services to the parcel. A suspension may ~~does~~ not prohibit
1378 ~~impair the right of~~ an owner or tenant of a parcel from having



1379 ~~to have~~ vehicular and pedestrian ingress to and egress from the
1380 parcel, including, but not limited to, the right to park. The
1381 notice and hearing requirements under subsection (2) do not
1382 apply to a suspension imposed under this subsection.

1383 (4) An association may suspend the voting rights of a
1384 parcel or member for the nonpayment of any fee, fine, or other
1385 monetary obligation due to the association that is more than 90
1386 days delinquent. A voting interest or consent right allocated to
1387 a parcel or member which has been suspended by the association
1388 shall be subtracted from ~~may not be counted towards~~ the total
1389 number of voting interests in the association, which shall be
1390 reduced by the number of suspended voting interests when
1391 calculating the total percentage or number of all voting
1392 interests available to take or approve any action, and the
1393 suspended voting interests shall not be considered for any
1394 purpose, including, but not limited to, the percentage or number
1395 of voting interests necessary to constitute a quorum, the
1396 percentage or number of voting interests required to conduct an
1397 election, or the percentage or number of voting interests
1398 required to approve an action under this chapter or pursuant to
1399 the governing documents. The notice and hearing requirements
1400 under subsection (2) do not apply to a suspension imposed under
1401 this subsection. The suspension ends upon full payment of all
1402 obligations currently due or overdue to the association.

1403 (5) All suspensions imposed pursuant to subsection (3) or
1404 subsection (4) must be approved at a properly noticed board



1405 meeting. Upon approval, the association must notify the parcel
1406 owner and, if applicable, the parcel's occupant, licensee, or
1407 invitee by mail or hand delivery.

1408 (6) The suspensions permitted by paragraph (2)(a) and
1409 subsections (3) and (4) apply to a member and, when appropriate,
1410 the member's tenants, guests, or invitees, even if the
1411 delinquency or failure that resulted in the suspension arose
1412 from less than all of the multiple parcels owned by a member.

1413 Section 18. Paragraph (b) of subsection (1) and subsection
1414 (9) of section 720.306, Florida Statutes, are amended to read:

1415 720.306 Meetings of members; voting and election
1416 procedures; amendments.—

1417 (1) QUORUM; AMENDMENTS.—

1418 (b) Unless otherwise provided in the governing documents
1419 or required by law, and other than those matters set forth in
1420 paragraph (c), any governing document of an association may be
1421 amended by the affirmative vote of two-thirds of the voting
1422 interests of the association. Within 30 days after recording an
1423 amendment to the governing documents, the association shall
1424 provide copies of the amendment to the members. However, if a
1425 copy of the proposed amendment is provided to the members before
1426 they vote on the amendment and the proposed amendment is not
1427 changed before the vote, the association, in lieu of providing a
1428 copy of the amendment, may provide notice to the members that
1429 the amendment was adopted, identifying the official book and
1430 page number or instrument number of the recorded amendment and



1431 that a copy of the amendment is available at no charge to the
1432 member upon written request to the association. The copies and
1433 notice described in this paragraph may be provided
1434 electronically to those owners who previously consented to
1435 receive notice electronically. The failure to timely provide
1436 notice of the recording of the amendment does not affect the
1437 validity or enforceability of the amendment.

1438 (9) ELECTIONS AND BOARD VACANCIES.—

1439 (a) Elections of directors must be conducted in accordance
1440 with the procedures set forth in the governing documents of the
1441 association. Except as provided in paragraph (b), all members of
1442 the association are eligible to serve on the board of directors,
1443 and a member may nominate himself or herself as a candidate for
1444 the board at a meeting where the election is to be held;
1445 provided, however, that if the election process allows
1446 candidates to be nominated in advance of the meeting, the
1447 association is not required to allow nominations at the meeting.
1448 An election is not required unless more candidates are nominated
1449 than vacancies exist. Except as otherwise provided in the
1450 governing documents, boards of directors must be elected by a
1451 plurality of the votes cast by eligible voters. Any challenge to
1452 the election process must be commenced within 60 days after the
1453 election results are announced.

1454 (b) A person who is delinquent in the payment of any fee,
1455 fine, or other monetary obligation to the association on the day
1456 that he or she could last nominate himself or herself or be



1457 nominated for the board may not seek election to the board, and
1458 his or her name shall not be listed on the ballot. A person
1459 -serving as a board member who becomes more than 90 days
1460 delinquent in the payment of any fee, fine, or other monetary
1461 obligation to the association shall be deemed to have abandoned
1462 his or her seat on the board, creating a vacancy on the board to
1463 be filled according to law. For purposes of this paragraph, the
1464 term "any fee, fine, or other monetary obligation" means any
1465 delinquency to the association with respect to any parcel ~~for~~
1466 ~~more than 90 days is not eligible for board membership.~~ A person
1467 who has been convicted of any felony in this state or in a
1468 United States District or Territorial Court, or has been
1469 convicted of any offense in another jurisdiction which would be
1470 considered a felony if committed in this state, may not seek
1471 election to the board and is not eligible for board membership
1472 unless such felon's civil rights have been restored for at least
1473 5 years as of the date on which such person seeks election to
1474 the board. The validity of any action by the board is not
1475 affected if it is later determined that a person was ineligible
1476 to seek election to the board or that a member of the board is
1477 ineligible for board membership.

1478 (c) Any election dispute between a member and an
1479 association must be submitted to mandatory binding arbitration
1480 with the division. Such proceedings must be conducted in the
1481 manner provided by s. 718.1255 and the procedural rules adopted
1482 by the division. Unless otherwise provided in the bylaws, any



CS/CS/HB 791, Engrossed 1

2015

1483 vacancy occurring on the board before the expiration of a term
1484 may be filled by an affirmative vote of the majority of the
1485 remaining directors, even if the remaining directors constitute
1486 less than a quorum, or by the sole remaining director. In the
1487 alternative, a board may hold an election to fill the vacancy,
1488 in which case the election procedures must conform to the
1489 requirements of the governing documents. Unless otherwise
1490 provided in the bylaws, a board member appointed or elected
1491 under this section is appointed for the unexpired term of the
1492 seat being filled. Filling vacancies created by recall is
1493 governed by s. 720.303(10) and rules adopted by the division.

1494 Section 19. This act shall take effect July 1, 2015.