

By the Committee on Community Affairs; and Senator Rodriguez

578-02371-21

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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 invoices for  
12      assessments or statements of account to unit owners in  
13      a specified manner; requiring condominium associations  
14      to give notice to unit owners before changing the  
15      method of delivery for the invoices for assessments or  
16      statements of account; providing requirements for the  
17      notice; requiring unit owners to affirmatively  
18      acknowledge the changes in delivery methods;  
19      prohibiting condominium associations from requiring  
20      the payment of attorney fees relating to past due  
21      assessments without first providing a specified notice  
22      to unit owners; providing requirements for the notice;  
23      establishing a rebuttable presumption relating to  
24      mailing the notice if a certain requirement is met;  
25      revising the timeframe for condominium associations to  
26      file liens against condominium units; conforming  
27      provisions to changes made by the act; amending s.  
28      719.104, F.S.; requiring cooperative associations to  
29      maintain specified affirmative acknowledgments as

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30 official records of the association; specifying that  
31 such acknowledgments are not accessible to unit  
32 owners; amending s. 719.108, F.S.; requiring  
33 cooperative associations to deliver certain invoices  
34 for assessments or statements of account to unit  
35 owners in a specified manner; requiring cooperative  
36 associations to give notice to unit owners before  
37 changing the method of delivery for the invoices for  
38 assessments or statements of account; providing  
39 requirements for the notice; requiring unit owners to  
40 affirmatively acknowledge the changes in delivery  
41 methods; prohibiting cooperative associations from  
42 requiring the payment of attorney fees relating to  
43 past due assessments without first providing specified  
44 notice to unit owners; providing requirements for the  
45 notice; establishing a rebuttable presumption relating  
46 to mailing the notice if a certain requirement is met;  
47 revising the timeframe for cooperative associations to  
48 file liens against cooperative parcels; conforming  
49 provisions to changes made by the act; amending s.  
50 720.303, F.S.; requiring homeowners' associations to  
51 maintain specified affirmative acknowledgments as  
52 official records of the association; specifying that  
53 such acknowledgments are not accessible to parcel  
54 owners; amending s. 720.3085, F.S.; requiring  
55 homeowners' associations to deliver certain invoices  
56 for assessments or statements of account to parcel  
57 owners in a specified manner; requiring homeowners'  
58 associations to give notice to parcel owners before

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59 changing the method of delivery for the invoices for  
60 assessments or statements of account; providing  
61 requirements for the notice; requiring parcel owners  
62 to affirmatively acknowledge the changes in delivery  
63 methods; prohibiting homeowners' associations from  
64 requiring the payment of attorney fees relating to  
65 past due assessments without first providing specified  
66 notice to parcel owners; providing requirements for  
67 the notice; establishing a rebuttable presumption  
68 relating to mailing the notice if a certain  
69 requirement is met; providing an effective date.

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

72

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

75 718.111 The association.—

76 (12) OFFICIAL RECORDS.—

77 (a) From the inception of the association, the association  
78 shall maintain each of the following items, if applicable, which  
79 constitutes the official records of the association:

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

82 2. A photocopy of the recorded declaration of condominium  
83 of each condominium operated by the association and each  
84 amendment to each declaration.

85 3. A photocopy of the recorded bylaws of the association  
86 and each amendment to the bylaws.

87 4. A certified copy of the articles of incorporation of the

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88 association, or other documents creating the association, and  
89 each amendment thereto.

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

91 6. A book or books that contain the minutes of all meetings  
92 of the association, the board of administration, and the unit  
93 owners.

94 7. A current roster of all unit owners and their mailing  
95 addresses, unit identifications, voting certifications, and, if  
96 known, telephone numbers. The association shall also maintain  
97 the e-mail addresses and facsimile numbers of unit owners  
98 consenting to receive notice by electronic transmission. The e-  
99 mail addresses and facsimile numbers are not accessible to unit  
100 owners if consent to receive notice by electronic transmission  
101 is not provided in accordance with sub-subparagraph (c)3.e.  
102 However, the association is not liable for an inadvertent  
103 disclosure of the e-mail address or facsimile number for  
104 receiving electronic transmission of notices.

105 8. All current insurance policies of the association and  
106 condominiums operated by the association.

107 9. A current copy of any management agreement, lease, or  
108 other contract to which the association is a party or under  
109 which the association or the unit owners have an obligation or  
110 responsibility.

111 10. Bills of sale or transfer for all property owned by the  
112 association.

113 11. Accounting records for the association and separate  
114 accounting records for each condominium that the association  
115 operates. Any person who knowingly or intentionally defaces or  
116 destroys such records, or who knowingly or intentionally fails

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117 to create or maintain such records, with the intent of causing  
118 harm to the association or one or more of its members, is  
119 personally subject to a civil penalty pursuant to s.

120 718.501(1)(d). The accounting records must include, but are not  
121 limited to:

122 a. Accurate, itemized, and detailed records of all receipts  
123 and expenditures.

124 b. A current account and a monthly, bimonthly, or quarterly  
125 statement of the account for each unit designating the name of  
126 the unit owner, the due date and amount of each assessment, the  
127 amount paid on the account, and the balance due.

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

130 d. All contracts for work to be performed. Bids for work to  
131 be performed are also considered official records and must be  
132 maintained by the association.

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

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

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

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

145 ~~16.~~ A copy of the inspection report as described in s.

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146 718.301(4)(p).

147 ~~16.17.~~ Bids for materials, equipment, or services.

148 17. All affirmative acknowledgments made pursuant to s.

149 718.121(4)(c).

150 18. All other written records of the association not  
151 specifically included in the foregoing which are related to the  
152 operation of the association.

153 (c)1. The official records of the association are open to  
154 inspection by any association member or the authorized  
155 representative of such member at all reasonable times. The right  
156 to inspect the records includes the right to make or obtain  
157 copies, at the reasonable expense, if any, of the member or  
158 authorized representative of such member. A renter of a unit has  
159 a right to inspect and copy the association's bylaws and rules.  
160 The association may adopt reasonable rules regarding the  
161 frequency, time, location, notice, and manner of record  
162 inspections and copying. The failure of an association to  
163 provide the records within 10 working days after receipt of a  
164 written request creates a rebuttable presumption that the  
165 association willfully failed to comply with this paragraph. A  
166 unit owner who is denied access to official records is entitled  
167 to the actual damages or minimum damages for the association's  
168 willful failure to comply. Minimum damages are \$50 per calendar  
169 day for up to 10 days, beginning on the 11th working day after  
170 receipt of the written request. The failure to permit inspection  
171 entitles any person prevailing in an enforcement action to  
172 recover reasonable attorney fees from the person in control of  
173 the records who, directly or indirectly, knowingly denied access  
174 to the records.

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175           2. Any person who knowingly or intentionally defaces or  
176 destroys accounting records that are required by this chapter to  
177 be maintained during the period for which such records are  
178 required to be maintained, or who knowingly or intentionally  
179 fails to create or maintain accounting records that are required  
180 to be created or maintained, with the intent of causing harm to  
181 the association or one or more of its members, is personally  
182 subject to a civil penalty pursuant to s. 718.501(1)(d).

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

201           a. Any record protected by the lawyer-client privilege as  
202 described in s. 90.502 and any record protected by the work-  
203 product privilege, including a record prepared by an association

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204 attorney or prepared at the attorney's express direction, which  
205 reflects a mental impression, conclusion, litigation strategy,  
206 or legal theory of the attorney or the association, and which  
207 was prepared exclusively for civil or criminal litigation or for  
208 adversarial administrative proceedings, or which was prepared in  
209 anticipation of such litigation or proceedings until the  
210 conclusion of the litigation or proceedings.

211 b. Information obtained by an association in connection  
212 with the approval of the lease, sale, or other transfer of a  
213 unit.

214 c. Personnel records of association or management company  
215 employees, including, but not limited to, disciplinary, payroll,  
216 health, and insurance records. For purposes of this sub-  
217 subparagraph, the term "personnel records" does not include  
218 written employment agreements with an association employee or  
219 management company, or budgetary or financial records that  
220 indicate the compensation paid to an association employee.

221 d. Medical records of unit owners.

222 e. Social security numbers, driver license numbers, credit  
223 card numbers, e-mail addresses, telephone numbers, facsimile  
224 numbers, emergency contact information, addresses of a unit  
225 owner other than as provided to fulfill the association's notice  
226 requirements, and other personal identifying information of any  
227 person, excluding the person's name, unit designation, mailing  
228 address, property address, and any address, e-mail address, or  
229 facsimile number provided to the association to fulfill the  
230 association's notice requirements. Notwithstanding the  
231 restrictions in this sub-subparagraph, an association may print  
232 and distribute to parcel owners a directory containing the name,



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233 parcel address, and all telephone numbers of each parcel owner.  
234 However, an owner may exclude his or her telephone numbers from  
235 the directory by so requesting in writing to the association. An  
236 owner may consent in writing to the disclosure of other contact  
237 information described in this sub-subparagraph. The association  
238 is not liable for the inadvertent disclosure of information that  
239 is protected under this sub-subparagraph if the information is  
240 included in an official record of the association and is  
241 voluntarily provided by an owner and not requested by the  
242 association.

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

245 g. The software and operating system used by the  
246 association which allow the manipulation of data, even if the  
247 owner owns a copy of the same software used by the association.  
248 The data is part of the official records of the association.

249 h. All affirmative acknowledgments made pursuant to s.  
250 718.121(4)(c).

251 Section 2. Paragraph (b) of subsection (6) of section  
252 718.116, Florida Statutes, is amended to read:

253 718.116 Assessments; liability; lien and priority;  
254 interest; collection.—

255 (6)

256 (b) No foreclosure judgment may be entered until at least  
257 45 ~~30~~ days after the association gives written notice to the  
258 unit owner of its intention to foreclose its lien to collect the  
259 unpaid assessments. The notice must be in substantially the  
260 following form:  
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## DELINQUENT ASSESSMENT

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

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

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291 deemed to have been given, and the court shall proceed with the  
292 foreclosure action and may award attorney ~~attorney's~~ fees and  
293 costs as permitted by law. The notice requirements of this  
294 subsection are satisfied if the unit owner records a notice of  
295 contest of lien as provided in subsection (5). The notice  
296 requirements of this subsection do not apply if an action to  
297 foreclose a mortgage on the condominium unit is pending before  
298 any court; if the rights of the association would be affected by  
299 such foreclosure; and if actual, constructive, or substitute  
300 service of process has been made on the unit owner.

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

304 718.121 Liens.—

305 (4) (a) If an association sends out an invoice for  
306 assessments or a unit's statement of the account described in s.  
307 718.111(12), the invoice for assessments or the unit's statement  
308 of account must be delivered to the unit owner by first-class  
309 United States mail or by electronic transmission to the unit  
310 owner's e-mail address maintained in the association's official  
311 records.

312 (b) Before changing the method of delivery for an invoice  
313 for assessments or the statement of the account, the association  
314 must deliver a written notice of such change to each unit owner.  
315 The written notice must be delivered to the unit owner at least  
316 30 days before the association sends the invoice for assessments  
317 or the statement of the account by the new delivery method. The  
318 notice must be sent by first-class United States mail to the  
319 unit owner at his or her last address as reflected in the

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320 association's records and, if such address is not the unit  
321 address, must be sent by first-class United States mail to the  
322 unit address. Notice is deemed to have been delivered upon  
323 mailing as required by this paragraph.

324 (c) A unit owner must affirmatively acknowledge his or her  
325 understanding that the association will change its method of  
326 delivery of the invoice for assessments or the unit's statement  
327 of the account before the association may change the method of  
328 delivering the statement of the account. The unit owner may make  
329 the affirmative acknowledgment electronically or in writing.

330 (5) An association may not require payment of attorney fees  
331 related to a past due assessment without first delivering a  
332 written notice of late assessment to the unit owner which  
333 specifies the amount owed the association and provides the unit  
334 owner an opportunity to pay the amount owed without the  
335 assessment of attorney fees. The notice of late assessment must  
336 be sent by first-class United States mail to the unit owner at  
337 his or her last address as reflected in the association's  
338 records and, if such address is not the unit address, must also  
339 be sent by first-class United States mail to the unit address.  
340 Notice is deemed to have been delivered upon mailing as required  
341 by this subsection. A rebuttable presumption that an association  
342 mailed a notice in accordance with this subsection is  
343 established if a board member, officer, or agent of the  
344 association, or a manager licensed under part VIII of chapter  
345 468, provides a sworn affidavit attesting to such mailing. The  
346 notice must be in substantially the following form:

347  
348 NOTICE OF LATE ASSESSMENT

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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 of its intent 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.

(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

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378 ~~is not the unit address. If the address reflected in the records~~  
 379 ~~is outside the United States, sending the notice to that address~~  
 380 ~~and to the unit address by first-class United States mail is~~  
 381 ~~sufficient.~~ Delivery of the notice shall be deemed given upon  
 382 mailing as required by this subsection. The notice must be in  
 383 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  
 notice of intent to record a Claim of Lien against  
 your property no sooner than 45 ~~30~~ days after your  
 receipt of this letter, unless you pay in full the  
 amounts set forth below:

Maintenance due ...(dates)...	\$.....
Late fee, if applicable	\$.....
Interest through ...(dates)***	\$.....
Certified mail charges	\$.....
Other costs	\$.....
TOTAL OUTSTANDING	\$.....

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

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407           annum.

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

410           719.104 Cooperatives; access to units; records; financial  
411 reports; assessments; purchase of leases.—

412           (2) OFFICIAL RECORDS.—

413           (a) From the inception of the association, the association  
414 shall maintain a copy of each of the following, where  
415 applicable, which shall constitute the official records of the  
416 association:

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

419           2. A photocopy of the cooperative documents.

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

421           4. A book or books containing the minutes of all meetings  
422 of the association, of the board of directors, and of the unit  
423 owners.

424           5. A current roster of all unit owners and their mailing  
425 addresses, unit identifications, voting certifications, and, if  
426 known, telephone numbers. The association shall also maintain  
427 the e-mail addresses and the numbers designated by unit owners  
428 for receiving notice sent by electronic transmission of those  
429 unit owners consenting to receive notice by electronic  
430 transmission. The e-mail addresses and numbers provided by unit  
431 owners to receive notice by electronic transmission shall be  
432 removed from association records when consent to receive notice  
433 by electronic transmission is revoked. However, the association  
434 is not liable for an erroneous disclosure of the e-mail address  
435 or the number for receiving electronic transmission of notices.

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- 436           6. All current insurance policies of the association.
- 437           7. A current copy of any management agreement, lease, or  
438 other contract to which the association is a party or under  
439 which the association or the unit owners have an obligation or  
440 responsibility.
- 441           8. Bills of sale or transfer for all property owned by the  
442 association.
- 443           9. Accounting records for the association and separate  
444 accounting records for each unit it operates, according to good  
445 accounting practices. The accounting records shall include, but  
446 not be limited to:
- 447           a. Accurate, itemized, and detailed records of all receipts  
448 and expenditures.
- 449           b. A current account and a monthly, bimonthly, or quarterly  
450 statement of the account for each unit designating the name of  
451 the unit owner, the due date and amount of each assessment, the  
452 amount paid upon the account, and the balance due.
- 453           c. All audits, reviews, accounting statements, and  
454 financial reports of the association.
- 455           d. All contracts for work to be performed. Bids for work to  
456 be performed shall also be considered official records and shall  
457 be maintained for a period of 1 year.
- 458           10. Ballots, sign-in sheets, voting proxies, and all other  
459 papers and electronic records relating to voting by unit owners,  
460 which shall be maintained for a period of 1 year after the date  
461 of the election, vote, or meeting to which the document relates.
- 462           11. All rental records where the association is acting as  
463 agent for the rental of units.
- 464           12. A copy of the current question and answer sheet as



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465 described in s. 719.504.

466 13. All affirmative acknowledgments made pursuant to s.  
467 719.108(3)(b)3.

468 14. All other written records of the association not  
469 specifically included in the foregoing which are related to the  
470 operation of the association.

471 (c) The official records of the association are open to  
472 inspection by any association member or the authorized  
473 representative of such member at all reasonable times. The right  
474 to inspect the records includes the right to make or obtain  
475 copies, at the reasonable expense, if any, of the association  
476 member. The association may adopt reasonable rules regarding the  
477 frequency, time, location, notice, and manner of record  
478 inspections and copying. The failure of an association to  
479 provide the records within 10 working days after receipt of a  
480 written request creates a rebuttable presumption that the  
481 association willfully failed to comply with this paragraph. A  
482 unit owner who is denied access to official records is entitled  
483 to the actual damages or minimum damages for the association's  
484 willful failure to comply. The minimum damages are \$50 per  
485 calendar day for up to 10 days, beginning on the 11th working  
486 day after receipt of the written request. The failure to permit  
487 inspection entitles any person prevailing in an enforcement  
488 action to recover reasonable attorney fees from the person in  
489 control of the records who, directly or indirectly, knowingly  
490 denied access to the records. Any person who knowingly or  
491 intentionally defaces or destroys accounting records that are  
492 required by this chapter to be maintained during the period for  
493 which such records are required to be maintained, or who

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494 knowingly or intentionally fails to create or maintain  
495 accounting records that are required to be created or  
496 maintained, with the intent of causing harm to the association  
497 or one or more of its members, is personally subject to a civil  
498 penalty pursuant to s. 719.501(1)(d). The association shall  
499 maintain an adequate number of copies of the declaration,  
500 articles of incorporation, bylaws, and rules, and all amendments  
501 to each of the foregoing, as well as the question and answer  
502 sheet as described in s. 719.504 and year-end financial  
503 information required by the department, on the cooperative  
504 property to ensure their availability to unit owners and  
505 prospective purchasers, and may charge its actual costs for  
506 preparing and furnishing these documents to those requesting the  
507 same. An association shall allow a member or his or her  
508 authorized representative to use a portable device, including a  
509 smartphone, tablet, portable scanner, or any other technology  
510 capable of scanning or taking photographs, to make an electronic  
511 copy of the official records in lieu of the association  
512 providing the member or his or her authorized representative  
513 with a copy of such records. The association may not charge a  
514 member or his or her authorized representative for the use of a  
515 portable device. Notwithstanding this paragraph, the following  
516 records shall not be accessible to unit owners:

517       1. Any record protected by the lawyer-client privilege as  
518 described in s. 90.502 and any record protected by the work-  
519 product privilege, including any record prepared by an  
520 association attorney or prepared at the attorney's express  
521 direction which reflects a mental impression, conclusion,  
522 litigation strategy, or legal theory of the attorney or the

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523 association, and which was prepared exclusively for civil or  
524 criminal litigation or for adversarial administrative  
525 proceedings, or which was prepared in anticipation of such  
526 litigation or proceedings until the conclusion of the litigation  
527 or proceedings.

528 2. Information obtained by an association in connection  
529 with the approval of the lease, sale, or other transfer of a  
530 unit.

531 3. Personnel records of association or management company  
532 employees, including, but not limited to, disciplinary, payroll,  
533 health, and insurance records. For purposes of this  
534 subparagraph, the term "personnel records" does not include  
535 written employment agreements with an association employee or  
536 management company, or budgetary or financial records that  
537 indicate the compensation paid to an association employee.

538 4. Medical records of unit owners.

539 5. Social security numbers, driver license numbers, credit  
540 card numbers, e-mail addresses, telephone numbers, facsimile  
541 numbers, emergency contact information, addresses of a unit  
542 owner other than as provided to fulfill the association's notice  
543 requirements, and other personal identifying information of any  
544 person, excluding the person's name, unit designation, mailing  
545 address, property address, and any address, e-mail address, or  
546 facsimile number provided to the association to fulfill the  
547 association's notice requirements. Notwithstanding the  
548 restrictions in this subparagraph, an association may print and  
549 distribute to unit ~~parcel~~ owners a directory containing the  
550 name, unit ~~parcel~~ address, and all telephone numbers of each  
551 unit ~~parcel~~ owner. However, an owner may exclude his or her

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552 telephone numbers from the directory by so requesting in writing  
553 to the association. An owner may consent in writing to the  
554 disclosure of other contact information described in this  
555 subparagraph. The association is not liable for the inadvertent  
556 disclosure of information that is protected under this  
557 subparagraph if the information is included in an official  
558 record of the association and is voluntarily provided by an  
559 owner and not requested by the association.

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

562 7. The software and operating system used by the  
563 association which allow the manipulation of data, even if the  
564 owner owns a copy of the same software used by the association.  
565 The data is part of the official records of the association.

566 8. All affirmative acknowledgments made pursuant to s.  
567 719.108 (3) (b) 3.

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

570 719.108 Rents and assessments; liability; lien and  
571 priority; interest; collection; cooperative ownership.—

572 (3) (a) Rents and assessments, and installments on them, not  
573 paid when due bear interest at the rate provided in the  
574 cooperative documents from the date due until paid. This rate  
575 may not exceed the rate allowed by law and, if a rate is not  
576 provided in the cooperative documents, accrues at 18 percent per  
577 annum. If the cooperative documents or bylaws so provide, the  
578 association may charge an administrative late fee in addition to  
579 such interest, not to exceed the greater of \$25 or 5 percent of  
580 each installment of the assessment for each delinquent

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581 installment that the payment is late. Any payment received by an  
582 association must be applied first to any interest accrued by the  
583 association, then to any administrative late fee, then to any  
584 costs and reasonable attorney fees incurred in collection, and  
585 then to the delinquent assessment. The foregoing applies  
586 notwithstanding s. 673.3111, any purported accord and  
587 satisfaction, or any restrictive endorsement, designation, or  
588 instruction placed on or accompanying a payment. The preceding  
589 sentence is intended to clarify existing law. A late fee is not  
590 subject to chapter 687 or s. 719.303(4).

591 (b)1. If an association sends out an invoice for  
592 assessments or a unit's statement of the account described in s.  
593 719.104(2)(a)9.b., the invoice for assessments or the unit's  
594 statement of account must be delivered to the unit owner by  
595 first-class United States mail or by electronic transmission to  
596 the unit owner's e-mail address maintained in the association's  
597 official records.

598 2. Before changing the method of delivery for an invoice  
599 for assessments or the statement of the account, the association  
600 must deliver a written notice of such change to each unit owner.  
601 The written notice must be delivered to the unit owner at least  
602 30 days before the association sends the invoice for assessments  
603 or the statement of the account by the new delivery method. The  
604 notice must be sent by first-class United States mail to the  
605 unit owner at his or her last address as reflected in the  
606 association's records and, if such address is not the unit  
607 address, must be sent by first-class United States mail to the  
608 unit address. Notice is deemed to have been delivered upon  
609 mailing as required by this subparagraph.

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610       3. A unit owner must affirmatively acknowledge his or her  
611 understanding that the association will change its method of  
612 delivery of the invoice for assessments or the unit's statement  
613 of the account before the association may change the method of  
614 delivering the invoice for assessments or the statement of the  
615 account. The unit owner may make the affirmative acknowledgment  
616 electronically or in writing.

617       (c) An association may not require payment of attorney fees  
618 related to a past due assessment without first delivering a  
619 written notice of late assessment to the owner which specifies  
620 the amount owed the association and provides the unit owner an  
621 opportunity to pay the amount owed without the assessment of  
622 attorney fees. The notice of late assessment must be sent by  
623 first-class United States mail to the unit owner at his or her  
624 last address as reflected in the association's records and, if  
625 such address is not the unit address, must also be sent by  
626 first-class United States mail to the unit address. Notice is  
627 deemed to have been delivered upon mailing as required by this  
628 paragraph. A rebuttable presumption that an association mailed a  
629 notice in accordance with this subsection is established if a  
630 board member, officer, or agent of the association, or a manager  
631 licensed under part VIII of chapter 468, provides a sworn  
632 affidavit attesting to such mailing. The notice must be in  
633 substantially the following form:

634  
635                   NOTICE OF LATE ASSESSMENT

636  
637       RE: Unit .... of ...(name of association)...  
638

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

647		
648	<u>Maintenance due ...(dates)...</u>	<u>\$.....</u>
649	<u>Late fee, if applicable</u>	<u>\$.....</u>
650	<u>Interest through ...(dates)...*</u>	<u>\$.....</u>
651	<u>TOTAL OUTSTANDING</u>	<u>\$.....</u>

652

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

654       (4) The association has a lien on each cooperative parcel  
 655 for any unpaid rents and assessments, plus interest, and any  
 656 administrative late fees. If authorized by the cooperative  
 657 documents, the lien also secures reasonable attorney fees  
 658 incurred by the association incident to the collection of the  
 659 rents and assessments or enforcement of such lien. The lien is  
 660 effective from and after recording a claim of lien in the public  
 661 records in the county in which the cooperative parcel is located  
 662 which states the description of the cooperative parcel, the name  
 663 of the unit owner, the amount due, and the due dates. Except as  
 664 otherwise provided in this chapter, a lien may not be filed by  
 665 the association against a cooperative parcel until 45 ~~30~~ days  
 666 after the date on which a notice of intent to file a lien has  
 667 been delivered to the owner.

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

671  
 672 NOTICE OF INTENT  
 673 TO RECORD A CLAIM OF LIEN

674  
 675 RE: Unit ...(unit number)... of ...(name of  
 676 cooperative)...

677  
 678 The following amounts are currently due on your  
 679 account to ...(name of association)..., and must be  
 680 paid within 45 ~~30~~ days after your receipt of this  
 681 letter. This letter shall serve as the association's  
 682 notice of intent to record a Claim of Lien against  
 683 your property no sooner than 45 ~~30~~ days after your  
 684 receipt of this letter, unless you pay in full the  
 685 amounts set forth below:

686

687	Maintenance due ...(dates)...	\$.....
688	Late fee, if applicable	\$.....
689	Interest through ...(dates)...*	\$.....
690	Certified mail charges	\$.....
691	Other costs	\$.....
692	TOTAL OUTSTANDING	\$.....

693  
 694 \*Interest accrues at the rate of .... percent per  
 695 annum.

696 1. If the most recent address of the unit owner on the



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697 records of the association is the address of the unit, the  
698 notice must be sent by certified mail, return receipt requested,  
699 to the unit owner at the address of the unit.

700 2. If the most recent address of the unit owner on the  
701 records of the association is in the United States, but is not  
702 the address of the unit, the notice must be sent by certified  
703 mail, return receipt requested, to the unit owner at his or her  
704 most recent address.

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

709 (b) A notice that is sent pursuant to this subsection is  
710 deemed delivered upon mailing. A claim of lien must be executed  
711 and acknowledged by an officer or authorized agent of the  
712 association. The lien is not effective 1 year after the claim of  
713 lien was recorded unless, within that time, an action to enforce  
714 the lien is commenced. The 1-year period is automatically  
715 extended for any length of time during which the association is  
716 prevented from filing a foreclosure action by an automatic stay  
717 resulting from a bankruptcy petition filed by the parcel owner  
718 or any other person claiming an interest in the parcel. The  
719 claim of lien secures all unpaid rents and assessments that are  
720 due and that may accrue after the claim of lien is recorded and  
721 through the entry of a final judgment, as well as interest and  
722 all reasonable costs and attorney fees incurred by the  
723 association incident to the collection process. Upon payment in  
724 full, the person making the payment is entitled to a  
725 satisfaction of the lien.

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

731 NOTICE OF CONTEST OF LIEN

732  
 733 TO: ...(Name and address of association)...:

734  
 735 You are notified that the undersigned contests the  
 736 claim of lien filed by you on ....., ...(year)..., and  
 737 recorded in Official Records Book .... at Page .....,  
 738 of the public records of .... County, Florida, and  
 739 that the time within which you may file suit to  
 740 enforce your lien is limited to 90 days from the date  
 741 of service of this notice. Executed this .... day of  
 742 ....., ...(year)....

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

744  
 745 After notice of contest of lien has been recorded, the clerk of  
 746 the circuit court shall mail a copy of the recorded notice to  
 747 the association by certified mail, return receipt requested, at  
 748 the address shown in the claim of lien or most recent amendment  
 749 to it and shall certify to the service on the face of the  
 750 notice. Service is complete upon mailing. After service, the  
 751 association has 90 days in which to file an action to enforce  
 752 the lien. If the action is not filed within the 90-day period,  
 753 the lien is void. However, the 90-day period shall be extended  
 754 for any length of time during which the association is prevented

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755 from filing its action because of an automatic stay resulting  
 756 from the filing of a bankruptcy petition by the unit owner or by  
 757 any other person claiming an interest in the parcel.

758 (d) A release of lien must be in substantially the  
 759 following form:

761 RELEASE OF LIEN

762  
 763 The undersigned lienor, in consideration of the final payment in  
 764 the amount of \$...., hereby waives and releases its lien and  
 765 right to claim a lien for unpaid assessments through ....,  
 766 ...(year)..., recorded in the Official Records Book .... at Page  
 767 ....., of the public records of .... County, Florida, for the  
 768 following described real property:

770 THAT COOPERATIVE PARCEL WHICH INCLUDES UNIT NO. ....  
 771 OF ...(NAME OF COOPERATIVE)..., A COOPERATIVE AS SET  
 772 FORTH IN THE COOPERATIVE DOCUMENTS AND THE EXHIBITS  
 773 ANNEXED THERETO AND FORMING A PART THEREOF, RECORDED  
 774 IN OFFICIAL RECORDS BOOK ....., PAGE ....., OF THE  
 775 PUBLIC RECORDS OF .... COUNTY, FLORIDA.

777 ...(Signature of Authorized Agent)...                      ...(Signature of  
 778 Witness)...

779 ...(Print Name)...    ...(Print Name)...

781    ...(Signature of Witness)...

782    ...(Print Name)...

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784 Sworn to (or affirmed) and subscribed before me this .... day of  
785 ....., ...(year)..., by ...(name of person making statement)....  
786 ...(Signature of Notary Public)...  
787 ...(Print, type, or stamp commissioned name of Notary Public)...  
788 Personally Known .... OR Produced .... as identification.

789 Section 6. Present paragraph (1) of subsection (4) of  
790 section 720.303, Florida Statutes, is redesignated as paragraph  
791 (m), a new paragraph (1) is added to that subsection, and  
792 paragraph (c) of subsection (5) of that section is amended, to  
793 read:

794 720.303 Association powers and duties; meetings of board;  
795 official records; budgets; financial reporting; association  
796 funds; recalls.—

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

800 (1) All affirmative acknowledgments made pursuant to s.  
801 720.3085(3) (c) 3.

802 (5) INSPECTION AND COPYING OF RECORDS.—The official records  
803 shall be maintained within the state for at least 7 years and  
804 shall be made available to a parcel owner for inspection or  
805 photocopying within 45 miles of the community or within the  
806 county in which the association is located within 10 business  
807 days after receipt by the board or its designee of a written  
808 request. This subsection may be complied with by having a copy  
809 of the official records available for inspection or copying in  
810 the community or, at the option of the association, by making  
811 the records available to a parcel owner electronically via the  
812 Internet or by allowing the records to be viewed in electronic

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813 format on a computer screen and printed upon request. If the  
814 association has a photocopy machine available where the records  
815 are maintained, it must provide parcel owners with copies on  
816 request during the inspection if the entire request is limited  
817 to no more than 25 pages. An association shall allow a member or  
818 his or her authorized representative to use a portable device,  
819 including a smartphone, tablet, portable scanner, or any other  
820 technology capable of scanning or taking photographs, to make an  
821 electronic copy of the official records in lieu of the  
822 association's providing the member or his or her authorized  
823 representative with a copy of such records. The association may  
824 not charge a fee to a member or his or her authorized  
825 representative for the use of a portable device.

826 (c) The association may adopt reasonable written rules  
827 governing the frequency, time, location, notice, records to be  
828 inspected, and manner of inspections, but may not require a  
829 parcel owner to demonstrate any proper purpose for the  
830 inspection, state any reason for the inspection, or limit a  
831 parcel owner's right to inspect records to less than one 8-hour  
832 business day per month. The association may impose fees to cover  
833 the costs of providing copies of the official records, including  
834 the costs of copying and the costs required for personnel to  
835 retrieve and copy the records if the time spent retrieving and  
836 copying the records exceeds one-half hour and if the personnel  
837 costs do not exceed \$20 per hour. Personnel costs may not be  
838 charged for records requests that result in the copying of 25 or  
839 fewer pages. The association may charge up to 25 cents per page  
840 for copies made on the association's photocopier. If the  
841 association does not have a photocopy machine available where

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842 the records are kept, or if the records requested to be copied  
843 exceed 25 pages in length, the association may have copies made  
844 by an outside duplicating service and may charge the actual cost  
845 of copying, as supported by the vendor invoice. The association  
846 shall maintain an adequate number of copies of the recorded  
847 governing documents, to ensure their availability to members and  
848 prospective members. Notwithstanding this paragraph, the  
849 following records are not accessible to members or parcel  
850 owners:

851 1. Any record protected by the lawyer-client privilege as  
852 described in s. 90.502 and any record protected by the work-  
853 product privilege, including, but not limited to, a record  
854 prepared by an association attorney or prepared at the  
855 attorney's express direction which reflects a mental impression,  
856 conclusion, litigation strategy, or legal theory of the attorney  
857 or the association and which was prepared exclusively for civil  
858 or criminal litigation or for adversarial administrative  
859 proceedings or which was prepared in anticipation of such  
860 litigation or proceedings until the conclusion of the litigation  
861 or proceedings.

862 2. Information obtained by an association in connection  
863 with the approval of the lease, sale, or other transfer of a  
864 parcel.

865 3. Personnel records of association or management company  
866 employees, including, but not limited to, disciplinary, payroll,  
867 health, and insurance records. For purposes of this  
868 subparagraph, the term "personnel records" does not include  
869 written employment agreements with an association or management  
870 company employee or budgetary or financial records that indicate

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871 the compensation paid to an association or management company  
872 employee.

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

874 5. Social security numbers, driver license numbers, credit  
875 card numbers, electronic mailing addresses, telephone numbers,  
876 facsimile numbers, emergency contact information, any addresses  
877 for a parcel owner other than as provided for association notice  
878 requirements, and other personal identifying information of any  
879 person, excluding the person's name, parcel designation, mailing  
880 address, and property address. Notwithstanding the restrictions  
881 in this subparagraph, an association may print and distribute to  
882 parcel owners a directory containing the name, parcel address,  
883 and all telephone numbers of each parcel owner. However, an  
884 owner may exclude his or her telephone numbers from the  
885 directory by so requesting in writing to the association. An  
886 owner may consent in writing to the disclosure of other contact  
887 information described in this subparagraph. The association is  
888 not liable for the disclosure of information that is protected  
889 under this subparagraph if the information is included in an  
890 official record of the association and is voluntarily provided  
891 by an owner and not requested by the association.

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

894 7. The software and operating system used by the  
895 association which allows the manipulation of data, even if the  
896 owner owns a copy of the same software used by the association.  
897 The data is part of the official records of the association.

898 8. All affirmative acknowledgments made pursuant to s.  
899 720.3085(3)(c)3.

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

902 720.3085 Payment for assessments; lien claims.—

903 (3) Assessments and installments on assessments that are  
904 not paid when due bear interest from the due date until paid at  
905 the rate provided in the declaration of covenants or the bylaws  
906 of the association, which rate may not exceed the rate allowed  
907 by law. If no rate is provided in the declaration or bylaws,  
908 interest accrues at the rate of 18 percent per year.

909 (c)1. If an association sends out an invoice for  
910 assessments or a parcel's statement of the account described in  
911 s. 720.303(4)(j)2., the invoice for assessments or the parcel's  
912 statement of account must be delivered to the parcel owner by  
913 first-class United States mail or by electronic transmission to  
914 the parcel owner's e-mail address maintained in the  
915 association's official records.

916 2. Before changing the method of delivery for an invoice  
917 for assessments or the statement of the account, the association  
918 must deliver a written notice such change to each parcel owner.  
919 The written notice must be delivered to the parcel owner at  
920 least 30 days before the association sends the invoice for  
921 assessments or the statement of the account by the new delivery  
922 method. The notice must be sent by first-class United States  
923 mail to the owner at his or her last address as reflected in the  
924 association's records and, if such address is not the parcel  
925 address, must be sent by first-class United States mail to the  
926 parcel address. Notice is deemed to have been delivered upon  
927 mailing as required by this subparagraph.

928 3. A parcel owner must affirmatively acknowledge his or her



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929 understanding that the association will change its method of  
 930 delivery of the invoice for assessments or the statement of the  
 931 account before the association may change the method of  
 932 delivering the statement of the account. The parcel owner may  
 933 make the affirmative acknowledgment electronically or in  
 934 writing.

935 (d) An association may not require payment of attorney fees  
 936 related to a past due assessment without first delivering a  
 937 written notice of late assessment to the parcel owner which  
 938 specifies the amount owed the association and provides the  
 939 parcel owner an opportunity to pay the amount owed without the  
 940 assessment of attorney fees. The notice of late assessment must  
 941 be sent by first-class United States mail to the owner at his or  
 942 her last address as reflected in the association's records and,  
 943 if such address is not the parcel address, must also be sent by  
 944 first-class United States mail to the parcel address. Notice is  
 945 deemed to have been delivered upon mailing as required by this  
 946 paragraph. A rebuttable presumption that an association mailed a  
 947 notice in accordance with this subsection is established if a  
 948 board member, officer, or agent of the association, or a manager  
 949 licensed under part VIII of chapter 468, provides a sworn  
 950 affidavit attesting to such mailing. The notice must be in  
 951 substantially the following form:

952  
 953 NOTICE OF LATE ASSESSMENT

954  
 955 RE: Parcel .... of ...(name of association)...

956  
 957 The following amounts are currently due on your

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958 account to ...(name of association)..., and must be  
 959 paid within 30 days after the date of this letter.  
 960 This letter shall serve as the association's notice to  
 961 proceed with further collection action against your  
 962 property no sooner than 30 days after the date of this  
 963 letter, unless you pay in full the amounts set forth  
 964 below:

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

970  
 971 \*Interest accrues at the rate of .... percent per annum.  
 972 Section 8. This act shall take effect July 1, 2021.