

By Senator Bogdanoff

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1 A bill to be entitled
2 An act relating to residential properties; amending s.
3 399.02, F.S.; exempting certain elevators from
4 specific code update requirements; amending s.
5 468.433, F.S.; prohibiting the Department of Business
6 and Professional Regulation from publishing a
7 community association manager's personal home address
8 unless it is for the purpose of satisfying a public
9 records request; amending s. 718.112, F.S.; revising
10 condominium unit owner meeting notice requirements;
11 revising recordkeeping requirements of a condominium
12 association board; requiring challenges to an election
13 to commence within a certain time period; providing
14 requirements for challenging the failure of a board to
15 duly notice and hold the required board meeting or to
16 file the required petition for a recall; providing
17 requirements for recalled board members to challenge
18 the recall; providing duties of the division regarding
19 recall petitions; amending s. 718.113, F.S.; providing
20 requirements for a condominium association board
21 relating to the installation of hurricane shutters,
22 impact glass, code-compliant windows or doors, and
23 other types of code-compliant hurricane protection
24 under certain circumstances; amending s. 718.115,
25 F.S.; conforming provisions to changes made by the
26 act; amending s. 718.116, F.S.; revising liability of
27 certain condominium unit owners acquiring title;
28 amending s. 718.303, F.S.; revising provisions
29 relating to imposing remedies against a noncompliant

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30 or delinquent condominium unit owner or member;
31 revising voting requirements under certain conditions;
32 amending s. 718.403, F.S.; providing requirements for
33 the completion of phase condominiums; creating s.
34 718.406, F.S.; providing definitions; providing
35 requirements for condominiums created within
36 condominium parcels; providing for the establishment
37 of primary condominium and secondary condominium
38 units; providing requirements for association
39 declarations; authorizing a primary condominium
40 association to provide insurance and adopt hurricane
41 shutter or hurricane protection specifications under
42 certain conditions; providing requirements relating to
43 assessments; providing for resolution of conflicts
44 between primary condominium declarations and secondary
45 condominium declarations; providing requirements
46 relating to common expenses due the primary
47 condominium association; amending s. 718.5011, F.S.;
48 revising the restriction on officers and full-time
49 employees of the ombudsman from engaging in other
50 businesses or professions; amending s. 718.707, F.S.;
51 revising the time limitation for classification as a
52 bulk assignee or bulk buyer; amending s. 719.104,
53 F.S.; specifying additional records that are not
54 accessible to unit owners; amending s. 719.1055, F.S.;
55 revising provisions relating to the amendment of
56 cooperative documents; providing legislative findings
57 and a finding of compelling state interest; providing
58 criteria for consent or joinder to an amendment;

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59 requiring notice regarding proposed amendments to
60 mortgagees; providing criteria for notification;
61 providing for voiding certain amendments; amending s.
62 719.106, F.S.; requiring challenges to an election to
63 commence within a certain time period; specifying
64 certification or educational requirements for a newly
65 elected or appointed cooperative board director;
66 providing requirements for challenging the failure of
67 a board to duly notice and hold the required board
68 meeting or to file the required petition for a recall;
69 providing requirements for recalled board members to
70 challenge the recall; providing duties of the division
71 regarding recall petitions; amending s. 719.303, F.S.;
72 revising provisions relating to imposing remedies
73 against a noncompliant or delinquent cooperative unit
74 owner or member; revising voting requirements under
75 certain conditions; amending s. 720.303, F.S.;
76 revising the types of records that are not accessible
77 to homeowners' association members and parcel owners;
78 providing requirements for challenging the failure of
79 a board to duly notice and hold the required board
80 meeting or to file the required petition for a recall;
81 providing requirements for recalled board members to
82 challenge the recall; providing duties of the division
83 regarding recall petitions; amending s. 720.305, F.S.;
84 revising provisions relating to imposing remedies
85 against a noncompliant or delinquent homeowners'
86 association member and parcel owner; revising voting
87 requirements under certain conditions; amending s.

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88 720.306, F.S.; revising provisions relating to the
89 amendment of homeowners' association declarations;
90 providing legislative findings and a finding of
91 compelling state interest; providing criteria for
92 consent or joinder to an amendment; requiring notice
93 to mortgagees regarding proposed amendments; providing
94 criteria for notification; providing for voiding
95 certain amendments; requiring challenges to an
96 election to commence within a certain time period;
97 specifying certification or educational requirements
98 for a newly elected or appointed homeowners'
99 association board director; amending s. 720.3085,
100 F.S.; revising liability of certain parcel owners
101 acquiring title; providing an effective date.

102
103 Be It Enacted by the Legislature of the State of Florida:

104
105 Section 1. Subsection (9) of section 399.02, Florida
106 Statutes, is amended to read:

107 399.02 General requirements.—

108 (9) Updates to the Safety Code for Existing Elevators and
109 Escalators, ASME A17.1 and A17.3, which require Phase II
110 Firefighters' Service on elevators may not be enforced ~~until~~
111 ~~July 1, 2015, or~~ until the elevator is replaced or requires
112 major modification, ~~whichever occurs first,~~ on elevators in
113 condominiums or multifamily residential buildings, including
114 those that are part of a continuing care facility licensed under
115 chapter 651, or similar retirement community with apartments,
116 having a certificate of occupancy by the local building

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117 authority that was issued before July 1, 2008. This exception
118 does not prevent an elevator owner from requesting a variance
119 from the applicable codes ~~before or after July 1, 2015~~. This
120 subsection does not prohibit the division from granting
121 variances pursuant to s. 120.542 and subsection (8). The
122 division shall adopt rules to administer this subsection.

123 Section 2. Subsection (5) is added to section 468.433,
124 Florida Statutes, to read:

125 468.433 Licensure by examination.—

126 (5) The department may not publish a licensee's personal
127 home address unless it is for the purpose of satisfying a public
128 records request.

129 Section 3. Paragraphs (d) and (j) of subsection (2) of
130 section 718.112, Florida Statutes, are amended to read:

131 718.112 Bylaws.—

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

135 (d) *Unit owner meetings*.—

136 1. An annual meeting of the unit owners shall be held at
137 the location provided in the association bylaws and, if the
138 bylaws are silent as to the location, the meeting shall be held
139 within 45 miles of the condominium property. However, such
140 distance requirement does not apply to an association governing
141 a timeshare condominium.

142 2. Unless the bylaws provide otherwise, a vacancy on the
143 board caused by the expiration of a director's term shall be
144 filled by electing a new board member, and the election must be
145 by secret ballot. An election is not required if the number of

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146 vacancies equals or exceeds the number of candidates. For
147 purposes of this paragraph, the term "candidate" means an
148 eligible person who has timely submitted the written notice, as
149 described in sub-subparagraph 4.a., of his or her intention to
150 become a candidate. Except in a timeshare condominium, or if the
151 staggered term of a board member does not expire until a later
152 annual meeting, or if all members' terms would otherwise expire
153 but there are no candidates, the terms of all board members
154 expire at the annual meeting, and such members may stand for
155 reelection unless prohibited by the bylaws. If the bylaws permit
156 staggered terms of no more than 2 years and upon approval of a
157 majority of the total voting interests, the association board
158 members may serve 2-year staggered terms. If the number of board
159 members whose terms expire at the annual meeting equals or
160 exceeds the number of candidates, the candidates become members
161 of the board effective upon the adjournment of the annual
162 meeting. Unless the bylaws provide otherwise, any remaining
163 vacancies shall be filled by the affirmative vote of the
164 majority of the directors making up the newly constituted board
165 even if the directors constitute less than a quorum or there is
166 only one director. In a condominium association of more than 10
167 units or in a condominium association that does not include
168 timeshare units or timeshare interests, coowners of a unit may
169 not serve as members of the board of directors at the same time
170 unless they own more than one unit or unless there are not
171 enough eligible candidates to fill the vacancies on the board at
172 the time of the vacancy. Any unit owner desiring to be a
173 candidate for board membership must comply with sub-subparagraph
174 4.a. and must be eligible to serve on the board of directors at

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175 the time of the deadline for submitting a notice of intent to
176 run in order to have his or her name listed as a proper
177 candidate on the ballot or to serve on the board. A person who
178 has been suspended or removed by the division under this
179 chapter, or who is delinquent in the payment of any fee, fine,
180 or special or regular assessment as provided in paragraph (n),
181 is not eligible for board membership. A person who has been
182 convicted of any felony in this state or in a United States
183 District or Territorial Court, or who has been convicted of any
184 offense in another jurisdiction which would be considered a
185 felony if committed in this state, is not eligible for board
186 membership unless such felon's civil rights have been restored
187 for at least 5 years as of the date such person seeks election
188 to the board. The validity of an action by the board is not
189 affected if it is later determined that a board member is
190 ineligible for board membership due to having been convicted of
191 a felony.

192 3. The bylaws must provide the method of calling meetings
193 of unit owners, including annual meetings. Written notice must
194 include an agenda, must be mailed, hand delivered, or
195 electronically transmitted to each unit owner at least 14 days
196 before the annual meeting, and must be posted in a conspicuous
197 place on the condominium property at least 14 continuous days
198 before the annual meeting. Upon notice to the unit owners, the
199 board shall, by duly adopted rule, designate a specific location
200 on the condominium property or association property where all
201 notices of unit owner meetings shall be posted. This requirement
202 does not apply if there is no condominium property or
203 association property for posting notices. In lieu of, or in

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204 addition to, the physical posting of meeting notices, the
205 association may, by reasonable rule, adopt a procedure for
206 conspicuously posting and repeatedly broadcasting the notice and
207 the agenda on a closed-circuit cable television system serving
208 the condominium association. However, if broadcast notice is
209 used in lieu of a notice posted physically on the condominium
210 property, the notice and agenda must be broadcast at least four
211 times every broadcast hour of each day that a posted notice is
212 otherwise required under this section. If broadcast notice is
213 provided, the notice and agenda must be broadcast in a manner
214 and for a sufficient continuous length of time so as to allow an
215 average reader to observe the notice and read and comprehend the
216 entire content of the notice and the agenda. Unless a unit owner
217 waives in writing the right to receive notice of the annual
218 meeting, such notice must be hand delivered, mailed, or
219 electronically transmitted to each unit owner. Notice for
220 meetings and notice for all other purposes must be mailed to
221 each unit owner at the address last furnished to the association
222 by the unit owner, or hand delivered to each unit owner.
223 However, if a unit is owned by more than one person, the
224 association must provide notice to the address that the
225 developer identifies for that purpose and thereafter as one or
226 more of the owners of the unit advise the association in
227 writing, or if no address is given or the owners of the unit do
228 not agree, to the address provided on the deed of record. An
229 officer of the association, or the manager or other person
230 providing notice of the association meeting, must provide an
231 affidavit or United States Postal Service certificate of
232 mailing, to be included in the official records of the

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233 association affirming that the notice was mailed or hand
234 delivered in accordance with this provision.

235 4. The members of the board shall be elected by written
236 ballot or voting machine. Proxies may not be used in electing
237 the board in general elections or elections to fill vacancies
238 caused by recall, resignation, or otherwise, unless otherwise
239 provided in this chapter.

240 a. At least 60 days before a scheduled election, the
241 association shall mail, deliver, or electronically transmit, by
242 separate association mailing or included in another association
243 mailing, delivery, or transmission, including regularly
244 published newsletters, to each unit owner entitled to a vote, a
245 first notice of the date of the election. Any unit owner or
246 other eligible person desiring to be a candidate for the board
247 must give written notice of his or her intent to be a candidate
248 to the association at least 40 days before a scheduled election.
249 Together with the written notice and agenda as set forth in
250 subparagraph 3., the association shall mail, deliver, or
251 electronically transmit a second notice of the election to all
252 unit owners entitled to vote, together with a ballot that lists
253 all candidates. Upon request of a candidate, an information
254 sheet, no larger than 8 1/2 inches by 11 inches, which must be
255 furnished by the candidate at least 35 days before the election,
256 must be included with the mailing, delivery, or transmission of
257 the ballot, with the costs of mailing, delivery, or electronic
258 transmission and copying to be borne by the association. The
259 association is not liable for the contents of the information
260 sheets prepared by the candidates. In order to reduce costs, the
261 association may print or duplicate the information sheets on

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262 both sides of the paper. The division shall by rule establish
263 voting procedures consistent with this sub-subparagraph,
264 including rules establishing procedures for giving notice by
265 electronic transmission and rules providing for the secrecy of
266 ballots. Elections shall be decided by a plurality of ballots
267 cast. There is no quorum requirement; however, at least 20
268 percent of the eligible voters must cast a ballot in order to
269 have a valid election. A unit owner may not permit any other
270 person to vote his or her ballot, and any ballots improperly
271 cast are invalid. A unit owner who violates this provision may
272 be fined by the association in accordance with s. 718.303. A
273 unit owner who needs assistance in casting the ballot for the
274 reasons stated in s. 101.051 may obtain such assistance. The
275 regular election must occur on the date of the annual meeting.
276 Notwithstanding this sub-subparagraph, an election is not
277 required unless more candidates file notices of intent to run or
278 are nominated than board vacancies exist.

279 b. Within 90 days after being elected or appointed to the
280 board, each newly elected or appointed director shall certify in
281 writing to the secretary of the association that he or she has
282 read the association's declaration of condominium, articles of
283 incorporation, bylaws, and current written policies; that he or
284 she will work to uphold such documents and policies to the best
285 of his or her ability; and that he or she will faithfully
286 discharge his or her fiduciary responsibility to the
287 association's members. In lieu of this written certification,
288 within 90 days after being elected or appointed to the board,
289 the newly elected or appointed director may submit a certificate
290 of having satisfactorily completed the educational curriculum

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291 administered by a division-approved condominium education
292 provider within 1 year before or 90 days after the date of
293 election or appointment. The written certification or
294 educational certificate is valid and does not have to be
295 resubmitted as long as the director serves on the board without
296 interruption. A director who fails to timely file the written
297 certification or educational certificate is suspended from
298 service on the board until he or she complies with this sub-
299 subparagraph. The board may temporarily fill the vacancy during
300 the period of suspension. The secretary shall cause the
301 association to retain a director's written certification or
302 educational certificate for inspection by the members for 5
303 years after a director's election or the duration of the
304 director's uninterrupted tenure, whichever is longer. Failure to
305 have such written certification or educational certificate on
306 file does not affect the validity of any board action.

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

309 5. Any approval by unit owners called for by this chapter
310 or the applicable declaration or bylaws, including, but not
311 limited to, the approval requirement in s. 718.111(8), must be
312 made at a duly noticed meeting of unit owners and is subject to
313 all requirements of this chapter or the applicable condominium
314 documents relating to unit owner decisionmaking, except that
315 unit owners may take action by written agreement, without
316 meetings, on matters for which action by written agreement
317 without meetings is expressly allowed by the applicable bylaws
318 or declaration or any law that provides for such action.

319 6. Unit owners may waive notice of specific meetings if

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320 allowed by the applicable bylaws or declaration or any law. If
321 authorized by the bylaws, notice of meetings of the board of
322 administration, unit owner meetings, except unit owner meetings
323 called to recall board members under paragraph (j), and
324 committee meetings may be given by electronic transmission to
325 unit owners who consent to receive notice by electronic
326 transmission.

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

331 8. A unit owner may tape record or videotape a meeting of
332 the unit owners subject to reasonable rules adopted by the
333 division.

334 9. Unless otherwise provided in the bylaws, any vacancy
335 occurring on the board before the expiration of a term may be
336 filled by the affirmative vote of the majority of the remaining
337 directors, even if the remaining directors constitute less than
338 a quorum, or by the sole remaining director. In the alternative,
339 a board may hold an election to fill the vacancy, in which case
340 the election procedures must conform to sub-subparagraph 4.a.
341 unless the association governs 10 units or fewer and has opted
342 out of the statutory election process, in which case the bylaws
343 of the association control. Unless otherwise provided in the
344 bylaws, a board member appointed or elected under this section
345 shall fill the vacancy for the unexpired term of the seat being
346 filled. Filling vacancies created by recall is governed by
347 paragraph (j) and rules adopted by the division.

348 10. This chapter does not limit the use of general or

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349 limited proxies, require the use of general or limited proxies,
350 or require the use of a written ballot or voting machine for any
351 agenda item or election at any meeting of a timeshare
352 condominium association.

353

354 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
355 association of 10 or fewer units may, by affirmative vote of a
356 majority of the total voting interests, provide for different
357 voting and election procedures in its bylaws, which may be by a
358 proxy specifically delineating the different voting and election
359 procedures. The different voting and election procedures may
360 provide for elections to be conducted by limited or general
361 proxy.

362 (j) *Recall of board members.*—Subject to ~~the provisions of~~
363 s. 718.301, any member of the board of administration may be
364 recalled and removed from office with or without cause by the
365 vote or agreement in writing by a majority of all the voting
366 interests. A special meeting of the unit owners to recall a
367 member or members of the board of administration may be called
368 by 10 percent of the voting interests giving notice of the
369 meeting as required for a meeting of unit owners, and the notice
370 shall state the purpose of the meeting. Electronic transmission
371 may not be used as a method of giving notice of a meeting called
372 in whole or in part for this purpose.

373 1. If the recall is approved by a majority of all voting
374 interests by a vote at a meeting, the recall will be effective
375 as provided in this paragraph herein. The board shall duly
376 notice and hold a board meeting within 5 full business days
377 after ~~of~~ the adjournment of the unit owner meeting to recall one

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378 or more board members. At the meeting, the board shall either
379 certify the recall, in which case such member or members shall
380 be recalled effective immediately and shall turn over to the
381 board within 5 full business days any and all records and
382 property of the association in their possession, or shall
383 proceed as set forth in subparagraph 3.

384 2. If the proposed recall is by an agreement in writing by
385 a majority of all voting interests, the agreement in writing or
386 a copy thereof shall be served on the association by certified
387 mail or by personal service in the manner authorized by chapter
388 48 and the Florida Rules of Civil Procedure. The board of
389 administration shall duly notice and hold a meeting of the board
390 within 5 full business days after receipt of the agreement in
391 writing. At the meeting, the board shall either certify the
392 written agreement to recall a member or members of the board, in
393 which case such member or members shall be recalled effective
394 immediately and shall turn over to the board within 5 full
395 business days any and all records and property of the
396 association in their possession, or proceed as described in
397 subparagraph 3.

398 3. If the board determines not to certify the written
399 agreement to recall a member or members of the board, or does
400 not certify the recall by a vote at a meeting, the board shall,
401 within 5 full business days after the meeting, file with the
402 division a petition for arbitration pursuant to the procedures
403 in s. 718.1255. For the purposes of this section, the unit
404 owners who voted at the meeting or who executed the agreement in
405 writing shall constitute one party under the petition for
406 arbitration. If the arbitrator certifies the recall as to any

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407 member or members of the board, the recall will be effective
408 upon mailing of the final order of arbitration to the
409 association. If the association fails to comply with the order
410 of the arbitrator, the division may take action pursuant to s.
411 718.501. Any member or members so recalled shall deliver to the
412 board any and all records of the association in their possession
413 within 5 full business days after ~~of~~ the effective date of the
414 recall.

415 4. If the board fails to duly notice and hold a board
416 meeting within 5 full business days after ~~of~~ service of an
417 agreement in writing or within 5 full business days after ~~of~~ the
418 adjournment of the unit owner recall meeting, the recall shall
419 be deemed effective and the board members so recalled shall
420 immediately turn over to the board any and all records and
421 property of the association.

422 5. If the board fails to duly notice and hold the required
423 meeting or fails to file the required petition, the unit owner
424 representative may file a petition pursuant to s. 718.1255
425 challenging the board's failure to act. The petition must be
426 filed within 60 days after the expiration of the applicable 5-
427 full-business-day period. The review of a petition under this
428 subparagraph is limited to the sufficiency of service on the
429 board and the facial validity of the written agreement or
430 ballots filed.

431 ~~6.5.~~ If a vacancy occurs on the board as a result of a
432 recall or removal and less than a majority of the board members
433 are removed, the vacancy may be filled by the affirmative vote
434 of a majority of the remaining directors, notwithstanding any
435 provision to the contrary contained in this subsection. If

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436 vacancies occur on the board as a result of a recall and a
437 majority or more of the board members are removed, the vacancies
438 shall be filled in accordance with procedural rules to be
439 adopted by the division, which rules need not be consistent with
440 this subsection. The rules must provide procedures governing the
441 conduct of the recall election as well as the operation of the
442 association during the period after a recall but prior to the
443 recall election.

444 7. A board member who has been recalled may file a petition
445 pursuant to s. 718.1255 challenging the validity of a recall.
446 The petition must be filed within 60 days after the recall is
447 deemed certified. The association and the unit owner
448 representative shall be named as the respondents.

449 8. The division may not accept for filing a recall
450 petition, whether filed pursuant to subparagraph 1.,
451 subparagraph 2., subparagraph 5., or subparagraph 7. and
452 regardless of whether the recall was certified, when there are
453 60 or fewer days until the scheduled reelection of the board
454 member sought to be recalled or when 60 or fewer days have
455 elapsed since the election of the board member sought to be
456 recalled.

457 Section 4. Subsection (5) of section 718.113, Florida
458 Statutes, is amended to read:

459 718.113 Maintenance; limitation upon improvement; display
460 of flag; hurricane shutters and protection; display of religious
461 decorations.—

462 (5) Each board of administration shall adopt hurricane
463 shutter specifications for each building within each condominium
464 operated by the association which shall include color, style,

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465 and other factors deemed relevant by the board. All
466 specifications adopted by the board must comply with the
467 applicable building code.

468 (a) The board may, subject to ~~the provisions of s.~~
469 718.3026~~7~~, and the approval of a majority of voting interests of
470 the condominium, install hurricane shutters, impact glass, ~~or~~
471 ~~other~~ code-compliant windows or doors, or other types of code-
472 compliant hurricane protection that comply ~~complies~~ with or
473 exceed ~~exceeds~~ the applicable building code. However, a vote of
474 the owners is not required if the maintenance, repair, and
475 replacement of hurricane shutters, impact glass, ~~or other~~ code-
476 compliant windows or doors, or other types of code-compliant
477 hurricane protection are the responsibility of the association
478 pursuant to the declaration of condominium. If hurricane
479 protection or laminated glass or window film architecturally
480 designed to function as hurricane protection that ~~which~~ complies
481 with or exceeds the current applicable building code has been
482 previously installed, the board may not install hurricane
483 shutters, ~~hurricane protection, or~~ impact glass, ~~or other~~ code-
484 compliant windows or doors, or other types of code-compliant
485 hurricane protection except upon approval by a majority vote of
486 the voting interests.

487 (b) The association is responsible for the maintenance,
488 repair, and replacement of the hurricane shutters, impact glass,
489 code-compliant windows or doors, or other types of code-
490 compliant hurricane protection authorized by this subsection if
491 such property ~~hurricane shutters or other hurricane protection~~
492 is the responsibility of the association pursuant to the
493 declaration of condominium. If the hurricane shutters, impact

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494 glass, code-compliant windows or doors, or other types of code-
495 compliant hurricane protection ~~authorized by this subsection~~ are
496 the responsibility of the unit owners pursuant to the
497 declaration of condominium, the maintenance, repair, and
498 replacement of such items are the responsibility of the unit
499 owner.

500 (c) The board may operate shutters, impact glass, code-
501 compliant windows or doors, or other types of code-compliant
502 hurricane protection installed pursuant to this subsection
503 without permission of the unit owners only if such operation is
504 necessary to preserve and protect the condominium property and
505 association property. The installation, replacement, operation,
506 repair, and maintenance of such shutters, impact glass, code-
507 compliant windows or doors, or other types of code-compliant
508 hurricane protection in accordance with the procedures set forth
509 in this paragraph are not a material alteration to the common
510 elements or association property within the meaning of this
511 section.

512 (d) Notwithstanding any other provision in the condominium
513 documents, if approval is required by the documents, a board may
514 not refuse to approve the installation or replacement of
515 hurricane shutters, impact glass, code-compliant windows or
516 doors, or other types of code-compliant hurricane protection by
517 a unit owner conforming to the specifications adopted by the
518 board.

519 Section 5. Paragraph (e) of subsection (1) of section
520 718.115, Florida Statutes, is amended to read:

521 718.115 Common expenses and common surplus.—

522 (1)

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523 (e) The expense of installation, replacement, operation,
524 repair, and maintenance of hurricane shutters, impact glass,
525 code-compliant windows or doors, or other types of code-
526 compliant hurricane protection by the board pursuant to s.
527 718.113(5) constitutes ~~shall constitute~~ a common expense ~~as~~
528 ~~defined herein~~ and shall be collected as provided in this
529 section if the association is responsible for the maintenance,
530 repair, and replacement of the hurricane shutters, impact glass,
531 code-compliant windows or doors, or other types of code-
532 compliant hurricane protection pursuant to the declaration of
533 condominium. However, if the maintenance, repair, and
534 replacement of the hurricane shutters, impact glass, code-
535 compliant windows or doors, or other types of code-compliant
536 hurricane protection are ~~is~~ the responsibility of the unit
537 owners pursuant to the declaration of condominium, the cost of
538 the installation of the hurricane shutters, impact glass, code-
539 compliant windows or doors, or other types of code-compliant
540 hurricane protection is ~~shall~~ not be a common expense and, ~~but~~
541 shall be charged individually to the unit owners based on the
542 cost of installation of the hurricane shutters, impact glass,
543 code-compliant windows or doors, or other types of code-
544 compliant hurricane protection appurtenant to the unit.
545 Notwithstanding ~~the provisions of~~ s. 718.116(9), and regardless
546 of whether or not the declaration requires the association or
547 unit owners to maintain, repair, or replace hurricane shutters,
548 impact glass, code-compliant windows or doors, or other types of
549 code-compliant hurricane protection, a unit owner who has
550 previously installed hurricane shutters in accordance with s.
551 718.113(5) that comply with the current applicable building code

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552 shall receive a credit when the shutters are installed; a unit
553 owner who has previously installed impact glass or code-
554 compliant windows or doors that comply with the current
555 applicable building code shall receive a credit when the impact
556 glass or code-compliant windows or doors are installed; and a
557 unit owner who has installed, other types of code-compliant
558 hurricane protection that comply with the current applicable
559 building code shall receive a credit when the same type of other
560 code-compliant hurricane protection is installed, and the ~~or~~
561 ~~laminated glass architecturally designed to function as~~
562 ~~hurricane protection, which hurricane shutters or other~~
563 ~~hurricane protection or laminated glass comply with the current~~
564 ~~applicable building code, shall receive a credit shall be equal~~
565 to the pro rata portion of the assessed installation cost
566 assigned to each unit. However, such unit owner remains ~~shall~~
567 ~~remain~~ responsible for the pro rata share of expenses for
568 hurricane shutters, impact glass, code-compliant windows or
569 doors, or other types of code-compliant hurricane protection
570 installed on common elements and association property by the
571 board pursuant to s. 718.113(5), and remains ~~shall remain~~
572 responsible for a pro rata share of the expense of the
573 replacement, operation, repair, and maintenance of such
574 shutters, impact glass, code-compliant windows or doors, or
575 other types of code-compliant hurricane protection.

576 Section 6. Paragraphs (a) and (b) of subsection (1) of
577 section 718.116, Florida Statutes, are amended to read:

578 718.116 Assessments; liability; lien and priority;
579 interest; collection.-

580 (1) (a) A unit owner, regardless of how the unit owner has

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581 acquired his or her title has been acquired, including, but not
582 limited to, by purchase at a foreclosure sale ~~or by deed in lieu~~
583 ~~of foreclosure,~~ is liable for all assessments that which come
584 due while he or she is the unit owner. Additionally, a unit
585 owner is jointly and severally liable with the previous owner
586 for all unpaid assessments, late fees, interest, costs, and
587 reasonable attorney fees incurred by the association in an
588 attempt to collect all such amounts ~~is jointly and severally~~
589 ~~liable with the previous owner for all unpaid assessments~~ that
590 came due up to the time of transfer of title. This liability is
591 without prejudice to any right the owner may have to recover
592 from the previous owner the amounts paid by the owner.

593 (b)1. The liability of a first mortgagee or its successor
594 or assignees who acquire title to a unit by foreclosure or by
595 deed in lieu of foreclosure for the unpaid assessments that
596 became due before the mortgagee's acquisition of title is
597 limited to the lesser of:

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

602 b. One percent of the original mortgage debt.

603

604 The limitations on first mortgagee liability provided by
605 ~~provisions of this subparagraph paragraph~~ apply only if the
606 first mortgagee joined the association as a defendant in the
607 foreclosure action. Joinder of the association is not required
608 if, on the date the complaint is filed, the association was
609 dissolved or did not maintain an office or agent for service of

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610 process at a location that ~~which~~ was known to or reasonably
611 discoverable by the mortgagee.

612 2. An association, or its successor or assignee, that
613 acquires title to a unit through the foreclosure of its lien for
614 assessments is not liable for any unpaid assessments, late fees,
615 interest, or reasonable attorney ~~attorney's~~ fees and costs that
616 came due before the association's acquisition of title in favor
617 of any other association, as defined in s. 718.103(2) or s.
618 720.301(9), which holds a ~~superior~~ lien interest on the unit.
619 This subparagraph is intended to clarify existing law.

620 Section 7. Paragraph (a) of subsection (3) and subsection
621 (5) of section 718.303, Florida Statutes, are amended to read:

622 718.303 Obligations of owners and occupants; remedies.—

623 (3) The association may levy reasonable fines for the
624 failure of the owner of the unit or its occupant, licensee, or
625 invitee to comply with any provision of the declaration, the
626 association bylaws, or reasonable rules of the association. A
627 fine may not become a lien against a unit. A fine may be levied
628 on the basis of each day of a continuing violation, with a
629 single notice and opportunity for hearing. However, the fine may
630 not exceed \$100 per violation, or \$1,000 in the aggregate.

631 (a) An association may suspend, for a reasonable period of
632 time, the right of a unit owner, or a unit owner's tenant,
633 guest, or invitee, to use the common elements, common
634 facilities, or any other association property for failure to
635 comply with any provision of the declaration, the association
636 bylaws, or reasonable rules of the association. This paragraph
637 does not apply to limited common elements intended to be used
638 only by that unit, common elements needed to access the unit,

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639 utility services provided to the unit, parking spaces, or
640 elevators.

641 (5) An association may suspend the voting rights of a unit
642 or member due to nonpayment of any monetary obligation due ~~to~~
643 the association which is more than 90 days delinquent.
644 Notwithstanding an association's declaration, articles of
645 incorporation, or bylaws, the requirements to establish a
646 quorum, conduct an election, or obtain membership approval on
647 actions under this chapter or pursuant to the declaration,
648 articles of incorporation, or bylaws shall be reduced by the
649 number of suspended voting interests or consent rights. A voting
650 ~~interest or consent right allocated to a unit or member which~~
651 ~~has been suspended by the association may not be counted towards~~
652 ~~the total number of voting interests necessary to constitute a~~
653 ~~quorum, the number of voting interests required to conduct an~~
654 ~~election, or the number of voting interests required to approve~~
655 ~~an action under this chapter or pursuant to the declaration,~~
656 ~~articles of incorporation, or bylaws.~~ The suspension ends upon
657 full payment of all obligations currently due or overdue the
658 association. The notice and hearing requirements under
659 subsection (3) do not apply to a suspension imposed under this
660 subsection.

661 Section 8. Subsection (1) of section 718.403, Florida
662 Statutes, is amended to read:

663 718.403 Phase condominiums.—

664 (1) Notwithstanding ~~the provisions of~~ s. 718.110, a
665 developer may develop a condominium in phases, if the original
666 declaration of condominium submitting the initial phase to
667 condominium ownership or an amendment to the declaration which

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668 has been approved by all of the unit owners and unit mortgagees
669 provides for and describes in detail all anticipated phases; the
670 impact, if any, which the completion of subsequent phases would
671 have upon the initial phase; and the time period (which may not
672 exceed 7 years from the date of recording the declaration of
673 condominium, unless extended as provided in this subsection)
674 within which all phases must be added to the condominium and
675 comply with the requirements of this section and at the end of
676 which the right to add additional phases expires.

677 (a) All phases must be added to the condominium within 7
678 years after the date of recording the original declaration of
679 condominium submitting the initial phase to condominium
680 ownership unless an amendment extending the 7-year period is
681 approved by the unit owners.

682 (b) An amendment to extend the 7-year period requires the
683 approval of the owners necessary to amend the declaration of
684 condominium consistent with s. 718.110(1)(a). An extension of
685 the 7-year period may be submitted for approval only during the
686 last 3 years of the 7-year period.

687 (c) An amendment must describe the time period within which
688 all phases must be added to the condominium and such time period
689 may not exceed 10 years after the date of recording the original
690 declaration of condominium submitting the initial phase to
691 condominium ownership.

692 (d) Notwithstanding s. 718.110, an amendment extending the
693 7-year period is not an amendment subject to s. 718.110(4).

694 Section 9. Section 718.406, Florida Statutes, is created to
695 read:

696 718.406 Condominiums created within condominium parcels.-

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697 (1) Unless otherwise expressed in the declaration of
698 condominium, if a condominium is created within a condominium
699 parcel, the term:

700 (a) "Primary condominium" means any condominium that is not
701 a secondary condominium and contains one or more subdivided
702 units.

703 (b) "Primary condominium association" means any entity that
704 operates a primary condominium.

705 (c) "Primary condominium declaration" means the instrument
706 or instruments by which a primary condominium is created, as
707 they are from time to time amended.

708 (d) "Secondary condominium" means one or more condominium
709 parcels that have been submitted to condominium ownership
710 pursuant to a secondary condominium declaration.

711 (e) "Secondary condominium association" means any entity
712 responsible for the operation of a secondary condominium.

713 (f) "Secondary condominium declaration" means the
714 instrument or instruments by which a secondary condominium is
715 created, as they are from time to time amended.

716 (g) "Subdivided unit" means a condominium parcel in a
717 primary condominium that has been submitted to condominium
718 ownership pursuant to a secondary condominium declaration.

719 (2) Unless otherwise provided in the primary condominium
720 declaration, if a condominium parcel is a subdivided unit, the
721 secondary condominium association governing the secondary
722 condominium containing the subdivided unit shall act on behalf
723 of the unit owners of units in the subdivided unit and shall
724 exercise all rights of the unit owners of units in the
725 subdivided unit in the primary condominium association other

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726 than the right of possession of such unit. The designated
727 representative of the secondary condominium association shall
728 cast the vote of the subdivided unit in the primary condominium
729 association and, if no person is designated by the secondary
730 condominium association to cast such vote, the vote shall be
731 cast by the president of the secondary condominium association
732 or the designee of the president.

733 (3) Unless otherwise provided in the primary condominium
734 declaration, if a condominium parcel in the primary condominium
735 is being submitted for condominium ownership, then the consent
736 of the primary condominium association responsible for the
737 operation of the condominium containing such condominium parcel
738 is not required to create the secondary condominium on such
739 condominium parcel.

740 (4) If the primary condominium declaration requires the
741 consent of the primary condominium association to create a
742 secondary condominium in a condominium parcel within the primary
743 condominium, then, unless otherwise provided in the primary
744 condominium declaration, only the approval of a majority of the
745 board of administration of the primary condominium association
746 is required for such consent. Unless otherwise provided in the
747 primary condominium declaration, neither consent of the unit
748 owners of, nor the lienholders on, any condominium parcels in
749 the primary condominium that are not subdivided units are
750 required to approve the secondary condominium declaration.
751 Approval is required for the execution of a secondary
752 condominium declaration by the owner of the subdivided unit and
753 any lienholder on the subdivided unit.

754 (5) An owner of a condominium parcel in a subdivided unit

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755 is subject to both the primary condominium declaration and the
756 secondary condominium declaration.

757 (6) The primary condominium association may provide
758 insurance required by s. 718.111(11) for common elements and
759 other improvements within the secondary condominium if the
760 primary condominium declaration permits the primary condominium
761 association to provide such insurance for the benefit of the
762 condominium property included in the subdivided unit, in lieu of
763 such insurance being provided by the secondary condominium
764 association.

765 (7) Unless otherwise provided in the primary condominium
766 declaration, the board of administration of the primary
767 condominium association may adopt hurricane shutter or hurricane
768 protection specifications for each building within which
769 subdivided units are located and govern any subdivided units in
770 the primary condominium.

771 (8) Any unit owner of, or holder of a first mortgage on, a
772 unit in a secondary condominium may register such unit owner's
773 or mortgagee's interest in the secondary condominium with the
774 primary condominium association by written notice to the primary
775 condominium association. Once registered, the primary
776 condominium association must provide written notice to such unit
777 owner and his or her mortgagee at least 30 days before
778 instituting any foreclosure action against the subdivided unit
779 in which the unit owner or his and her mortgagee holds an
780 interest for failure to pay any assessments or other amounts due
781 the primary condominium association. A foreclosure action
782 against a subdivided unit is not effective without an affidavit
783 indicating that written notice of the foreclosure was timely

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784 sent to the names and addresses of unit owners and first
785 mortgagees registered with the primary condominium association
786 pursuant to this subsection. The registered unit owner or
787 mortgagee has a right to pay the proportionate amount of the
788 delinquent assessment attributable to the unit in which the
789 registered unit owner or mortgagee holds an interest. Upon such
790 payment, the primary condominium association shall release the
791 lien of the primary condominium association of record against
792 such unit. Alternatively, such registered unit owner or
793 mortgagee may pay the amount of all delinquent assessments
794 attributed to the subdivided unit and seek reimbursement for all
795 such amounts paid and all costs incurred from the secondary
796 condominium association, including, without limitation, the
797 costs of collection other than the share allocable to the unit
798 on behalf of which such payment was made.

799 (9) In the event of a conflict between the primary
800 condominium declaration and the secondary condominium
801 declaration, the primary condominium declaration controls.

802 (10) All common expenses due the primary condominium
803 association with respect to a subdivided unit are a common
804 expense of the secondary condominium association and shall be
805 collected by the secondary condominium association from its
806 members and paid to the primary condominium association.

807 Section 10. Subsection (2) of section 718.5011, Florida
808 Statutes, is amended to read:

809 718.5011 Ombudsman; appointment; administration.—

810 (2) The Governor shall appoint the ombudsman. The ombudsman
811 must be an attorney admitted to practice before the Florida
812 Supreme Court and shall serve at the pleasure of the Governor. A

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813 vacancy in the office shall be filled in the same manner as the
814 original appointment. An officer or full-time employee of the
815 ombudsman's office may not actively engage in any other business
816 or profession that directly or indirectly relates to or
817 conflicts with his or her work in the ombudsman's office; serve
818 as the representative of any political party, executive
819 committee, or other governing body of a political party; serve
820 as an executive, officer, or employee of a political party;
821 receive remuneration for activities on behalf of any candidate
822 for public office; or engage in soliciting votes or other
823 activities on behalf of a candidate for public office. The
824 ombudsman or any employee of his or her office may not become a
825 candidate for election to public office unless he or she first
826 resigns from his or her office or employment.

827 Section 11. Section 718.707, Florida Statutes, is amended
828 to read:

829 718.707 Time limitation for classification as bulk assignee
830 or bulk buyer.—A person acquiring condominium parcels may not be
831 classified as a bulk assignee or bulk buyer unless the
832 condominium parcels were acquired on or after July 1, 2010, but
833 before July 1, 2015 ~~2012~~. The date of such acquisition shall be
834 determined by the date of recording a deed or other instrument
835 of conveyance for such parcels in the public records of the
836 county in which the condominium is located, or by the date of
837 issuing a certificate of title in a foreclosure proceeding with
838 respect to such condominium parcels.

839 Section 12. Paragraph (c) of subsection (2) of section
840 719.104, Florida Statutes, is amended to read:

841 719.104 Cooperatives; access to units; records; financial

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842 reports; assessments; purchase of leases.—

843 (2) OFFICIAL RECORDS.—

844 (c) The official records of the association shall be open
845 to inspection by any association member or the authorized
846 representative of such member at all reasonable times. Failure
847 to permit inspection of the association records as provided in
848 this subsection ~~herein~~ entitles any person prevailing in an
849 enforcement action to recover reasonable attorney ~~attorney's~~
850 fees from the person in control of the records who, directly or
851 indirectly, knowingly denies access to the records for
852 inspection. The right to inspect the records includes the right
853 to make or obtain copies, at the reasonable expense, if any, of
854 the association member. The association may adopt reasonable
855 rules regarding the frequency, time, location, notice, and
856 manner of record inspections and copying. The failure of an
857 association to provide the records within 10 working days after
858 receipt of a written request creates a rebuttable presumption
859 that the association willfully failed to comply with this
860 paragraph. A unit owner who is denied access to official records
861 is entitled to the actual damages or minimum damages for the
862 association's willful failure to comply with this paragraph. The
863 minimum damages shall be \$50 per calendar day up to 10 days, the
864 calculation to begin on the 11th day after receipt of the
865 written request. The association shall maintain an adequate
866 number of copies of the declaration, articles of incorporation,
867 bylaws, and rules, and all amendments to each of the foregoing,
868 as well as the question and answer sheet provided for in s.
869 719.504, on the cooperative property to ensure their
870 availability to unit owners and prospective purchasers, and may

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871 charge its actual costs for preparing and furnishing these
872 documents to those requesting the same. Notwithstanding ~~the~~
873 ~~provisions of~~ this paragraph, the following records shall not be
874 accessible to unit owners:

875 1. Any record protected by the lawyer-client privilege as
876 provided in s. 90.502; protected by the work-product privilege,
877 including any record ~~A record that was~~ prepared by an
878 association attorney or prepared at the attorney's express
879 direction; reflecting ~~that reflects~~ a mental impression,
880 conclusion, litigation strategy, or legal theory of the attorney
881 or the association; or ~~that was~~ prepared exclusively for civil
882 or criminal litigation or for adversarial administrative
883 proceedings or in anticipation of imminent civil or criminal
884 litigation or imminent adversarial administrative proceedings,
885 until the conclusion of the litigation or adversarial
886 administrative proceedings.

887 2. Information obtained by an association in connection
888 with the approval of the lease, sale, or other transfer of a
889 unit.

890 3. Medical records of unit owners.

891 4. Personnel records of association employees, including,
892 but not limited to, disciplinary, payroll, health, and insurance
893 records. For purposes of this subparagraph, the term "personnel
894 records" does not include written employment agreements with an
895 association employee or budgetary or financial records that
896 indicate the compensation paid to an association employee.

897 5. Social security numbers, driver license numbers, credit
898 card numbers, e-mail addresses, telephone numbers, emergency
899 contact information, any addresses of a unit owner other than

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900 addresses provided to fulfill the association's notice
901 requirements, and other personal identifying information of any
902 person, excluding the person's name, unit designation, mailing
903 address, and property address.

904 6. Any electronic security measures that are used by the
905 association to safeguard data, including passwords.

906 7. The software and operating system used by the
907 association which allows manipulation of data, even if the owner
908 owns a copy of the same software used by the association. The
909 data is part of the official records of the association.

910 Section 13. Subsection (7) is added to section 719.1055,
911 Florida Statutes, to read:

912 719.1055 Amendment of cooperative documents; alteration and
913 acquisition of property.—

914 (7) The Legislature finds that the procurement of mortgagee
915 consent to amendments that do not affect the rights or interests
916 of mortgagees is an unreasonable and substantial logistical and
917 financial burden on the unit owners and that there is a
918 compelling state interest in enabling the members of an
919 association to approve amendments to the association's
920 cooperative documents through legal means. Accordingly, and
921 notwithstanding any provision to the contrary contained in this
922 subsection:

923 (a) As to any mortgage recorded on or after July 1, 2012,
924 any provision in the association's cooperative documents that
925 requires the consent or joinder of some or all mortgagees of
926 units or any other portion of the association's common areas to
927 amend the association's cooperative documents or for any other
928 matter is enforceable only as to amendments to the association's

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929 cooperative documents that adversely affect the priority of the
930 mortgagee's lien or the mortgagee's rights to foreclose its lien
931 or that otherwise materially affect the rights and interests of
932 the mortgagees.

933 (b) As to mortgages recorded before July 1, 2012, any
934 existing provisions in the association's cooperative documents
935 requiring mortgagee consent are enforceable.

936 (c) In securing consent or joinder, the association is
937 entitled to rely upon the public records to identify the holders
938 of outstanding mortgages. The association may use the address
939 provided in the original recorded mortgage document, unless
940 there is a different address for the holder of the mortgage in a
941 recorded assignment or modification of the mortgage, which
942 recorded assignment or modification must reference the official
943 records book and page on which the original mortgage was
944 recorded. Once the association has identified the recorded
945 mortgages of record, the association shall, in writing, request
946 of each unit owner whose unit is encumbered by a mortgage of
947 record any information the owner has in his or her possession
948 regarding the name and address of the person to whom mortgage
949 payments are currently being made. Notice shall be sent to such
950 person if the address provided in the original recorded mortgage
951 document is different from the name and address of the mortgagee
952 or assignee of the mortgage as shown by the public record. The
953 association is deemed to have complied with this requirement by
954 making the written request of the unit owners required under
955 this paragraph. Any notices required to be sent to the
956 mortgagees under this paragraph shall be sent to all available
957 addresses provided to the association.

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958 (d) Any notice to the mortgagees required under paragraph
959 (c) may be sent by a method that establishes proof of delivery,
960 and any mortgagee who fails to respond within 60 days after the
961 date of mailing is deemed to have consented to the amendment.

962 (e) For those amendments requiring mortgagee consent on or
963 after July 1, 2012, in the event mortgagee consent is provided
964 other than by properly recorded joinder, such consent shall be
965 evidenced by affidavit of the association recorded in the public
966 records of the county in which the declaration is recorded.

967 (f) Any amendment adopted without the required consent of a
968 mortgagee is voidable only by a mortgagee who was entitled to
969 notice and an opportunity to consent. An action to void an
970 amendment is subject to the statute of limitations beginning 5
971 years after the date of discovery as to the amendments described
972 in paragraph (a) and 5 years after the date of recordation of
973 the certificate of amendment for all other amendments. This
974 paragraph applies to all mortgages, regardless of the date of
975 recordation of the mortgage.

976 Section 14. Paragraphs (d) and (f) of subsection (1) of
977 section 719.106, Florida Statutes, are amended to read:

978 719.106 Bylaws; cooperative ownership.—

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

982 (d) *Shareholder meetings*.—There shall be an annual meeting
983 of the shareholders. All members of the board of administration
984 shall be elected at the annual meeting unless the bylaws provide
985 for staggered election terms or for their election at another
986 meeting. Any unit owner desiring to be a candidate for board

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987 membership must comply with subparagraph 1. The bylaws must
988 provide the method for calling meetings, including annual
989 meetings. Written notice, which must incorporate an
990 identification of agenda items, shall be given to each unit
991 owner at least 14 days before the annual meeting and posted in a
992 conspicuous place on the cooperative property at least 14
993 continuous days preceding the annual meeting. Upon notice to the
994 unit owners, the board must by duly adopted rule designate a
995 specific location on the cooperative property upon which all
996 notice of unit owner meetings are posted. In lieu of or in
997 addition to the physical posting of the meeting notice, the
998 association may, by reasonable rule, adopt a procedure for
999 conspicuously posting and repeatedly broadcasting the notice and
1000 the agenda on a closed-circuit cable television system serving
1001 the cooperative association. However, if broadcast notice is
1002 used in lieu of a posted notice, the notice and agenda must be
1003 broadcast at least four times every broadcast hour of each day
1004 that a posted notice is otherwise required under this section.
1005 If broadcast notice is provided, the notice and agenda must be
1006 broadcast in a manner and for a sufficient continuous length of
1007 time to allow an average reader to observe the notice and read
1008 and comprehend the entire content of the notice and the agenda.
1009 Unless a unit owner waives in writing the right to receive
1010 notice of the annual meeting, the notice of the annual meeting
1011 must be sent by mail, hand delivered, or electronically
1012 transmitted to each unit owner. An officer of the association
1013 must provide an affidavit or United States Postal Service
1014 certificate of mailing, to be included in the official records
1015 of the association, affirming that notices of the association

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1016 meeting were mailed, hand delivered, or electronically
1017 transmitted, in accordance with this provision, to each unit
1018 owner at the address last furnished to the association.

1019 1. The board of administration shall be elected by written
1020 ballot or voting machine. A proxy may not be used in electing
1021 the board of administration in general elections or elections to
1022 fill vacancies caused by recall, resignation, or otherwise
1023 unless otherwise provided in this chapter.

1024 a. At least 60 days before a scheduled election, the
1025 association shall mail, deliver, or transmit, whether by
1026 separate association mailing, delivery, or electronic
1027 transmission or included in another association mailing,
1028 delivery, or electronic transmission, including regularly
1029 published newsletters, to each unit owner entitled to vote, a
1030 first notice of the date of the election. Any unit owner or
1031 other eligible person desiring to be a candidate for the board
1032 of administration must give written notice to the association at
1033 least 40 days before a scheduled election. Together with the
1034 written notice and agenda as set forth in this section, the
1035 association shall mail, deliver, or electronically transmit a
1036 second notice of election to all unit owners entitled to vote,
1037 together with a ballot that ~~which~~ lists all candidates. Upon
1038 request of a candidate, the association shall include an
1039 information sheet, no larger than 8 1/2 inches by 11 inches,
1040 which must be furnished by the candidate at least 35 days before
1041 the election, to be included with the mailing, delivery, or
1042 electronic transmission of the ballot, with the costs of
1043 mailing, delivery, or transmission and copying to be borne by
1044 the association. The association is not liable for the contents

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1045 of the information sheets provided by the candidates. In order
1046 to reduce costs, the association may print or duplicate the
1047 information sheets on both sides of the paper. The division
1048 shall by rule establish voting procedures consistent with this
1049 subparagraph, including rules establishing procedures for giving
1050 notice by electronic transmission and rules providing for the
1051 secrecy of ballots. Elections shall be decided by a plurality of
1052 those ballots cast. There is no quorum requirement. However, at
1053 least 20 percent of the eligible voters must cast a ballot in
1054 order to have a valid election. A unit owner may not permit any
1055 other person to vote his or her ballot, and any such ballots
1056 improperly cast are invalid. A unit owner who needs assistance
1057 in casting the ballot for the reasons stated in s. 101.051 may
1058 obtain assistance in casting the ballot. Any unit owner
1059 violating this provision may be fined by the association in
1060 accordance with s. 719.303. The regular election must occur on
1061 the date of the annual meeting. This subparagraph does not apply
1062 to timeshare cooperatives. Notwithstanding this subparagraph, an
1063 election and balloting are not required unless more candidates
1064 file a notice of intent to run or are nominated than vacancies
1065 exist on the board. Any challenge to the election process must
1066 be commenced within 60 days after the election results are
1067 announced.

1068 b. Within 90 days after being elected or appointed to the
1069 board, each new director shall certify in writing to the
1070 secretary of the association that he or she has read the
1071 association's bylaws, articles of incorporation, proprietary
1072 lease, and current written policies; that he or she will work to
1073 uphold such documents and policies to the best of his or her

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1074 ability; and that he or she will faithfully discharge his or her
1075 fiduciary responsibility to the association's members. Within 90
1076 days after being elected or appointed to the board, in lieu of
1077 this written certification, the newly elected or appointed
1078 director may submit a certificate of having satisfactorily
1079 completed the educational curriculum administered by an
1080 education provider as approved by the division pursuant to the
1081 requirements established in chapter 718 within 1 year before or
1082 90 days after the date of election or appointment. The
1083 educational certificate is valid and does not have to be
1084 resubmitted as long as the director serves on the board without
1085 interruption. A director who fails to timely file the written
1086 certification or educational certificate is suspended from
1087 service on the board until he or she complies with this sub-
1088 subparagraph. The board may temporarily fill the vacancy during
1089 the period of suspension. The secretary shall cause the
1090 association to retain a director's written certification or
1091 educational certificate for inspection by the members for 5
1092 years after a director's election or the duration of the
1093 director's uninterrupted tenure, whichever is longer. Failure to
1094 have such written certification or educational certificate on
1095 file does not affect the validity of any board action.

1096 2. Any approval by unit owners called for by this chapter,
1097 or the applicable cooperative documents, must be made at a duly
1098 noticed meeting of unit owners and is subject to this chapter or
1099 the applicable cooperative documents relating to unit owner
1100 decisionmaking, except that unit owners may take action by
1101 written agreement, without meetings, on matters for which action
1102 by written agreement without meetings is expressly allowed by

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1103 the applicable cooperative documents or law which provides for
1104 the unit owner action.

1105 3. Unit owners may waive notice of specific meetings if
1106 allowed by the applicable cooperative documents or law. If
1107 authorized by the bylaws, notice of meetings of the board of
1108 administration, shareholder meetings, except shareholder
1109 meetings called to recall board members under paragraph (f), and
1110 committee meetings may be given by electronic transmission to
1111 unit owners who consent to receive notice by electronic
1112 transmission.

1113 4. Unit owners have the right to participate in meetings of
1114 unit owners with reference to all designated agenda items.
1115 However, the association may adopt reasonable rules governing
1116 the frequency, duration, and manner of unit owner participation.

1117 5. Any unit owner may tape record or videotape meetings of
1118 the unit owners subject to reasonable rules adopted by the
1119 division.

1120 6. Unless otherwise provided in the bylaws, a vacancy
1121 occurring on the board before the expiration of a term may be
1122 filled by the affirmative vote of the majority of the remaining
1123 directors, even if the remaining directors constitute less than
1124 a quorum, or by the sole remaining director. In the alternative,
1125 a board may hold an election to fill the vacancy, in which case
1126 the election procedures must conform to the requirements of
1127 subparagraph 1. unless the association has opted out of the
1128 statutory election process, in which case the bylaws of the
1129 association control. Unless otherwise provided in the bylaws, a
1130 board member appointed or elected under this subparagraph shall
1131 fill the vacancy for the unexpired term of the seat being

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1132 filled. Filling vacancies created by recall is governed by
1133 paragraph (f) and rules adopted by the division.

1134
1135 Notwithstanding subparagraphs (b)2. and (d)1., an association
1136 may, by the affirmative vote of a majority of the total voting
1137 interests, provide for a different voting and election procedure
1138 in its bylaws, which vote may be by a proxy specifically
1139 delineating the different voting and election procedures. The
1140 different voting and election procedures may provide for
1141 elections to be conducted by limited or general proxy.

1142 (f) *Recall of board members.*—Subject to ~~the provisions of~~
1143 s. 719.301, any member of the board of administration may be
1144 recalled and removed from office with or without cause by the
1145 vote or agreement in writing by a majority of all the voting
1146 interests. A special meeting of the voting interests to recall
1147 any member of the board of administration may be called by 10
1148 percent of the unit owners giving notice of the meeting as
1149 required for a meeting of unit owners, and the notice shall
1150 state the purpose of the meeting. Electronic transmission may
1151 not be used as a method of giving notice of a meeting called in
1152 whole or in part for this purpose.

1153 1. If the recall is approved by a majority of all voting
1154 interests by a vote at a meeting, the recall shall be effective
1155 as provided in this paragraph herein. The board shall duly
1156 notice and hold a board meeting within 5 full business days
1157 after ~~of~~ the adjournment of the unit owner meeting to recall one
1158 or more board members. At the meeting, the board shall either
1159 certify the recall, in which case such member or members shall
1160 be recalled effective immediately and shall turn over to the

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1161 board within 5 full business days any and all records and
1162 property of the association in their possession, or shall
1163 proceed as set forth in subparagraph 3.

1164 2. If the proposed recall is by an agreement in writing by
1165 a majority of all voting interests, the agreement in writing or
1166 a copy thereof shall be served on the association by certified
1167 mail or by personal service in the manner authorized by chapter
1168 48 and the Florida Rules of Civil Procedure. The board of
1169 administration shall duly notice and hold a meeting of the board
1170 within 5 full business days after receipt of the agreement in
1171 writing. At the meeting, the board shall either certify the
1172 written agreement to recall members of the board, in which case
1173 such members shall be recalled effective immediately and shall
1174 turn over to the board, within 5 full business days, any and all
1175 records and property of the association in their possession, or
1176 proceed as described in subparagraph 3.

1177 3. If the board determines not to certify the written
1178 agreement to recall members of the board, or does not certify
1179 the recall by a vote at a meeting, the board shall, within 5
1180 full business days after the board meeting, file with the
1181 division a petition for binding arbitration pursuant to the
1182 procedures of s. 719.1255. For purposes of this paragraph, the
1183 unit owners who voted at the meeting or who executed the
1184 agreement in writing shall constitute one party under the
1185 petition for arbitration. If the arbitrator certifies the recall
1186 as to any member of the board, the recall shall be effective
1187 upon mailing of the final order of arbitration to the
1188 association. If the association fails to comply with the order
1189 of the arbitrator, the division may take action pursuant to s.

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1190 719.501. Any member so recalled shall deliver to the board any
1191 and all records and property of the association in the member's
1192 possession within 5 full business days after ~~of~~ the effective
1193 date of the recall.

1194 4. If the board fails to duly notice and hold a board
1195 meeting within 5 full business days after ~~of~~ service of an
1196 agreement in writing or within 5 full business days after ~~of~~ the
1197 adjournment of the unit owner recall meeting, the recall shall
1198 be deemed effective and the board members so recalled shall
1199 immediately turn over to the board any and all records and
1200 property of the association.

1201 5. If the board fails to duly notice and hold the required
1202 meeting or fails to file the required petition, the unit owner
1203 representative may file a petition pursuant to s. 719.1255
1204 challenging the board's failure to act. The petition must be
1205 filed within 60 days after the expiration of the applicable 5-
1206 full-business-day period. The review of a petition under this
1207 subparagraph is limited to the sufficiency of service on the
1208 board and the facial validity of the written agreement or
1209 ballots filed.

1210 ~~6.5.~~ If a vacancy occurs on the board as a result of a
1211 recall and less than a majority of the board members are
1212 removed, the vacancy may be filled by the affirmative vote of a
1213 majority of the remaining directors, notwithstanding any
1214 provision to the contrary contained in this chapter. If
1215 vacancies occur on the board as a result of a recall and a
1216 majority or more of the board members are removed, the vacancies
1217 shall be filled in accordance with procedural rules to be
1218 adopted by the division, which rules need not be consistent with

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1219 this chapter. The rules must provide procedures governing the
1220 conduct of the recall election as well as the operation of the
1221 association during the period after a recall but prior to the
1222 recall election.

1223 7. A board member who has been recalled may file a petition
1224 pursuant to s. 719.1255 challenging the validity of a recall.
1225 The petition must be filed within 60 days after the recall is
1226 deemed certified. The association and the unit owner
1227 representative shall be named as the respondents.

1228 8. The division may not accept for filing a recall
1229 petition, whether filed pursuant to subparagraph 1.,
1230 subparagraph 2., subparagraph 5., or subparagraph 7. and
1231 regardless of whether the recall was certified, when there are
1232 60 or fewer days until the scheduled reelection of the board
1233 member sought to be recalled or when 60 or fewer days have not
1234 elapsed since the election of the board member sought to be
1235 recalled.

1236 Section 15. Paragraph (a) of subsection (3) and subsection
1237 (5) of section 719.303, Florida Statutes, are amended to read:

1238 719.303 Obligations of owners.—

1239 (3) The association may levy reasonable fines for failure
1240 of the unit owner or the unit's occupant, licensee, or invitee
1241 to comply with any provision of the cooperative documents or
1242 reasonable rules of the association. A fine may not become a
1243 lien against a unit. A fine may be levied on the basis of each
1244 day of a continuing violation, with a single notice and
1245 opportunity for hearing. However, the fine may not exceed \$100
1246 per violation, or \$1,000 in the aggregate.

1247 (a) An association may suspend, for a reasonable period of

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1248 time, the right of a unit owner, or a unit owner's tenant,
1249 guest, or invitee, to use the common elements, common
1250 facilities, or any other association property for failure to
1251 comply with any provision of the cooperative documents or
1252 reasonable rules of the association. This paragraph does not
1253 apply to limited common elements intended to be used only by
1254 that unit, common elements needed to access the unit, utility
1255 services provided to the unit, parking spaces, or elevators.

1256 (5) An association may suspend the voting rights of a unit
1257 or member due to nonpayment of any monetary obligation due ~~to~~
1258 the association which is more than 90 days delinquent.
1259 Notwithstanding an association's cooperative documents, the
1260 requirements to establish a quorum, conduct an election, or
1261 obtain membership approval on actions under this chapter or
1262 pursuant to the association's cooperative documents shall be
1263 reduced by the number of suspended voting interests or consent
1264 rights. A voting interest or consent right allocated to a unit
1265 or member which has been suspended by the association may not be
1266 counted towards the total number of voting interests for any
1267 purpose, including, but not limited to, the number of voting
1268 interests necessary to constitute a quorum, the number of voting
1269 interests required to conduct an election, or the number of
1270 voting interests required to approve an action under this
1271 chapter or pursuant to the cooperative documents, articles of
1272 incorporation, or bylaws. The suspension ends upon full payment
1273 of all obligations currently due or overdue the association. The
1274 notice and hearing requirements under subsection (3) do not
1275 apply to a suspension imposed under this subsection.

1276 Section 16. Paragraph (c) of subsection (5) and subsection

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1277 (10) of section 720.303, Florida Statutes, are amended to read:
1278 720.303 Association powers and duties; meetings of board;
1279 official records; budgets; financial reporting; association
1280 funds; recalls.—

1281 (5) INSPECTION AND COPYING OF RECORDS.—The official records
1282 shall be maintained within the state and must be open to
1283 inspection and available for photocopying by members or their
1284 authorized agents at reasonable times and places within 10
1285 business days after receipt of a written request for access.
1286 This subsection may be complied with by having a copy of the
1287 official records available for inspection or copying in the
1288 community. If the association has a photocopy machine available
1289 where the records are maintained, it must provide parcel owners
1290 with copies on request during the inspection if the entire
1291 request is limited to no more than 25 pages.

1292 (c) The association may adopt reasonable written rules
1293 governing the frequency, time, location, notice, records to be
1294 inspected, and manner of inspections, but may not require a
1295 parcel owner to demonstrate any proper purpose for the
1296 inspection, state any reason for the inspection, or limit a
1297 parcel owner's right to inspect records to less than one 8-hour
1298 business day per month. The association may impose fees to cover
1299 the costs of providing copies of the official records,
1300 including, without limitation, the costs of copying. The
1301 association may charge up to 50 cents per page for copies made
1302 on the association's photocopier. If the association does not
1303 have a photocopy machine available where the records are kept,
1304 or if the records requested to be copied exceed 25 pages in
1305 length, the association may have copies made by an outside

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1306 vendor or association management company personnel and may
1307 charge the actual cost of copying, including any reasonable
1308 costs involving personnel fees and charges at an hourly rate for
1309 vendor or employee time to cover administrative costs to the
1310 vendor or association. The association shall maintain an
1311 adequate number of copies of the recorded governing documents,
1312 to ensure their availability to members and prospective members.
1313 Notwithstanding this paragraph, the following records are not
1314 accessible to members or parcel owners:

1315 1. Any record protected by the lawyer-client privilege as
1316 described in s. 90.502 and any record protected by the work-
1317 product privilege, including, but not limited to, a record
1318 prepared by an association attorney or prepared at the
1319 attorney's express direction which reflects a mental impression,
1320 conclusion, litigation strategy, or legal theory of the attorney
1321 or the association and which was prepared exclusively for civil
1322 or criminal litigation or for adversarial administrative
1323 proceedings or which was prepared in anticipation of such
1324 litigation or proceedings until the conclusion of the litigation
1325 or proceedings.

1326 2. Information obtained by an association in connection
1327 with the approval of the lease, sale, or other transfer of a
1328 parcel.

1329 3. Personnel records of association or management company
1330 ~~the association's~~ employees, including, but not limited to,
1331 disciplinary, payroll, health, and insurance records. For
1332 purposes of this subparagraph, the term "personnel records" does
1333 not include written employment agreements with an association or
1334 management company employee or budgetary or financial records

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1335 that indicate the compensation paid to an association or
1336 management company employee.

1337 4. Medical records of parcel owners or community residents.

1338 5. Social security numbers, driver ~~driver's~~ license
1339 numbers, credit card numbers, electronic mailing addresses,
1340 telephone numbers, facsimile numbers, emergency contact
1341 information, any addresses for a parcel owner other than as
1342 provided for association notice requirements, and other personal
1343 identifying information of any person, excluding the person's
1344 name, parcel designation, mailing address, and property address.
1345 However, an owner may consent in writing to the disclosure of
1346 protected information described in this subparagraph. The
1347 association is not liable for the disclosure of information that
1348 is protected under this subparagraph if the information is
1349 included in an official record of the association and is
1350 voluntarily provided by an owner and not requested by the
1351 association.

1352 6. Any electronic security measure that is used by the
1353 association to safeguard data, including passwords.

1354 7. The software and operating system used by the
1355 association which allows the manipulation of data, even if the
1356 owner owns a copy of the same software used by the association.
1357 The data is part of the official records of the association.

1358 (10) RECALL OF DIRECTORS.—

1359 (a)1. Regardless of any provision to the contrary contained
1360 in the governing documents, subject to the provisions of s.
1361 720.307 regarding transition of association control, any member
1362 of the board of directors may be recalled and removed from
1363 office with or without cause by a majority of the total voting

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1364 interests.

1365 2. When the governing documents, including the declaration,
1366 articles of incorporation, or bylaws, provide that only a
1367 specific class of members is entitled to elect a board director
1368 or directors, only that class of members may vote to recall
1369 those board directors so elected.

1370 (b)1. Board directors may be recalled by an agreement in
1371 writing or by written ballot without a membership meeting. The
1372 agreement in writing or the written ballots, or a copy thereof,
1373 shall be served on the association by certified mail or by
1374 personal service in the manner authorized by chapter 48 and the
1375 Florida Rules of Civil Procedure.

1376 2. The board shall duly notice and hold a meeting of the
1377 board within 5 full business days after receipt of the agreement
1378 in writing or written ballots. At the meeting, the board shall
1379 either certify the written ballots or written agreement to
1380 recall a director or directors of the board, in which case such
1381 director or directors shall be recalled effective immediately
1382 and shall turn over to the board within 5 full business days any
1383 and all records and property of the association in their
1384 possession, or proceed as described in paragraph (d).

1385 3. When it is determined by the department pursuant to
1386 binding arbitration proceedings that an initial recall effort
1387 was defective, written recall agreements or written ballots used
1388 in the first recall effort and not found to be defective may be
1389 reused in one subsequent recall effort. However, in no event is
1390 a written agreement or written ballot valid for more than 120
1391 days after it has been signed by the member.

1392 4. Any rescission or revocation of a member's written

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1393 recall ballot or agreement must be in writing and, in order to
1394 be effective, must be delivered to the association before the
1395 association is served with the written recall agreements or
1396 ballots.

1397 5. The agreement in writing or ballot shall list at least
1398 as many possible replacement directors as there are directors
1399 subject to the recall, when at least a majority of the board is
1400 sought to be recalled; the person executing the recall
1401 instrument may vote for as many replacement candidates as there
1402 are directors subject to the recall.

1403 (c)1. If the declaration, articles of incorporation, or
1404 bylaws specifically provide, the members may also recall and
1405 remove a board director or directors by a vote taken at a
1406 meeting. If so provided in the governing documents, a special
1407 meeting of the members to recall a director or directors of the
1408 board of administration may be called by 10 percent of the
1409 voting interests giving notice of the meeting as required for a
1410 meeting of members, and the notice shall state the purpose of
1411 the meeting. Electronic transmission may not be used as a method
1412 of giving notice of a meeting called in whole or in part for
1413 this purpose.

1414 2. The board shall duly notice and hold a board meeting
1415 within 5 full business days after the adjournment of the member
1416 meeting to recall one or more directors. At the meeting, the
1417 board shall certify the recall, in which case such member or
1418 members shall be recalled effective immediately and shall turn
1419 over to the board within 5 full business days any and all
1420 records and property of the association in their possession, or
1421 shall proceed as set forth in subparagraph (d).

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1422 (d) If the board determines not to certify the written
1423 agreement or written ballots to recall a director or directors
1424 of the board or does not certify the recall by a vote at a
1425 meeting, the board shall, within 5 full business days after the
1426 meeting, file with the department a petition for binding
1427 arbitration pursuant to the applicable procedures in ss.
1428 718.112(2)(j) and 718.1255 and the rules adopted thereunder. For
1429 the purposes of this section, the members who voted at the
1430 meeting or who executed the agreement in writing shall
1431 constitute one party under the petition for arbitration. If the
1432 arbitrator certifies the recall as to any director or directors
1433 of the board, the recall will be effective upon mailing of the
1434 final order of arbitration to the association. The director or
1435 directors so recalled shall deliver to the board any and all
1436 records of the association in their possession within 5 full
1437 business days after the effective date of the recall.

1438 (e) If a vacancy occurs on the board as a result of a
1439 recall and less than a majority of the board directors are
1440 removed, the vacancy may be filled by the affirmative vote of a
1441 majority of the remaining directors, notwithstanding any
1442 provision to the contrary contained in this subsection or in the
1443 association documents. If vacancies occur on the board as a
1444 result of a recall and a majority or more of the board directors
1445 are removed, the vacancies shall be filled by members voting in
1446 favor of the recall; if removal is at a meeting, any vacancies
1447 shall be filled by the members at the meeting. If the recall
1448 occurred by agreement in writing or by written ballot, members
1449 may vote for replacement directors in the same instrument in
1450 accordance with procedural rules adopted by the division, which

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1451 rules need not be consistent with this subsection.

1452 (f) If the board fails to duly notice and hold a board
1453 meeting within 5 full business days after service of an
1454 agreement in writing or within 5 full business days after the
1455 adjournment of the member recall meeting, the recall shall be
1456 deemed effective and the board directors so recalled shall
1457 immediately turn over to the board all records and property of
1458 the association.

1459 (g) If the board fails to duly notice and hold the required
1460 meeting or fails to file the required petition, the unit owner
1461 representative may file a petition pursuant to s. 718.1255
1462 challenging the board's failure to act. The petition must be
1463 filed within 60 days after the expiration of the applicable 5-
1464 full-business-day period. The review of a petition under this
1465 paragraph is limited to the sufficiency of service on the board
1466 and the facial validity of the written agreement or ballots
1467 filed.

1468 (h)~~(g)~~ If a director who is removed fails to relinquish his
1469 or her office or turn over records as required under this
1470 section, the circuit court in the county where the association
1471 maintains its principal office may, upon the petition of the
1472 association, summarily order the director to relinquish his or
1473 her office and turn over all association records upon
1474 application of the association.

1475 (i)~~(h)~~ The minutes of the board meeting at which the board
1476 decides whether to certify the recall are an official
1477 association record. The minutes must record the date and time of
1478 the meeting, the decision of the board, and the vote count taken
1479 on each board member subject to the recall. In addition, when

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1480 the board decides not to certify the recall, as to each vote
1481 rejected, the minutes must identify the parcel number and the
1482 specific reason for each such rejection.

1483 (j)~~(i)~~ When the recall of more than one board director is
1484 sought, the written agreement, ballot, or vote at a meeting
1485 shall provide for a separate vote for each board director sought
1486 to be recalled.

1487 (k) A board member who has been recalled may file a
1488 petition pursuant to ss. 718.112(2)(j) and 718.1255 and the
1489 rules adopted challenging the validity of the recall. The
1490 petition must be filed within 60 days after the recall is deemed
1491 certified. The association and the unit owner representative
1492 shall be named as respondents.

1493 (l) The division may not accept for filing a recall
1494 petition, whether filed pursuant to paragraph (b), paragraph
1495 (c), paragraph (g), or paragraph (k) and regardless of whether
1496 the recall was certified, when there are 60 or fewer days until
1497 the scheduled reelection of the board member sought to be
1498 recalled or when 60 or fewer days have not elapsed since the
1499 election of the board member sought to be recalled.

1500 Section 17. Subsections (2) and (4) of section 720.305,
1501 Florida Statutes, are amended to read:

1502 720.305 Obligations of members; remedies at law or in
1503 equity; levy of fines and suspension of use rights.—

1504 (2) The association may levy reasonable fines of up to \$100
1505 per violation against any member or any member's tenant, guest,
1506 or invitee for the failure of the owner of the parcel or its
1507 occupant, licensee, or invitee to comply with any provision of
1508 the declaration, the association bylaws, or reasonable rules of

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1509 the association. A fine may be levied for each day of a
1510 continuing violation, with a single notice and opportunity for
1511 hearing, except that the fine may not exceed \$1,000 in the
1512 aggregate unless otherwise provided in the governing documents.
1513 A fine of less than \$1,000 may not become a lien against a
1514 parcel. In any action to recover a fine, the prevailing party is
1515 entitled to reasonable attorney ~~attorney's~~ fees and costs from
1516 the nonprevailing party as determined by the court.

1517 (a) An association may suspend, for a reasonable period of
1518 time, the right of a member, or a member's tenant, guest, or
1519 invitee, to use common areas and facilities for the failure of
1520 the owner of the parcel or its occupant, licensee, or invitee to
1521 comply with any provision of the declaration, the association
1522 bylaws, or reasonable rules of the association. This paragraph
1523 does not apply to that portion of common areas used to provide
1524 access or utility services to the parcel. A suspension may not
1525 impair the right of an owner or tenant of a parcel to have
1526 vehicular and pedestrian ingress to and egress from the parcel,
1527 including, but not limited to, the right to park.

1528 (b) A fine or suspension may not be imposed without at
1529 least 14 days' notice to the person sought to be fined or
1530 suspended and an opportunity for a hearing before a committee of
1531 at least three members appointed by the board who are not
1532 officers, directors, or employees of the association, or the
1533 spouse, parent, child, brother, or sister of an officer,
1534 director, or employee. If the committee, by majority vote, does
1535 not approve a proposed fine or suspension, it may not be
1536 imposed. If the association imposes a fine or suspension, the
1537 association must provide written notice of such fine or

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1538 suspension by mail or hand delivery to the parcel owner and, if
1539 applicable, to any tenant, licensee, or invitee of the parcel
1540 owner.

1541 (4) An association may suspend the voting rights of a
1542 parcel or member for the nonpayment of any monetary obligation
1543 due ~~to~~ the association that is more than 90 days delinquent.
1544 Notwithstanding an association's governing documents, the
1545 requirements to establish a quorum, conduct an election, or
1546 obtain membership approval on actions under this chapter or
1547 pursuant to the association's governing documents shall be
1548 reduced by the number of suspended voting interests or consent
1549 rights. A voting interest or consent right allocated to a parcel
1550 or member which has been suspended by the association may not be
1551 counted towards the total number of voting interests for any
1552 purpose, including, but not limited to, the number of voting
1553 interests necessary to constitute a quorum, the number of voting
1554 interests required to conduct an election, or the number of
1555 voting interests required to approve an action under this
1556 chapter or pursuant to the governing documents. The notice and
1557 hearing requirements under subsection (2) do not apply to a
1558 suspension imposed under this subsection. The suspension ends
1559 upon full payment of all obligations currently due or overdue to
1560 the association.

1561 Section 18. Paragraph (d) is added to subsection (1) of
1562 section 720.306, Florida Statutes, and subsection (9) of that
1563 section is amended, to read:

1564 720.306 Meetings of members; voting and election
1565 procedures; amendments.—

1566 (1) QUORUM; AMENDMENTS.—

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1567 (d) The Legislature finds that the procurement of mortgagee
1568 consent to amendments that do not affect the rights or interests
1569 of mortgagees is an unreasonable and substantial logistical and
1570 financial burden on the parcel owners and that there is a
1571 compelling state interest in enabling the members of an
1572 association to approve amendments to the association's governing
1573 documents through legal means. Accordingly, and notwithstanding
1574 any provision to the contrary contained in this paragraph:

1575 1. As to any mortgage recorded on or after July 1, 2012,
1576 any provision in the association's governing documents that
1577 requires the consent or joinder of some or all mortgagees of
1578 parcels or any other portion of the association's common areas
1579 to amend the association's governing documents or for any other
1580 matter is enforceable only as to amendments to the association's
1581 governing documents that adversely affect the priority of the
1582 mortgagee's lien or the mortgagee's rights to foreclose its lien
1583 or that otherwise materially affect the rights and interests of
1584 the mortgagees.

1585 2. As to mortgages recorded before July 1, 2012, any
1586 existing provisions in the association's governing documents
1587 requiring mortgagee consent are enforceable.

1588 3. In securing consent or joinder, the association is
1589 entitled to rely upon the public records to identify the holders
1590 of outstanding mortgages. The association may use the address
1591 provided in the original recorded mortgage document, unless
1592 there is a different address for the holder of the mortgage in a
1593 recorded assignment or modification of the mortgage, which
1594 recorded assignment or modification must reference the official
1595 records book and page on which the original mortgage was

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1596 recorded. Once the association has identified the recorded
1597 mortgages of record, the association shall, in writing, request
1598 of each parcel owner whose parcel is encumbered by a mortgage of
1599 record any information the owner has in his or her possession
1600 regarding the name and address of the person to whom mortgage
1601 payments are currently being made. Notice shall be sent to such
1602 person if the address provided in the original recorded mortgage
1603 document is different from the name and address of the mortgagee
1604 or assignee of the mortgage as shown by the public record. The
1605 association is deemed to have complied with this requirement by
1606 making the written request of the parcel owners required under
1607 this subparagraph. Any notices required to be sent to the
1608 mortgagees under this subparagraph shall be sent to all
1609 available addresses provided to the association.

1610 4. Any notice to the mortgagees required under subparagraph
1611 3. may be sent by a method that establishes proof of delivery,
1612 and any mortgagee who fails to respond within 60 days after the
1613 date of mailing is deemed to have consented to the amendment.

1614 5. For those amendments requiring mortgagee consent on or
1615 after July 1, 2012, in the event mortgagee consent is provided
1616 other than by properly recorded joinder, such consent shall be
1617 evidenced by affidavit of the association recorded in the public
1618 records of the county in which the declaration is recorded.

1619 6. Any amendment adopted without the required consent of a
1620 mortgagee is voidable only by a mortgagee who was entitled to
1621 notice and an opportunity to consent. An action to void an
1622 amendment is subject to the statute of limitations beginning 5
1623 years after the date of discovery as to the amendments described
1624 in subparagraph 1. and 5 years after the date of recordation of

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1625 the certificate of amendment for all other amendments. This
1626 subparagraph applies to all mortgages, regardless of the date of
1627 recordation of the mortgage.

1628 (9)~~(a)~~ ELECTIONS AND BOARD VACANCIES.—

1629 (a) Elections of directors must be conducted in accordance
1630 with the procedures set forth in the governing documents of the
1631 association. All members of the association are eligible to
1632 serve on the board of directors, and a member may nominate
1633 himself or herself as a candidate for the board at a meeting
1634 where the election is to be held or, if the election process
1635 allows voting by absentee ballot, in advance of the balloting.
1636 Except as otherwise provided in the governing documents, boards
1637 of directors must be elected by a plurality of the votes cast by
1638 eligible voters. Any challenge to the election process must be
1639 commenced within 60 days after the election results are
1640 announced.

1641 (b) A person who is delinquent in the payment of any fee,
1642 fine, or other monetary obligation to the association for more
1643 than 90 days is not eligible for board membership. A person who
1644 has been convicted of any felony in this state or in a United
1645 States District or Territorial Court, or has been convicted of
1646 any offense in another jurisdiction which would be considered a
1647 felony if committed in this state, is not eligible for board
1648 membership unless such felon's civil rights have been restored
1649 for at least 5 years as of the date on which such person seeks
1650 election to the board. The validity of any action by the board
1651 is not affected if it is later determined that a member of the
1652 board is ineligible for board membership.

1653 (c) Any election dispute between a member and an

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1654 association must be submitted to mandatory binding arbitration
1655 with the division. Such proceedings must be conducted in the
1656 manner provided by s. 718.1255 and the procedural rules adopted
1657 by the division. Unless otherwise provided in the bylaws, any
1658 vacancy occurring on the board before the expiration of a term
1659 may be filled by an affirmative vote of the majority of the
1660 remaining directors, even if the remaining directors constitute
1661 less than a quorum, or by the sole remaining director. In the
1662 alternative, a board may hold an election to fill the vacancy,
1663 in which case the election procedures must conform to the
1664 requirements of the governing documents. Unless otherwise
1665 provided in the bylaws, a board member appointed or elected
1666 under this section is appointed for the unexpired term of the
1667 seat being filled. Filling vacancies created by recall is
1668 governed by s. 720.303(10) and rules adopted by the division.

1669 (d) Within 90 days after being elected or appointed to the
1670 board, each new director shall certify in writing to the
1671 secretary of the association that he or she has read the
1672 association's declaration of covenants' conditions and
1673 restrictions, articles of incorporation, bylaws, and current
1674 written policies; that he or she will work to uphold such
1675 documents and policies to the best of his or her ability; and
1676 that he or she will faithfully discharge his or her fiduciary
1677 responsibility to the association's members. Within 90 days
1678 after being elected or appointed to the board, in lieu of this
1679 written certification, the newly elected or appointed director
1680 may submit a certificate of having satisfactorily completed the
1681 educational curriculum administered by a division-approved
1682 education provider within 1 year before or 90 days after the

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1683 date of election or appointment. The educational certificate is
1684 valid and does not have to be resubmitted as long as the
1685 director serves on the board without interruption. A director
1686 who fails to timely file the written certification or
1687 educational certificate is suspended from service on the board
1688 until he or she complies with this paragraph. The board may
1689 temporarily fill the vacancy during the period of suspension.
1690 The secretary shall cause the association to retain a director's
1691 written certification or educational certificate for inspection
1692 by the members for 5 years after a director's election or the
1693 duration of the director's tenure, whichever is longer. Failure
1694 to have such written certification or educational certificate on
1695 file does not affect the validity of any board action.

1696 Section 19. Paragraphs (b) and (d) of subsection (2) of
1697 section 720.3085, Florida Statutes, are amended to read:

1698 720.3085 Payment for assessments; lien claims.—

1699 (2)

1700 (b) A parcel owner, regardless of how the parcel owner has
1701 acquired title, including, but not limited to, by purchase at a
1702 foreclosure sale, is jointly and severally liable with the
1703 previous parcel owner for all unpaid assessments, late fees,
1704 interest, costs, and reasonable attorney fees incurred by the
1705 association in an attempt to collect all such amounts that came
1706 due up to the time of transfer of title. This liability is
1707 without prejudice to any right the present parcel owner may have
1708 to recover any amounts paid by the present owner from the
1709 previous owner.

1710 (d) An association, or its successor or assignee, that
1711 acquires title to a parcel through the foreclosure of its lien

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1712 for assessments is not liable for any unpaid assessments, late
1713 fees, interest, or reasonable attorney ~~attorney's~~ fees and costs
1714 that came due before the association's acquisition of title in
1715 favor of any other association, as defined in s. 718.103(2) or
1716 s. 720.301(9), which holds a ~~superior~~ lien interest on the
1717 parcel. This paragraph is intended to clarify existing law.

1718 Section 20. This act shall take effect July 1, 2012.