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1 A bill to be entitled

2 An act relating to residential communities; amending
3 s. 468.431, F.S.; adding duties to the definition of
4 community association management; amending s. 718.116,
5 F.S.; creating a form for a condominium lien; creating
6 a form for a release of lien; amending s. 719.108,
7 F.S.; creating a form for a cooperative lien; creating
8 a form for a release of lien; amending s. 720.3085,
9 F.S.; creating a form for a homeowners' association
10 lien; creating a form for a release of lien; providing
11 an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Subsection (2) of section 468.431, Florida
16 Statutes, is amended to read:

17 468.431 Definitions.—As used in this part:

18 (2) "Community association management" means any of the
19 following practices requiring substantial specialized knowledge,
20 judgment, and managerial skill when done for remuneration and
21 when the association or associations served contain more than 10
22 units or have an annual budget or budgets in excess of \$100,000:
23 controlling or disbursing funds of a community association,
24 preparing budgets or other financial documents for a community
25 association, assisting in the noticing or conduct of community
26 association meetings, determining the number of days required

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27 for statutory notices, determining amounts due the association,
28 calculating the votes required for a quorum or to approve a
29 proposition or amendment, completing forms related to the
30 management of a community association that have been created by
31 statute or by a state agency, drafting demand letters, drafting
32 meeting notices and agendas, calculating certificates of
33 assessments, responding to requests for an estoppel letter,
34 negotiating monetary or performance terms of a contract subject
35 to approval by an association, and coordinating maintenance for
36 the residential development and other day-to-day services
37 involved with the operation of a community association. A person
38 who performs clerical or ministerial functions under the direct
39 supervision and control of a licensed manager or who is charged
40 only with performing the maintenance of a community association
41 and who does not assist in any of the management services
42 described in this subsection is not required to be licensed
43 under this part.

44 Section 2. Subsection (5) of section 718.116, Florida
45 Statutes, is amended to read:

46 718.116 Assessments; liability; lien and priority;
47 interest; collection.—

48 (5)(a) The association has a lien on each condominium
49 parcel to secure the payment of assessments. Except as otherwise
50 provided in subsection (1) and as set forth below, the lien is
51 effective from and shall relate back to the recording of the
52 original declaration of condominium, or, in the case of lien on

53 a parcel located in a phase condominium, the last to occur of
54 the recording of the original declaration or amendment thereto
55 creating the parcel. However, as to first mortgages of record,
56 the lien is effective from and after recording of a claim of
57 lien in the public records of the county in which the
58 condominium parcel is located. Nothing in this subsection shall
59 be construed to bestow upon any lien, mortgage, or certified
60 judgment of record on April 1, 1992, including the lien for
61 unpaid assessments created herein, a priority which, by law, the
62 lien, mortgage, or judgment did not have before that date.

63 (b) ~~To be valid,~~ A claim of lien may be in substantially
64 the following form: ~~must~~

65
66 CLAIM OF LIEN

67
68 BEFORE ME, the undersigned notary public, personally appeared
69 (insert name) who was duly sworn and says that he is the
70 authorized agent of the lienor, (insert name of association)
71 , whose address is (insert address), and that in
72 accordance with the Condominium Act and the Declaration of
73 (insert name of association), a Condominium, and the
74 Articles of Incorporation and Bylaws of the Association, the
75 Association makes this claim of lien for (insert basis for
76 claim of lien), for the following described real property:

77
78 UNIT NO. OF (NAME OF CONDOMINIUM), A

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CONDOMINIUM AS SET FORTH IN THE DECLARATION OF
CONDOMINIUM AND THE EXHIBITS ANNEXED THERETO AND
FORMING A PART THEREOF, RECORDED IN OFFICIAL
RECORDS BOOK , PAGE , OF THE PUBLIC
RECORDS OF COUNTY, FLORIDA. THE ABOVE
DESCRIPTION INCLUDES, BUT IS NOT LIMITED TO, ALL
APPURTENANCES TO THE CONDOMINIUM UNIT ABOVE
DESCRIBED, INCLUDING THE UNDIVIDED INTEREST IN
THE COMMON ELEMENTS OF SAID CONDOMINIUM.

upon which the Association asserts this lien. The property is
owned by (insert name of debtor) , Debtor. There remains
unpaid to the association, the sum of \$. This lien
secures these amounts, as well as any amounts and assessments
and interest that may accrue in the future.

(signature of witness) (signature of authorized agent)
(signature of witness)

(insert notary clause as appropriate)

~~state the description of the condominium parcel, the name of the~~
~~record owner, the name and address of the association, the~~
~~amount due, and the due dates.~~ It must be executed and
acknowledged by an officer or authorized agent of the
association. The lien is not effective 1 year after the claim of

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lien was recorded unless, within that time, an action to enforce the lien is commenced. The 1-year period is automatically extended for any length of time during which the association is prevented from filing a foreclosure action by an automatic stay resulting from a bankruptcy petition filed by the parcel owner or any other person claiming an interest in the parcel. The claim of lien secures all unpaid assessments that are due and that may accrue after the claim of lien is recorded and through the entry of a final judgment, as well as interest and all reasonable costs and attorney's fees incurred by the association incident to the collection process. Upon payment in full, the person making the payment is entitled to a satisfaction of the lien.

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

NOTICE OF CONTEST OF LIEN

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

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

After notice of contest of lien has been recorded, the clerk of the circuit court shall mail a copy of the recorded notice to the association by certified mail, return receipt requested, at the address shown in the claim of lien or most recent amendment to it and shall certify to the service on the face of the notice. Service is complete upon mailing. After service, the association has 90 days in which to file an action to enforce the lien; and, if the action is not filed within the 90-day period, the lien is void. However, the 90-day period shall be extended for any length of time during which the association is prevented from filing its action because of an automatic stay resulting from the filing of a bankruptcy petition by the unit owner or by any other person claiming an interest in the parcel.

(d) A release of lien may be in substantially the following form:

RELEASE OF LIEN

The undersigned lienor, in consideration of the final payment in the amount of \$ _____, hereby waives and releases its lien and right to claim a lien for unpaid assessments through (insert date) _____, for the following described real property:

UNIT NO. _____ OF _____ (NAME OF CONDOMINIUM) _____, A
CONDOMINIUM AS SET FORTH IN THE DECLARATION OF

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CONDOMINIUM AND THE EXHIBITS ANNEXED THERETO AND
FORMING A PART THEREOF, RECORDED IN OFFICIAL
RECORDS BOOK , PAGE , OF THE PUBLIC
RECORDS OF COUNTY, FLORIDA. THE ABOVE
DESCRIPTION INCLUDES, BUT IS NOT LIMITED TO, ALL
APPURTENANCES TO THE CONDOMINIUM UNIT ABOVE
DESCRIBED, INCLUDING THE UNDIVIDED INTEREST IN
THE COMMON ELEMENTS OF SAID CONDOMINIUM.

(signature of witness) (signature of authorized agent)
(signature of witness)

(insert notary clause as appropriate)

Section 3. Subsection (4) of section 719.108, Florida
Statutes, is amended to read:

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

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

183 cooperative parcel is located which states the description of
184 the cooperative parcel, the name of the unit owner, the amount
185 due, and the due dates. ~~The lien expires if a claim of lien is~~
186 ~~not filed within 1 year after the date the assessment was due,~~
187 ~~and the lien does not continue for longer than 1 year after the~~
188 ~~claim of lien has been recorded unless, within that time, an~~
189 ~~action to enforce the lien is commenced.~~ Except as otherwise
190 provided in this chapter, a lien may not be filed by the
191 association against a cooperative parcel until 30 days after the
192 date on which a notice of intent to file a lien has been
193 delivered to the owner.

194 (a) The notice must be sent to the unit owner at the
195 address of the unit by first-class United States mail and:

196 1. If the most recent address of the unit owner on the
197 records of the association is the address of the unit, the
198 notice must be sent by ~~registered or~~ certified mail, return
199 receipt requested, to the unit owner at the address of the unit.

200 2. If the most recent address of the unit owner on the
201 records of the association is in the United States, but is not
202 the address of the unit, the notice must be sent by ~~registered~~
203 ~~or~~ certified mail, return receipt requested, to the unit owner
204 at his or her most recent address.

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

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209 ~~(b)~~ A notice that is sent pursuant to this paragraph
210 ~~subsection~~ is deemed delivered upon mailing.

211 (b) A claim of lien may be in substantially the following
212 form:

214 CLAIM OF LIEN

215
216 BEFORE ME, the undersigned notary public, personally appeared
217 (insert name) who was duly sworn and says that he is the
218 authorized agent of the lienor, (insert name of association)
219 , whose address is (insert address), and that in
220 accordance with the Cooperative Act and the cooperative
221 documents of (insert name of association), a
222 Cooperative, and the Articles of Incorporation and Bylaws of the
223 Association, the Association makes this claim of lien for
224 (insert basis for claim of lien), for the following
225 described real property:

226
227 UNIT NO. OF (NAME OF COOPERATIVE), A COOPERATIVE AS
228 SET FORTH IN THE COOPERATIVE DOCUMENTS AND THE EXHIBITS ANNEXED
229 THERE TO AND FORMING A PART THEREOF, RECORDED IN OFFICIAL RECORDS
230 BOOK, PAGE, OF THE PUBLIC RECORDS OF
231 COUNTY, FLORIDA. THE ABOVE DESCRIPTION INCLUDES, BUT IS NOT
232 LIMITED TO, ALL APPURTENANCES TO THE COOPERATIVE UNIT ABOVE
233 DESCRIBED, INCLUDING THE UNDIVIDED INTEREST IN THE COMMON
234 ELEMENTS OF SAID COOPERATIVE.

235
236 Upon which the Association asserts this lien. The property is
237 owned by (insert name of debtor) , Debtor. There remains
238 unpaid to the association, the sum of \$. This lien
239 secures these amounts, as well as any amounts and assessments
240 and interest that may accrue in the future.

241
242 (signature of witness) (signature of authorized agent)
243 (signature of witness)

244
245 (insert notary clause as appropriate)
246

247 It must be executed and acknowledged by an officer or authorized
248 agent of the association. The lien is not effective 1 year after
249 the claim of lien was recorded unless, within that time, an
250 action to enforce the lien is commenced. The 1-year period is
251 automatically extended for any length of time during which the
252 association is prevented from filing a foreclosure action by an
253 automatic stay resulting from a bankruptcy petition filed by the
254 parcel owner or any other person claiming an interest in the
255 parcel. The claim of lien secures all unpaid rents and
256 assessments that are due and that may accrue after the claim of
257 lien is recorded and through the entry of a final judgment, as
258 well as interest and all reasonable costs and attorney's fees
259 incurred by the association incident to the collection process.
260 Upon payment in full, the person making the payment is entitled

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261 to a satisfaction of the lien.

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

266
267 NOTICE OF CONTEST OF LIEN

268 TO: ...(Name and address of association)... You are
269 notified that the undersigned contests the claim of lien filed
270 by you on, ...(year)..., and recorded in Official Records
271 Book at Page, of the public records of County,
272 Florida, and that the time within which you may file suit to
273 enforce your lien is limited to 90 days from the date of service
274 of this notice. Executed this day of, ...(year)....
275 Signed: ...(Owner or Attorney)...

276
277 After notice of contest of lien has been recorded, the clerk of
278 the circuit court shall mail a copy of the recorded notice to
279 the association by certified mail, return receipt requested, at
280 the address shown in the claim of lien or most recent amendment
281 to it and shall certify to the service on the face of the
282 notice. Service is complete upon mailing. After service, the
283 association has 90 days in which to file an action to enforce
284 the lien; and, if the action is not filed within the 90-day
285 period, the lien is void. However, the 90-day period shall be
286 extended for any length of time during which the association is

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

(d) A release of lien may be in substantially the following form:

RELEASE OF LIEN

The undersigned lienor, in consideration of the final payment in the amount of \$, hereby waives and releases its lien and right to claim a lien for unpaid assessments through (insert date) , for the following described real property:

UNIT NO. OF (NAME OF COOPERATIVE) , A COOPERATIVE AS SET FORTH IN THE COOPERATIVE DOCUMENTS AND THE EXHIBITS ANNEXED THERETO AND FORMING A PART THEREOF, RECORDED IN OFFICIAL RECORDS BOOK , PAGE , OF THE PUBLIC RECORDS OF COUNTY, FLORIDA. THE ABOVE DESCRIPTION INCLUDES, BUT IS NOT LIMITED TO, ALL APPURTENANCES TO THE COOPERATIVE UNIT ABOVE DESCRIBED, INCLUDING THE UNDIVIDED INTEREST IN THE COMMON ELEMENTS OF SAID COOPERATIVE.

(signature of witness)

(signature of authorized agent)

(signature of witness)

(insert notary clause as appropriate)

Section 4. Subsection (1) of section 720.3085, Florida Statutes, is amended to read:

720.3085 Payment for assessments; lien claims.—

(1) When authorized by the governing documents, the association has a lien on each parcel to secure the payment of assessments and other amounts provided for by this section. Except as otherwise set forth in this section, the lien is effective from and shall relate back to the date on which the original declaration of the community was recorded. However, as to first mortgages of record, the lien is effective from and after recording of a claim of lien in the public records of the county in which the parcel is located. This subsection does not bestow upon any lien, mortgage, or certified judgment of record on July 1, 2008, including the lien for unpaid assessments created in this section, a priority that, by law, the lien, mortgage, or judgment did not have before July 1, 2008.

(a) ~~To be valid,~~ A claim of lien may be in substantially the following form: ~~must~~

CLAIM OF LIEN

BEFORE ME, the undersigned notary public, personally appeared
(insert name) who was duly sworn and says that he is the
authorized agent of the lienor, (insert name of association)

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339 , whose address is (insert address) , and that in
340 accordance with the Florida Statutes and the homeowners'
341 association documents of (insert name of association) , a
342 homeowners' association, and the Articles of Incorporation and
343 Bylaws of the Association, the Association makes this claim of
344 lien for (insert basis for claim of lien) , for the
345 following described real property:

346
347 (PARCEL NO. OR LOT AND BLOCK) OF (NAME
348 OF HOMEOWNERS' ASSOCIATION) , A HOMEOWNERS'
349 ASSOCIATION AS SET FORTH IN THE HOMEOWNERS'
350 ASSOCIATION DOCUMENTS AND THE EXHIBITS ANNEXED
351 THERE TO AND FORMING A PART THEREOF, RECORDED IN
352 OFFICIAL RECORDS BOOK , PAGE , OF THE
353 PUBLIC RECORDS OF COUNTY, FLORIDA.

354
355 (or insert appropriate metes and bounds
356 description here)

357
358 upon which the Association asserts this lien. The property is
359 owned by (insert name of debtor) , Debtor. There remains
360 unpaid to the association, the sum of \$. This lien
361 secures these amounts, as well as any amounts and assessments
362 and interest that may accrue in the future.

363
364 (signature of witness) (signature of authorized agent)

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365 (signature of witness)

367 (insert notary clause as appropriate)

368
369 ~~state the description of the parcel, the name of the record~~
370 ~~owner, the name and address of the association, the assessment~~
371 ~~amount due, and the due date.~~ The claim of lien secures all
372 unpaid assessments that are due and that may accrue subsequent
373 to the recording of the claim of lien and before entry of a
374 certificate of title, as well as interest, late charges, and
375 reasonable costs and attorney's fees incurred by the association
376 incident to the collection process. The person making payment is
377 entitled to a satisfaction of the lien upon payment in full.
378

379 (b) By recording a notice in substantially the following
380 form, a parcel owner or the parcel owner's agent or attorney may
381 require the association to enforce a recorded claim of lien
382 against his or her parcel:

383 NOTICE OF CONTEST OF LIEN

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

385 You are notified that the undersigned contests the claim of lien
386 filed by you on, ...(year)...., and recorded in Official
387 Records Book at page, of the public records of
388 County, Florida, and that the time within which you may file
389 suit to enforce your lien is limited to 90 days following the
390 date of service of this notice. Executed this day of,

... (year)

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

After the notice of a contest of lien has been recorded, the clerk of the circuit court shall mail a copy of the recorded notice to the association by certified mail, return receipt requested, at the address shown in the claim of lien or the most recent amendment to it and shall certify to the service on the face of the notice. Service is complete upon mailing. After service, the association has 90 days in which to file an action to enforce the lien and, if the action is not filed within the 90-day period, the lien is void. However, the 90-day period shall be extended for any length of time that the association is prevented from filing its action because of an automatic stay resulting from the filing of a bankruptcy petition by the parcel owner or by any other person claiming an interest in the parcel.

(d) A release of lien may be in substantially the following form:

RELEASE OF LIEN

The undersigned lienor, in consideration of the final payment in the amount of \$ _____, hereby waives and releases its lien and right to claim a lien for unpaid assessments through (insert date) _____, for the following described real property:

(PARCEL NO. OR LOT AND BLOCK) _____ OF _____ (NAME

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417 OF HOMEOWNERS' ASSOCIATION) , A HOMEOWNERS'
418 ASSOCIATION AS SET FORTH IN THE HOMEOWNERS'
419 ASSOCIATION DOCUMENTS AND THE EXHIBITS ANNEXED
420 THERE TO AND FORMING A PART THEREOF, RECORDED IN
421 OFFICIAL RECORDS BOOK , PAGE , OF THE
422 PUBLIC RECORDS OF COUNTY, FLORIDA.

423
424 (or insert appropriate metes and bounds
425 description here)

426
427 (signature of witness) (signature of authorized agent)
428 (signature of witness)

429
430 (insert notary clause as appropriate)

431
432 (e)~~(d)~~ If the parcel owner remains in possession of the
433 parcel after a foreclosure judgment has been entered, the court
434 may require the parcel owner to pay a reasonable rent for the
435 parcel. If the parcel is rented or leased during the pendency of
436 the foreclosure action, the association is entitled to the
437 appointment of a receiver to collect the rent. The expenses of
438 the receiver must be paid by the party who does not prevail in
439 the foreclosure action.

440 (f)~~(e)~~ The association may purchase the parcel at the
441 foreclosure sale and hold, lease, mortgage, or convey the
442 parcel.

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443 Section 5. This act shall take effect July 1, 2014.

444