

By Senator Rodriguez

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1 A bill to be entitled
2 An act relating to community association assessment
3 notices; amending s. 718.111, F.S.; requiring
4 condominium associations to maintain specified
5 affirmative acknowledgments as official records of the
6 association; specifying that such acknowledgments are
7 not accessible to unit owners; amending s. 718.116,
8 F.S.; revising timeframes for foreclosure judgments;
9 conforming provisions to changes made by the act;
10 amending s. 718.121, F.S.; requiring condominium
11 associations to deliver certain statements of account
12 to unit owners in a specified manner; requiring
13 condominium associations to give notice to unit owners
14 before changing the method of delivery for the
15 statements of account; providing requirements for the
16 notice; requiring unit owners to affirmatively
17 acknowledge the changes in delivery methods;
18 prohibiting condominium associations from requiring
19 the payment of attorney fees relating to past due
20 assessments without first providing a specified notice
21 to unit owners; providing requirements for the notice;
22 revising the timeframe for condominium associations to
23 file liens against condominium units; conforming
24 provisions to changes made by the act; amending s.
25 719.104, F.S.; requiring cooperative associations to
26 maintain specified affirmative acknowledgments as
27 official records of the association; specifying that
28 such acknowledgments are not accessible to unit
29 owners; amending s. 719.108, F.S.; requiring

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30 cooperative associations to deliver certain statements
31 of account to unit owners in a specified manner;
32 requiring cooperative associations to give notice to
33 unit owners before changing the method of delivery for
34 the statements of account; providing requirements for
35 the notice; requiring unit owners to affirmatively
36 acknowledge the changes in delivery methods;
37 prohibiting cooperative associations from requiring
38 the payment of attorney fees relating to past due
39 assessments without first providing specified notice
40 to unit owners; providing requirements for the notice;
41 revising the timeframe for cooperative associations to
42 file liens against cooperative parcels; conforming
43 provisions to changes made by the act; amending s.
44 720.303, F.S.; requiring homeowners' associations to
45 maintain specified affirmative acknowledgments as
46 official records of the association; specifying that
47 such acknowledgments are not accessible to parcel
48 owners; amending s. 720.3085, F.S.; requiring
49 homeowners' associations to deliver certain statements
50 of account to parcel owners in a specified manner;
51 requiring homeowners' associations to give notice to
52 parcel owners before changing the method of delivery
53 for the statements of account; providing requirements
54 for the notice; requiring parcel owners to
55 affirmatively acknowledge the changes in delivery
56 methods; prohibiting homeowners' associations from
57 requiring the payment of attorney fees relating to
58 past due assessments without first providing specified

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59 notice to parcel owners; providing requirements for
60 the notice; providing an effective date.

61

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

63

64 Section 1. Paragraphs (a) and (c) of subsection (12) of
65 section 718.111, Florida Statutes, are amended to read:

66 718.111 The association.—

67 (12) OFFICIAL RECORDS.—

68 (a) From the inception of the association, the association
69 shall maintain each of the following items, if applicable, which
70 constitutes the official records of the association:

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

73 2. A photocopy of the recorded declaration of condominium
74 of each condominium operated by the association and each
75 amendment to each declaration.

76 3. A photocopy of the recorded bylaws of the association
77 and each amendment to the bylaws.

78 4. A certified copy of the articles of incorporation of the
79 association, or other documents creating the association, and
80 each amendment thereto.

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

82 6. A book or books that contain the minutes of all meetings
83 of the association, the board of administration, and the unit
84 owners.

85 7. A current roster of all unit owners and their mailing
86 addresses, unit identifications, voting certifications, and, if
87 known, telephone numbers. The association shall also maintain

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88 the e-mail addresses and facsimile numbers of unit owners
89 consenting to receive notice by electronic transmission. The e-
90 mail addresses and facsimile numbers are not accessible to unit
91 owners if consent to receive notice by electronic transmission
92 is not provided in accordance with sub-subparagraph (c)3.e.
93 However, the association is not liable for an inadvertent
94 disclosure of the e-mail address or facsimile number for
95 receiving electronic transmission of notices.

96 8. All current insurance policies of the association and
97 condominiums operated by the association.

98 9. A current copy of any management agreement, lease, or
99 other contract to which the association is a party or under
100 which the association or the unit owners have an obligation or
101 responsibility.

102 10. Bills of sale or transfer for all property owned by the
103 association.

104 11. Accounting records for the association and separate
105 accounting records for each condominium that the association
106 operates. Any person who knowingly or intentionally defaces or
107 destroys such records, or who knowingly or intentionally fails
108 to create or maintain such records, with the intent of causing
109 harm to the association or one or more of its members, is
110 personally subject to a civil penalty pursuant to s.

111 718.501(1)(d). The accounting records must include, but are not
112 limited to:

113 a. Accurate, itemized, and detailed records of all receipts
114 and expenditures.

115 b. A current account and a monthly, bimonthly, or quarterly
116 statement of the account for each unit designating the name of

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117 the unit owner, the due date and amount of each assessment, the
118 amount paid on the account, and the balance due.

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

121 d. All contracts for work to be performed. Bids for work to
122 be performed are also considered official records and must be
123 maintained by the association.

124 12. Ballots, sign-in sheets, voting proxies, and all other
125 papers and electronic records relating to voting by unit owners,
126 which must be maintained for 1 year from the date of the
127 election, vote, or meeting to which the document relates,
128 notwithstanding paragraph (b).

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

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

133 ~~15. All other written records of the association not~~
134 ~~specifically included in the foregoing which are related to the~~
135 ~~operation of the association.~~

136 ~~16.~~ A copy of the inspection report as described in s.
137 718.301(4)(p).

138 ~~16.~~~~17.~~ Bids for materials, equipment, or services.

139 17. All affirmative acknowledgments made pursuant to s.
140 718.121(4)(c).

141 18. All other written records of the association not
142 specifically included in the foregoing which are related to the
143 operation of the association.

144 (c)1. The official records of the association are open to
145 inspection by any association member or the authorized

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146 representative of such member at all reasonable times. The right
147 to inspect the records includes the right to make or obtain
148 copies, at the reasonable expense, if any, of the member or
149 authorized representative of such member. A renter of a unit has
150 a right to inspect and copy the association's bylaws and rules.
151 The association may adopt reasonable rules regarding the
152 frequency, time, location, notice, and manner of record
153 inspections and copying. The failure of an association to
154 provide the records within 10 working days after receipt of a
155 written request creates a rebuttable presumption that the
156 association willfully failed to comply with this paragraph. A
157 unit owner who is denied access to official records is entitled
158 to the actual damages or minimum damages for the association's
159 willful failure to comply. Minimum damages are \$50 per calendar
160 day for up to 10 days, beginning on the 11th working day after
161 receipt of the written request. The failure to permit inspection
162 entitles any person prevailing in an enforcement action to
163 recover reasonable attorney fees from the person in control of
164 the records who, directly or indirectly, knowingly denied access
165 to the records.

166 2. Any person who knowingly or intentionally defaces or
167 destroys accounting records that are required by this chapter to
168 be maintained during the period for which such records are
169 required to be maintained, or who knowingly or intentionally
170 fails to create or maintain accounting records that are required
171 to be created or maintained, with the intent of causing harm to
172 the association or one or more of its members, is personally
173 subject to a civil penalty pursuant to s. 718.501(1)(d).

174 3. The association shall maintain an adequate number of

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175 copies of the declaration, articles of incorporation, bylaws,
176 and rules, and all amendments to each of the foregoing, as well
177 as the question and answer sheet as described in s. 718.504 and
178 year-end financial information required under this section, on
179 the condominium property to ensure their availability to unit
180 owners and prospective purchasers, and may charge its actual
181 costs for preparing and furnishing these documents to those
182 requesting the documents. An association shall allow a member or
183 his or her authorized representative to use a portable device,
184 including a smartphone, tablet, portable scanner, or any other
185 technology capable of scanning or taking photographs, to make an
186 electronic copy of the official records in lieu of the
187 association's providing the member or his or her authorized
188 representative with a copy of such records. The association may
189 not charge a member or his or her authorized representative for
190 the use of a portable device. Notwithstanding this paragraph,
191 the following records are not accessible to unit owners:

192 a. Any record protected by the lawyer-client privilege as
193 described in s. 90.502 and any record protected by the work-
194 product privilege, including a record prepared by an association
195 attorney or prepared at the attorney's express direction, which
196 reflects a mental impression, conclusion, litigation strategy,
197 or legal theory of the attorney or the association, and which
198 was prepared exclusively for civil or criminal litigation or for
199 adversarial administrative proceedings, or which was prepared in
200 anticipation of such litigation or proceedings until the
201 conclusion of the litigation or proceedings.

202 b. Information obtained by an association in connection
203 with the approval of the lease, sale, or other transfer of a

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204 unit.

205 c. Personnel records of association or management company
206 employees, including, but not limited to, disciplinary, payroll,
207 health, and insurance records. For purposes of this sub-
208 subparagraph, the term "personnel records" does not include
209 written employment agreements with an association employee or
210 management company, or budgetary or financial records that
211 indicate the compensation paid to an association employee.

212 d. Medical records of unit owners.

213 e. Social security numbers, driver license numbers, credit
214 card numbers, e-mail addresses, telephone numbers, facsimile
215 numbers, emergency contact information, addresses of a unit
216 owner other than as provided to fulfill the association's notice
217 requirements, and other personal identifying information of any
218 person, excluding the person's name, unit designation, mailing
219 address, property address, and any address, e-mail address, or
220 facsimile number provided to the association to fulfill the
221 association's notice requirements. Notwithstanding the
222 restrictions in this sub-subparagraph, an association may print
223 and distribute to parcel owners a directory containing the name,
224 parcel address, and all telephone numbers of each parcel owner.
225 However, an owner may exclude his or her telephone numbers from
226 the directory by so requesting in writing to the association. An
227 owner may consent in writing to the disclosure of other contact
228 information described in this sub-subparagraph. The association
229 is not liable for the inadvertent disclosure of information that
230 is protected under this sub-subparagraph if the information is
231 included in an official record of the association and is
232 voluntarily provided by an owner and not requested by the

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233 association.

234 f. Electronic security measures that are used by the
235 association to safeguard data, including passwords.

236 g. The software and operating system used by the
237 association which allow the manipulation of data, even if the
238 owner owns a copy of the same software used by the association.
239 The data is part of the official records of the association.

240 h. All affirmative acknowledgments made pursuant to s.
241 718.121(4)(c).

242 Section 2. Paragraph (b) of subsection (6) of section
243 718.116, Florida Statutes, is amended to read:

244 718.116 Assessments; liability; lien and priority;
245 interest; collection.—

246 (6)

247 (b) No foreclosure judgment may be entered until at least
248 45 ~~30~~ days after the association gives written notice to the
249 unit owner of its intention to foreclose its lien to collect the
250 unpaid assessments. The notice must be in substantially the
251 following form:

252

253 DELINQUENT ASSESSMENT

254

255 This letter is to inform you a Claim of Lien has been
256 filed against your property because you have not paid
257 the ...(type of assessment)... assessment to ...(name
258 of association).... The association intends to
259 foreclose the lien and collect the unpaid amount
260 within 45 ~~30~~ days of this letter being provided to
261 you.

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You owe the interest accruing from ... (month/year) ... to the present. As of the date of this letter, the total amount due with interest is \$..... All costs of any action and interest from this day forward will also be charged to your account.

Any questions concerning this matter should be directed to ... (insert name, addresses, and telephone numbers of association representative)....

If this notice is not given at least 45 ~~30~~ days before the foreclosure action is filed, and if the unpaid assessments, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the association shall not recover attorney ~~attorney's~~ fees or costs. The notice must be given by delivery of a copy of it to the unit owner or by certified or registered mail, return receipt requested, addressed to the unit owner at his or her last known address; and, upon such mailing, the notice shall be deemed to have been given, and the court shall proceed with the foreclosure action and may award attorney ~~attorney's~~ fees and costs as permitted by law. The notice requirements of this subsection are satisfied if the unit owner records a notice of contest of lien as provided in subsection (5). The notice requirements of this subsection do not apply if an action to foreclose a mortgage on the condominium unit is pending before any court; if the rights of the association would be affected by such foreclosure; and if actual, constructive, or substitute

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291 service of process has been made on the unit owner.

292 Section 3. Subsection (4) of section 718.121, Florida
293 Statutes, is amended, and subsections (5) and (6) are added to
294 that section, to read:

295 718.121 Liens.—

296 (4) (a) The association must deliver a unit's statement of
297 the account described in s. 718.111(12) (a)11.b. to the unit
298 owner by first-class United States mail or by electronic
299 transmission to the unit owner's e-mail address maintained in
300 the association's official records.

301 (b) Before changing the method of delivery for the
302 statement of the account, the association must deliver a written
303 notice of such change to each unit owner. The written notice
304 must be delivered to the unit owner at least 30 days before the
305 association sends the statement of the account by the new
306 delivery method. The notice must be sent by first-class United
307 States mail to the unit owner at his or her last address as
308 reflected in the association's records and, if such address is
309 not the unit address, must be sent by first-class United States
310 mail to the unit address. Notice is deemed to have been given
311 upon mailing as required by this paragraph.

312 (c) A unit owner must affirmatively acknowledge his or her
313 understanding that the association will change its method of
314 delivery of the statement of the account before the association
315 may change the method of delivering the statement of the
316 account. The unit owner may make the affirmative acknowledgment
317 electronically or in writing.

318 (5) An association may not require payment of attorney fees
319 related to a past due assessment without first delivering a

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320 written notice of late assessment to the unit owner which
 321 specifies the amount owed the association and provides the unit
 322 owner an opportunity to pay the amount owed without the
 323 assessment of attorney fees. The notice of late assessment must
 324 be sent by first-class United States mail to the unit owner at
 325 his or her last address as reflected in the association's
 326 records and, if such address is not the unit address, must be
 327 sent by first-class United States mail to the unit address.
 328 Notice is deemed to have been given upon mailing as required by
 329 this subsection. The notice must be in substantially the
 330 following form:

331
 332 NOTICE OF LATE ASSESSMENT

333
 334 RE: Unit of ...(name of association)...

335
 336 The following amounts are currently due on your
 337 account to ...(name of association)..., and must be
 338 paid within 30 days of the date of this letter. This
 339 letter shall serve as the association's notice of its
 340 intent to proceed with further collection action
 341 against your property no sooner than 30 days of the
 342 date of this letter, unless you pay in full the
 343 amounts set forth below:

344

345	<u>Maintenance due ...(dates)...</u>	<u>\$.....</u>
346	<u>Late fee, if applicable</u>	<u>\$.....</u>
347	<u>Interest through ...(dates)...*</u>	<u>\$.....</u>
348	<u>TOTAL OUTSTANDING</u>	<u>\$.....</u>

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*Interest accrues at the rate of percent per annum.
(6) Except as otherwise provided in this chapter, no lien may be filed by the association against a condominium unit until 45 ~~30~~ days after the date on which a notice of intent to file a lien has been delivered to the owner by registered or certified mail, return receipt requested, ~~and~~ by first-class United States mail to the owner at his or her last address as reflected in the association's records and, if such address is not the unit address, by first-class United States mail to the unit address ~~of the association, if the address is within the United States, and delivered to the owner at the address of the unit if the owner's address as reflected in the records of the association is not the unit address. If the address reflected in the records is outside the United States, sending the notice to that address and to the unit address by first-class United States mail is sufficient.~~ Delivery of the notice shall be deemed given upon mailing as required by this subsection. The notice must be in substantially the following form:

NOTICE OF INTENT
TO RECORD A CLAIM OF LIEN

RE: Unit of ...(name of association)...

The following amounts are currently due on your account to ...(name of association)..., and must be paid within 45 ~~30~~ days after your receipt of this letter. This letter shall serve as the association's

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378 notice of intent to record a Claim of Lien against
 379 your property no sooner than 45 ~~30~~ days after your
 380 receipt of this letter, unless you pay in full the
 381 amounts set forth below:

382		
383	Maintenance due ... (dates)...	\$.....
384	Late fee, if applicable	\$.....
385	Interest through ... (dates)....*	\$.....
386	Certified mail charges	\$.....
387	Other costs	\$.....
388	TOTAL OUTSTANDING	\$.....

389
 390 *Interest accrues at the rate of percent per
 391 annum.

392 Section 4. Paragraphs (a) and (c) of subsection (2) of
 393 section 719.104, Florida Statutes, are amended to read:

394 719.104 Cooperatives; access to units; records; financial
 395 reports; assessments; purchase of leases.-

396 (2) OFFICIAL RECORDS.-

397 (a) From the inception of the association, the association
 398 shall maintain a copy of each of the following, where
 399 applicable, which shall constitute the official records of the
 400 association:

- 401 1. The plans, permits, warranties, and other items provided
- 402 by the developer pursuant to s. 719.301(4).
- 403 2. A photocopy of the cooperative documents.
- 404 3. A copy of the current rules of the association.
- 405 4. A book or books containing the minutes of all meetings
- 406 of the association, of the board of directors, and of the unit

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407 owners.

408 5. A current roster of all unit owners and their mailing
409 addresses, unit identifications, voting certifications, and, if
410 known, telephone numbers. The association shall also maintain
411 the e-mail addresses and the numbers designated by unit owners
412 for receiving notice sent by electronic transmission of those
413 unit owners consenting to receive notice by electronic
414 transmission. The e-mail addresses and numbers provided by unit
415 owners to receive notice by electronic transmission shall be
416 removed from association records when consent to receive notice
417 by electronic transmission is revoked. However, the association
418 is not liable for an erroneous disclosure of the e-mail address
419 or the number for receiving electronic transmission of notices.

420 6. All current insurance policies of the association.

421 7. A current copy of any management agreement, lease, or
422 other contract to which the association is a party or under
423 which the association or the unit owners have an obligation or
424 responsibility.

425 8. Bills of sale or transfer for all property owned by the
426 association.

427 9. Accounting records for the association and separate
428 accounting records for each unit it operates, according to good
429 accounting practices. The accounting records shall include, but
430 not be limited to:

431 a. Accurate, itemized, and detailed records of all receipts
432 and expenditures.

433 b. A current account and a monthly, bimonthly, or quarterly
434 statement of the account for each unit designating the name of
435 the unit owner, the due date and amount of each assessment, the

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436 amount paid upon the account, and the balance due.

437 c. All audits, reviews, accounting statements, and
438 financial reports of the association.

439 d. All contracts for work to be performed. Bids for work to
440 be performed shall also be considered official records and shall
441 be maintained for a period of 1 year.

442 10. Ballots, sign-in sheets, voting proxies, and all other
443 papers and electronic records relating to voting by unit owners,
444 which shall be maintained for a period of 1 year after the date
445 of the election, vote, or meeting to which the document relates.

446 11. All rental records where the association is acting as
447 agent for the rental of units.

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

450 13. All affirmative acknowledgments made pursuant to s.
451 719.108(3)(b)3.

452 14. All other written records of the association not
453 specifically included in the foregoing which are related to the
454 operation of the association.

455 (c) The official records of the association are open to
456 inspection by any association member or the authorized
457 representative of such member at all reasonable times. The right
458 to inspect the records includes the right to make or obtain
459 copies, at the reasonable expense, if any, of the association
460 member. The association may adopt reasonable rules regarding the
461 frequency, time, location, notice, and manner of record
462 inspections and copying. The failure of an association to
463 provide the records within 10 working days after receipt of a
464 written request creates a rebuttable presumption that the

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465 association willfully failed to comply with this paragraph. A
466 unit owner who is denied access to official records is entitled
467 to the actual damages or minimum damages for the association's
468 willful failure to comply. The minimum damages are \$50 per
469 calendar day for up to 10 days, beginning on the 11th working
470 day after receipt of the written request. The failure to permit
471 inspection entitles any person prevailing in an enforcement
472 action to recover reasonable attorney fees from the person in
473 control of the records who, directly or indirectly, knowingly
474 denied access to the records. Any person who knowingly or
475 intentionally defaces or destroys accounting records that are
476 required by this chapter to be maintained during the period for
477 which such records are required to be maintained, or who
478 knowingly or intentionally fails to create or maintain
479 accounting records that are required to be created or
480 maintained, with the intent of causing harm to the association
481 or one or more of its members, is personally subject to a civil
482 penalty pursuant to s. 719.501(1)(d). The association shall
483 maintain an adequate number of copies of the declaration,
484 articles of incorporation, bylaws, and rules, and all amendments
485 to each of the foregoing, as well as the question and answer
486 sheet as described in s. 719.504 and year-end financial
487 information required by the department, on the cooperative
488 property to ensure their availability to unit owners and
489 prospective purchasers, and may charge its actual costs for
490 preparing and furnishing these documents to those requesting the
491 same. An association shall allow a member or his or her
492 authorized representative to use a portable device, including a
493 smartphone, tablet, portable scanner, or any other technology

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494 capable of scanning or taking photographs, to make an electronic
495 copy of the official records in lieu of the association
496 providing the member or his or her authorized representative
497 with a copy of such records. The association may not charge a
498 member or his or her authorized representative for the use of a
499 portable device. Notwithstanding this paragraph, the following
500 records shall not be accessible to unit owners:

501 1. Any record protected by the lawyer-client privilege as
502 described in s. 90.502 and any record protected by the work-
503 product privilege, including any record prepared by an
504 association attorney or prepared at the attorney's express
505 direction which reflects a mental impression, conclusion,
506 litigation strategy, or legal theory of the attorney or the
507 association, and which was prepared exclusively for civil or
508 criminal litigation or for adversarial administrative
509 proceedings, or which was prepared in anticipation of such
510 litigation or proceedings until the conclusion of the litigation
511 or proceedings.

512 2. Information obtained by an association in connection
513 with the approval of the lease, sale, or other transfer of a
514 unit.

515 3. Personnel records of association or management company
516 employees, including, but not limited to, disciplinary, payroll,
517 health, and insurance records. For purposes of this
518 subparagraph, the term "personnel records" does not include
519 written employment agreements with an association employee or
520 management company, or budgetary or financial records that
521 indicate the compensation paid to an association employee.

522 4. Medical records of unit owners.

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523 5. Social security numbers, driver license numbers, credit
524 card numbers, e-mail addresses, telephone numbers, facsimile
525 numbers, emergency contact information, addresses of a unit
526 owner other than as provided to fulfill the association's notice
527 requirements, and other personal identifying information of any
528 person, excluding the person's name, unit designation, mailing
529 address, property address, and any address, e-mail address, or
530 facsimile number provided to the association to fulfill the
531 association's notice requirements. Notwithstanding the
532 restrictions in this subparagraph, an association may print and
533 distribute to unit ~~parcel~~ owners a directory containing the
534 name, unit ~~parcel~~ address, and all telephone numbers of each
535 unit ~~parcel~~ owner. However, an owner may exclude his or her
536 telephone numbers from the directory by so requesting in writing
537 to the association. An owner may consent in writing to the
538 disclosure of other contact information described in this
539 subparagraph. The association is not liable for the inadvertent
540 disclosure of information that is protected under this
541 subparagraph if the information is included in an official
542 record of the association and is voluntarily provided by an
543 owner and not requested by the association.

544 6. Electronic security measures that are used by the
545 association to safeguard data, including passwords.

546 7. The software and operating system used by the
547 association which allow the manipulation of data, even if the
548 owner owns a copy of the same software used by the association.
549 The data is part of the official records of the association.

550 8. All affirmative acknowledgments made pursuant to s.
551 719.108 (3) (b) 3.

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552 Section 5. Subsections (3) and (4) of section 719.108,
553 Florida Statutes, are amended to read:

554 719.108 Rents and assessments; liability; lien and
555 priority; interest; collection; cooperative ownership.—

556 (3) (a) Rents and assessments, and installments on them, not
557 paid when due bear interest at the rate provided in the
558 cooperative documents from the date due until paid. This rate
559 may not exceed the rate allowed by law and, if a rate is not
560 provided in the cooperative documents, accrues at 18 percent per
561 annum. If the cooperative documents or bylaws so provide, the
562 association may charge an administrative late fee in addition to
563 such interest, not to exceed the greater of \$25 or 5 percent of
564 each installment of the assessment for each delinquent
565 installment that the payment is late. Any payment received by an
566 association must be applied first to any interest accrued by the
567 association, then to any administrative late fee, then to any
568 costs and reasonable attorney fees incurred in collection, and
569 then to the delinquent assessment. The foregoing applies
570 notwithstanding s. 673.3111, any purported accord and
571 satisfaction, or any restrictive endorsement, designation, or
572 instruction placed on or accompanying a payment. The preceding
573 sentence is intended to clarify existing law. A late fee is not
574 subject to chapter 687 or s. 719.303(4).

575 (b)1. The association must deliver a unit's statement of
576 the account described in s. 719.104(2)(a)9.b. to the unit owner
577 by first-class United States mail or by electronic transmission
578 to the unit owner's e-mail address maintained in the
579 association's official records.

580 2. Before changing the method of delivery for the statement

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581 of the account, the association must deliver a written notice of
582 such change to each unit owner. The written notice must be
583 delivered to the unit owner at least 30 days before the
584 association sends the statement of the account by the new
585 delivery method. The notice must be sent by first-class United
586 States mail to the unit owner at his or her last address as
587 reflected in the association's records and, if such address is
588 not the unit address, must be sent by first-class United States
589 mail to the unit address. Notice is deemed to have been given
590 upon mailing as required by this subparagraph.

591 3. A unit owner must affirmatively acknowledge his or her
592 understanding that the association will change its method of
593 delivery of the statement of the account before the association
594 may change the method of delivering the statement of the
595 account. The unit owner may make the affirmative acknowledgment
596 electronically or in writing.

597 (c) An association may not require payment of attorney fees
598 related to a past due assessment without first delivering a
599 written notice of late assessment to the owner which specifies
600 the amount owed the association and provides the unit owner an
601 opportunity to pay the amount owed without the assessment of
602 attorney fees. The notice of late assessment must be sent by
603 first-class United States mail to the unit owner at his or her
604 last address as reflected in the association's records and, if
605 such address is not the unit address, must be sent by first-
606 class United States mail to the unit address. Notice is deemed
607 to have been given upon mailing as required by this paragraph.
608 The notice must be in substantially the following form:
609

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NOTICE OF LATE ASSESSMENT

RE: Unit of ...(name of association)...

The following amounts are currently due on your account to ...(name of association)..., and must be paid within 30 days of the date of this letter. This letter shall serve as the association's notice to proceed with further collection action against your property no sooner than 30 days of the date of this letter, unless you pay in full the amounts set forth below:

<u>Maintenance due ...(dates)...</u>	<u>\$.....</u>
<u>Late fee, if applicable</u>	<u>\$.....</u>
<u>Interest through ...(dates)...*</u>	<u>\$.....</u>
<u>TOTAL OUTSTANDING</u>	<u>\$.....</u>

*Interest accrues at the rate of percent per annum.

(4) The association has a lien on each cooperative parcel for any unpaid rents and assessments, plus interest, and any administrative late fees. If authorized by the cooperative documents, the lien also secures reasonable attorney fees incurred by the association incident to the collection of the rents and assessments or enforcement of such lien. The lien is effective from and after recording a claim of lien in the public records in the county in which the cooperative parcel is located which states the description of the cooperative parcel, the name of the unit owner, the amount due, and the due dates. Except as

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639 otherwise provided in this chapter, a lien may not be filed by
 640 the association against a cooperative parcel until 45 ~~30~~ days
 641 after the date on which a notice of intent to file a lien has
 642 been delivered to the owner.

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

646
 647 NOTICE OF INTENT
 648 TO RECORD A CLAIM OF LIEN
 649

650 RE: Unit ...(unit number)... of ...(name of
 651 cooperative)...

652
 653 The following amounts are currently due on your
 654 account to ...(name of association)..., and must be
 655 paid within 45 ~~30~~ days after your receipt of this
 656 letter. This letter shall serve as the association's
 657 notice of intent to record a Claim of Lien against
 658 your property no sooner than 45 ~~30~~ days after your
 659 receipt of this letter, unless you pay in full the
 660 amounts set forth below:

661		
662	Maintenance due ...(dates)...	\$.....
663	Late fee, if applicable	\$.....
664	Interest through ...(dates)...*	\$.....
665	Certified mail charges	\$.....
666	Other costs	\$.....
667	TOTAL OUTSTANDING	\$.....

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669 *Interest accrues at the rate of percent per
670 annum.

671 1. If the most recent address of the unit owner on the
672 records of the association is the address of the unit, the
673 notice must be sent by certified mail, return receipt requested,
674 to the unit owner at the address of the unit.

675 2. If the most recent address of the unit owner on the
676 records of the association is in the United States, but is not
677 the address of the unit, the notice must be sent by certified
678 mail, return receipt requested, to the unit owner at his or her
679 most recent address.

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

684 (b) A notice that is sent pursuant to this subsection is
685 deemed delivered upon mailing. A claim of lien must be executed
686 and acknowledged by an officer or authorized agent of the
687 association. The lien is not effective 1 year after the claim of
688 lien was recorded unless, within that time, an action to enforce
689 the lien is commenced. The 1-year period is automatically
690 extended for any length of time during which the association is
691 prevented from filing a foreclosure action by an automatic stay
692 resulting from a bankruptcy petition filed by the parcel owner
693 or any other person claiming an interest in the parcel. The
694 claim of lien secures all unpaid rents and assessments that are
695 due and that may accrue after the claim of lien is recorded and
696 through the entry of a final judgment, as well as interest and

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697 all reasonable costs and attorney fees incurred by the
 698 association incident to the collection process. Upon payment in
 699 full, the person making the payment is entitled to a
 700 satisfaction of the lien.

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

705
 706 NOTICE OF CONTEST OF LIEN

707
 708 TO: ...(Name and address of association)...:

709
 710 You are notified that the undersigned contests the
 711 claim of lien filed by you on, ...(year)..., and
 712 recorded in Official Records Book at Page,
 713 of the public records of County, Florida, and
 714 that the time within which you may file suit to
 715 enforce your lien is limited to 90 days from the date
 716 of service of this notice. Executed this day of
 717, ...(year)....

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

719
 720 After notice of contest of lien has been recorded, the clerk of
 721 the circuit court shall mail a copy of the recorded notice to
 722 the association by certified mail, return receipt requested, at
 723 the address shown in the claim of lien or most recent amendment
 724 to it and shall certify to the service on the face of the
 725 notice. Service is complete upon mailing. After service, the

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755
 756 ... (Signature of Witness)...
 757 ... (Print Name)...

758
 759 Sworn to (or affirmed) and subscribed before me this day of
 760, ... (year)...., by ... (name of person making statement)....
 761 ... (Signature of Notary Public) ...
 762 ... (Print, type, or stamp commissioned name of Notary Public) ...
 763 Personally Known OR Produced as identification.

764 Section 6. Present paragraph (l) of subsection (4) of
 765 section 720.303, Florida Statutes, is redesignated as paragraph
 766 (m), a new paragraph (l) is added to that subsection, and
 767 paragraph (c) of subsection (5) of that section is amended, to
 768 read:

769 720.303 Association powers and duties; meetings of board;
 770 official records; budgets; financial reporting; association
 771 funds; recalls.—

772 (4) OFFICIAL RECORDS.—The association shall maintain each
 773 of the following items, when applicable, which constitute the
 774 official records of the association:

775 (1) All affirmative acknowledgments made pursuant to s.
 776 720.3085(3)(c)3.

777 (5) INSPECTION AND COPYING OF RECORDS.—The official records
 778 shall be maintained within the state for at least 7 years and
 779 shall be made available to a parcel owner for inspection or
 780 photocopying within 45 miles of the community or within the
 781 county in which the association is located within 10 business
 782 days after receipt by the board or its designee of a written
 783 request. This subsection may be complied with by having a copy

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784 of the official records available for inspection or copying in
785 the community or, at the option of the association, by making
786 the records available to a parcel owner electronically via the
787 Internet or by allowing the records to be viewed in electronic
788 format on a computer screen and printed upon request. If the
789 association has a photocopy machine available where the records
790 are maintained, it must provide parcel owners with copies on
791 request during the inspection if the entire request is limited
792 to no more than 25 pages. An association shall allow a member or
793 his or her authorized representative to use a portable device,
794 including a smartphone, tablet, portable scanner, or any other
795 technology capable of scanning or taking photographs, to make an
796 electronic copy of the official records in lieu of the
797 association's providing the member or his or her authorized
798 representative with a copy of such records. The association may
799 not charge a fee to a member or his or her authorized
800 representative for the use of a portable device.

801 (c) The association may adopt reasonable written rules
802 governing the frequency, time, location, notice, records to be
803 inspected, and manner of inspections, but may not require a
804 parcel owner to demonstrate any proper purpose for the
805 inspection, state any reason for the inspection, or limit a
806 parcel owner's right to inspect records to less than one 8-hour
807 business day per month. The association may impose fees to cover
808 the costs of providing copies of the official records, including
809 the costs of copying and the costs required for personnel to
810 retrieve and copy the records if the time spent retrieving and
811 copying the records exceeds one-half hour and if the personnel
812 costs do not exceed \$20 per hour. Personnel costs may not be

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813 charged for records requests that result in the copying of 25 or
814 fewer pages. The association may charge up to 25 cents per page
815 for copies made on the association's photocopier. If the
816 association does not have a photocopy machine available where
817 the records are kept, or if the records requested to be copied
818 exceed 25 pages in length, the association may have copies made
819 by an outside duplicating service and may charge the actual cost
820 of copying, as supported by the vendor invoice. The association
821 shall maintain an adequate number of copies of the recorded
822 governing documents, to ensure their availability to members and
823 prospective members. Notwithstanding this paragraph, the
824 following records are not accessible to members or parcel
825 owners:

826 1. Any record protected by the lawyer-client privilege as
827 described in s. 90.502 and any record protected by the work-
828 product privilege, including, but not limited to, a record
829 prepared by an association attorney or prepared at the
830 attorney's express direction which reflects a mental impression,
831 conclusion, litigation strategy, or legal theory of the attorney
832 or the association and which was prepared exclusively for civil
833 or criminal litigation or for adversarial administrative
834 proceedings or which was prepared in anticipation of such
835 litigation or proceedings until the conclusion of the litigation
836 or proceedings.

837 2. Information obtained by an association in connection
838 with the approval of the lease, sale, or other transfer of a
839 parcel.

840 3. Personnel records of association or management company
841 employees, including, but not limited to, disciplinary, payroll,

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842 health, and insurance records. For purposes of this
843 subparagraph, the term "personnel records" does not include
844 written employment agreements with an association or management
845 company employee or budgetary or financial records that indicate
846 the compensation paid to an association or management company
847 employee.

848 4. Medical records of parcel owners or community residents.

849 5. Social security numbers, driver license numbers, credit
850 card numbers, electronic mailing addresses, telephone numbers,
851 facsimile numbers, emergency contact information, any addresses
852 for a parcel owner other than as provided for association notice
853 requirements, and other personal identifying information of any
854 person, excluding the person's name, parcel designation, mailing
855 address, and property address. Notwithstanding the restrictions
856 in this subparagraph, an association may print and distribute to
857 parcel owners a directory containing the name, parcel address,
858 and all telephone numbers of each parcel owner. However, an
859 owner may exclude his or her telephone numbers from the
860 directory by so requesting in writing to the association. An
861 owner may consent in writing to the disclosure of other contact
862 information described in this subparagraph. The association is
863 not liable for the disclosure of information that is protected
864 under this subparagraph if the information is included in an
865 official record of the association and is voluntarily provided
866 by an owner and not requested by the association.

867 6. Any electronic security measure that is used by the
868 association to safeguard data, including passwords.

869 7. The software and operating system used by the
870 association which allows the manipulation of data, even if the

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871 owner owns a copy of the same software used by the association.
872 The data is part of the official records of the association.

873 8. All affirmative acknowledgments made pursuant to s.
874 720.3085(3)(c)3.

875 Section 7. Paragraphs (c) and (d) are added to subsection
876 (3) of section 720.3085, Florida Statutes, to read:

877 720.3085 Payment for assessments; lien claims.—

878 (3) Assessments and installments on assessments that are
879 not paid when due bear interest from the due date until paid at
880 the rate provided in the declaration of covenants or the bylaws
881 of the association, which rate may not exceed the rate allowed
882 by law. If no rate is provided in the declaration or bylaws,
883 interest accrues at the rate of 18 percent per year.

884 (c)1. The association must deliver a parcel owner's
885 periodic statement of the account described in s.
886 720.303(4)(j)2. to the parcel owner by first-class United States
887 mail or by electronic transmission to the parcel owner's e-mail
888 address maintained in the association's official records.

889 2. Before changing the method of delivery for the statement
890 of the account, the association must deliver a written notice
891 such change to each parcel owner. The written notice must be
892 delivered to the parcel owner at least 30 days before the
893 association sends the statement of the account by the new
894 delivery method. The notice must be sent by first-class United
895 States mail to the owner at his or her last address as reflected
896 in the association's records and, if such address is not the
897 parcel address, must be sent by first-class United States mail
898 to the parcel address. Notice is deemed to have been given upon
899 mailing as required by this subparagraph.

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900 3. A parcel owner must affirmatively acknowledge his or her
 901 understanding that the association will change its method of
 902 delivery of the statement of the account before the association
 903 may change the method of delivering the statement of the
 904 account. The parcel owner may make the affirmative
 905 acknowledgment electronically or in writing.

906 (d) An association may not require payment of attorney fees
 907 related to a past due assessment without first delivering a
 908 written notice of late assessment to the parcel owner which
 909 specifies the amount owed the association and provides the
 910 parcel owner an opportunity to pay the amount owed without the
 911 assessment of attorney fees. The notice of late assessment must
 912 be sent by first-class United States mail to the owner at his or
 913 her last address as reflected in the association's records and,
 914 if such address is not the parcel address, must be sent by
 915 first-class United States mail to the parcel address. Notice is
 916 deemed to have been given upon mailing as required by this
 917 paragraph. The notice must be in substantially the following
 918 form:

919
 920 NOTICE OF LATE ASSESSMENT

921
 922 RE: Parcel of ...(name of association)...

923
 924 The following amounts are currently due on your
 925 account to ...(name of association)..., and must be
 926 paid within 30 days after the date of this letter.

927 This letter shall serve as the association's notice to
 928 proceed with further collection action against your

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929 property no sooner than 30 days after the date of this
 930 letter, unless you pay in full the amounts set forth
 931 below:

932		
933	<u>Maintenance due ... (dates)...</u>	<u>\$.....</u>
934	<u>Late fee, if applicable</u>	<u>\$.....</u>
935	<u>Interest through ... (dates) ... *</u>	<u>\$.....</u>
936	<u>TOTAL OUTSTANDING</u>	<u>\$.....</u>

937

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

939 Section 8. This act shall take effect July 1, 2021.