

By the Committees on Military Affairs and Domestic Security; and Regulated Industries; and Senators Fasano, Ring, and Gaetz

583-03052A-10

20101196c2

1 A bill to be entitled
2 An act relating to community associations; amending s.
3 399.02, F.S.; exempting certain elevators from
4 specific code update requirements; providing a phase-
5 in period for such elevators; amending s. 617.0721,
6 F.S.; revising the limitations on the right of members
7 to vote on corporate matters for certain corporations
8 not for profit that are regulated under ch. 718 or ch.
9 719, F.S.; amending s. 617.0808, F.S.; excepting
10 certain corporations not for profit that are an
11 association as defined in s. 720.301, F.S., or a
12 corporation regulated under ch. 718 or ch. 719, F.S.,
13 from certain provisions relating to the removal of a
14 director; amending s. 617.1606, F.S.; providing that
15 certain statutory provisions providing for the
16 inspection of corporate records do not apply to a
17 corporation not for profit that is an association as
18 defined in s. 720.301, or a corporation regulated
19 under ch. 718 or ch. 719, F.S.; creating s. 627.714,
20 F.S.; requiring that coverage under a unit owner's
21 policy for certain assessments include at least a
22 minimum amount of loss assessment coverage; requiring
23 that every property insurance policy to an individual
24 unit owner contain a specified provision; amending s.
25 633.0215, F.S.; exempting certain residential
26 buildings from a requirement to install a manual fire
27 alarm system; amending s. 718.103, F.S.; redefining
28 the term "developer"; amending s. 718.110, F.S.;
29 allowing the condominium association to have the

583-03052A-10

20101196c2

30 authority to restrict through an amendment to a
31 declaration of condominium, rather than prohibit, the
32 rental of condominium units; amending s. 718.111,
33 F.S.; deleting a requirement for the board of a
34 condominium to hold a meeting open to unit owners to
35 establish the amount of an insurance deductible;
36 revising the property to which a property insurance
37 policy for a condominium association applies; revising
38 the requirements for a condominium unit owner's
39 property insurance policy; limiting the circumstances
40 under which a person who violates requirements to
41 maintain association records may be personally liable
42 for a civil penalty; providing that a condominium
43 association is not responsible for the use of certain
44 information provided to an association member under
45 certain circumstances; specifying records of a
46 condominium association that are exempt from a
47 requirement for records to be available for inspection
48 by an association member; increasing the amount of
49 time within which a condominium association must
50 provide unit owners with a copy of the association's
51 annual financial report; revising the requirements for
52 rules relating to the financial report that must be
53 adopted by the Division of Florida Condominiums,
54 Timeshares, and Mobile Homes of the Department of
55 Business and Professional Regulation; revising the
56 requirements for a financial report based on the
57 amount of a condominium's revenues; amending s.
58 718.112, F.S.; revising provisions relating to the

583-03052A-10

20101196c2

59 terms or appointment or election of condominium
60 members to a board of administration; creating
61 exceptions to such provisions for condominiums that
62 contain timeshares; specifying a certification that a
63 person who is appointed or elected to a board of
64 administration must make or educational requirements
65 such board member must satisfy; conforming cross-
66 references to changes made by the act; deleting a
67 provision prohibiting an association from foregoing
68 the retrofitting with a fire sprinkler system of
69 common areas in a high-rise building; prohibiting
70 local authorities having jurisdiction from requiring
71 retrofitting with a sprinkler system or other
72 engineered lifesafety system before a specified date;
73 authorizing an association to forgo retrofitting under
74 certain circumstances; providing requirements for a
75 special meeting of unit owners which may be called
76 every 3 years in order to vote to forgo retrofitting
77 of the sprinkler system or other engineered lifesafety
78 systems; providing meeting notice requirements;
79 expanding the monetary obligations that a director or
80 officer must satisfy to avoid abandoning his or her
81 office; amending s. 718.115, F.S.; specifying certain
82 services provided in a declaration of condominium
83 which are obtained pursuant to a bulk contract to be
84 deemed a common expense; specifying provisions that
85 must be contained in a bulk contract; specifying
86 cancellation procedures for bulk contracts; amending
87 s. 718.116, F.S.; specifying the types of costs that

583-03052A-10

20101196c2

88 may be charged against assessment payments made by a
89 unit owner; requiring a tenant in a unit owned by a
90 person who is delinquent in the payment of a monetary
91 obligation to the condominium association to pay rent
92 to the association under certain circumstances;
93 authorizing the condominium association to sue such
94 tenant who fails to pay rent for eviction under
95 certain circumstances; providing that the tenant is
96 immune from claims from the unit owner as the result
97 of paying rent to the association under certain
98 circumstances; amending s. 718.117, F.S.; revising the
99 circumstances under which a condominium association
100 may be terminated due to economic waste or
101 impossibility; revising provisions specifying the
102 effect of a termination of condominium; amending s.
103 718.301, F.S.; revising conditions under which unit
104 owners other than the developer may elect at least a
105 majority of the members of the board of administration
106 of an association; amending s. 718.303, F.S.;

107 authorizing an association to suspend for a reasonable
108 time the right of a unit owner or the unit's occupant,
109 licensee, or invitee to use certain common elements
110 under certain circumstances; prohibiting a fine from
111 being levied or a suspension from being imposed unless
112 the association meets certain requirements for notice
113 and provides an opportunity for a hearing; authorizing
114 an association to suspend voting rights of a member
115 due to nonpayment of assessments, fines, or other
116 charges under certain circumstances; amending s.

583-03052A-10

20101196c2

117 718.501, F.S.; specifying that the jurisdiction of the
118 Division of Florida Condominiums, Timeshares, and
119 Mobile Homes includes bulk assignees and bulk buyers;
120 creating part VII of ch. 718, F.S.; creating the
121 "Distressed Condominium Relief Act"; providing
122 legislative findings and intent; defining the terms
123 "bulk assignee" and "bulk buyer"; providing for the
124 assignment of developer rights by a bulk assignee;
125 specifying liabilities of bulk assignees and bulk
126 buyers; providing exceptions; providing additional
127 responsibilities of bulk assignees and bulk buyers;
128 authorizing certain entities to assign developer
129 rights to a bulk assignee; limiting the number of bulk
130 assignees at any given time; providing for the
131 transfer of control of a board of administration to
132 unit owners; providing effects of such transfer on
133 parcels acquired by a bulk assignee; providing
134 obligations of a bulk assignee upon the transfer of
135 control of a board of administration; requiring that a
136 bulk assignee certify certain information in writing;
137 providing for the resolution of a conflict between
138 specified provisions of state law; providing that the
139 failure of a bulk assignee or bulk buyer to comply
140 with specified provisions of state law results in the
141 loss of certain protections and exemptions; requiring
142 that a bulk assignee or bulk buyer file certain
143 information with the Division of Florida Condominiums,
144 Timeshares, and Mobile Homes of the Department of
145 Business and Professional Regulation before offering

583-03052A-10

20101196c2

146 any units for sale or lease in excess of a specified
147 term; requiring that a copy of such information be
148 provided to a prospective purchaser or tenant;
149 requiring that certain contracts and disclosure
150 statements contain specified statements; requiring
151 that a bulk assignee or bulk buyer comply with certain
152 disclosure requirements; prohibiting a bulk assignee
153 from authorizing certain actions on behalf of an
154 association while the bulk assignee is in control of
155 the board of administration of the association;
156 requiring that a bulk assignee or bulk buyer comply
157 with certain laws with respect to contracts entered
158 into by the association while the bulk assignee or
159 bulk buyer was in control of the board of
160 administration; providing parcel owners with specified
161 protections regarding certain contracts; requiring
162 that a bulk buyer comply with certain requirements
163 regarding the transfer of a parcel; prohibiting a
164 person from being classified as a bulk assignee or
165 bulk buyer unless condominium parcels were acquired
166 before a specified date; providing that the assignment
167 of developer rights to a bulk assignee does not
168 release a developer from certain liabilities; amending
169 s. 719.106, F.S.; providing for the filling of
170 vacancies on the condominium board of administration;
171 amending s. 719.1055, F.S.; providing an additional
172 required provision in cooperative bylaws; deleting a
173 provision prohibiting an association from foregoing
174 the retrofitting with a fire sprinkler system of

583-03052A-10

20101196c2

175 common areas in a high-rise building; prohibiting
176 local authorities having jurisdiction from requiring
177 retrofitting with a sprinkler system or other
178 engineered lifesafety system before a specified date;
179 providing requirements for a special meeting of unit
180 owners which may be called every 3 years in order to
181 vote to require retrofitting of the sprinkler system
182 or other engineered lifesafety system; providing
183 meeting notice requirements; amending s. 719.108,
184 F.S.; specifying the types of costs that may be
185 charged against assessment payments made by a unit
186 owner; providing a prioritized list for disbursement
187 of payments received by an association; providing for
188 a lien by an association on a condominium unit for
189 certain fees and costs; providing procedures and
190 notice requirements for the filing of a lien by an
191 association; requiring a tenant in a unit owned by a
192 person who is delinquent in the payment of a monetary
193 obligation to the condominium association to pay rent
194 to the association under certain circumstances;
195 amending s. 720.304, F.S.; providing that a flagpole
196 and any flagpole display are subject to certain codes
197 and regulations; amending s. 720.305, F.S.;

198 authorizing the association to suspend rights to use
199 common areas and facilities if the member is
200 delinquent on the payment of a monetary obligation due
201 for a certain period of time; providing procedures and
202 notice requirements for levying a fine or imposing a
203 suspension; amending s. 720.306, F.S.; providing

583-03052A-10

20101196c2

204 procedures for filling a vacancy on the board of
205 directors; amending s. 720.3085, F.S.; requiring a
206 tenant in a property owned by a person who is
207 delinquent in the payment of a monetary obligation to
208 the condominium association to pay rent to the
209 association under certain circumstances; amending s.
210 720.31, F.S.; authorizing an association to enter into
211 certain agreements to use lands or facilities;
212 requiring that certain items be stated and fully
213 described in the declaration; limiting an
214 association's power to enter into such agreements
215 after a specified period following the recording of a
216 declaration; requiring that certain agreements be
217 approved by a specified percentage of voting interests
218 of an association when the declaration is silent as to
219 the authority of an association to enter into such
220 agreement; authorizing an association to join with
221 other associations or a master association under
222 certain circumstances and for specified purposes;
223 amending s. 720.303, F.S.; revising provisions
224 relating to homeowners' association board meetings,
225 inspection and copying of records, and reserve
226 accounts of budgets; expanding the list of association
227 records that are not accessible to members and parcel
228 owners; prohibiting certain association personnel from
229 receiving a salary or compensation; providing
230 exceptions; amending s. 720.306, F.S.; providing
231 requirements for secret ballots; providing for filling
232 vacancies on the homeowners' association board;

583-03052A-10

20101196c2

233 amending s. 720.3085, F.S.; specifying the types of
234 costs that may be charged against assessment payments
235 made by a unit owner; creating s. 720.315, F.S.;
236 prohibiting the board of directors of a homeowners'
237 association from levying a special assessment before
238 turnover of the association by the developer unless
239 certain conditions are met; providing an effective
240 date.

241

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

243

244 Section 1. Subsection (8) is added to section 399.02,
245 Florida Statutes, to read:

246 399.02 General requirements.—

247 (8) Updates to the code requiring modifications for Phase
248 II Firefighters' Service on existing elevators, as amended into
249 the Safety Code for Existing Elevators and Escalators, ASME
250 A17.1 and A17.3, may not be enforced on elevators in
251 condominiums or cooperatives issued a certificate of occupancy
252 by the local building authority as of July 1, 2008, for 5 years
253 or until the elevator is replaced or requires major
254 modification, whichever occurs first. This exception does not
255 apply to a building for which a certificate of occupancy was
256 issued after July 1, 2008. This exception does not prevent an
257 elevator owner from requesting a variance from the applicable
258 codes before or after the expiration of the 5-year term. This
259 subsection does not prohibit the division from granting
260 variances pursuant to s. 120.542. The division shall adopt rules
261 to administer this subsection.

583-03052A-10

20101196c2

262 Section 2. Subsection (7) of section 617.0721, Florida
263 Statutes, is amended to read:

264 617.0721 Voting by members.—

265 (7) Subsections (1), ~~(2)~~, (5), and (6) do not apply to a
266 corporation that is an association, as defined in s. 720.301, or
267 a corporation regulated by chapter 718 or chapter 719.

268 Section 3. Subsection (3) is added to section 617.0808,
269 Florida Statutes, to read:

270 617.0808 Removal of directors.—

271 (3) This section does not apply to any corporation that is
272 an association, as defined in s. 720.301, or a corporation
273 regulated under chapter 718 or chapter 719.

274 Section 4. Section 617.1606, Florida Statutes, is created
275 to read:

276 617.1606 Access to records.—Sections 617.1601-617.1605 do
277 not apply to a corporation that is an association, as defined in
278 s. 720.301, or a corporation regulated under chapter 718 or
279 chapter 719.

280 Section 5. Section 627.714, Florida Statutes, is created to
281 read:

282 627.714 Residential condominium unit owner coverage; loss
283 assessment coverage required.—For policies issued or renewed on
284 or after July 1, 2010, coverage under a unit owner's residential
285 property policy must include at least \$2,000 in property loss
286 assessment coverage for all assessments made as a result of the
287 same direct loss to the property, regardless of the number of
288 assessments, owned by all members of the association
289 collectively if such loss is of the type of loss covered by the
290 unit owner's residential property insurance policy, to which a

583-03052A-10

20101196c2

291 deductible of no more than \$250 per direct property loss
292 applies. If a deductible was or will be applied to other
293 property loss sustained by the unit owner resulting from the
294 same direct loss to the property, no deductible applies to the
295 loss assessment coverage. Every individual unit owner's
296 residential property policy must contain a provision stating
297 that the coverage afforded by such policy is excess coverage
298 over the amount recoverable under any other policy covering the
299 same property.

300 Section 6. Subsection (13) is added to section 633.0215,
301 Florida Statutes, to read:

302 633.0215 Florida Fire Prevention Code.—

303 (13) A condominium, cooperative, or multifamily residential
304 building that is less than four stories in height and has a
305 corridor providing an exterior means of egress is exempt from
306 the requirement to install a manual fire alarm system under s.
307 9.6 of the Life Safety Code adopted in the Florida Fire
308 Prevention Code.

309 Section 7. Subsection (16) of section 718.103, Florida
310 Statutes, is amended to read:

311 718.103 Definitions.—As used in this chapter, the term:

312 (16) "Developer" means a person who creates a condominium
313 or offers condominium parcels for sale or lease in the ordinary
314 course of business, but does not include:

315 (a) An owner or lessee of a condominium or cooperative unit
316 who has acquired the unit for his or her own occupancy; ~~nor~~
317 ~~does it include~~

318 (b) A cooperative association that ~~which~~ creates a
319 condominium by conversion of an existing residential cooperative

583-03052A-10

20101196c2

320 after control of the association has been transferred to the
321 unit owners if, following the conversion, the unit owners are
322 ~~will be~~ the same persons who were unit owners of the cooperative
323 and no units are offered for sale or lease to the public as part
324 of the plan of conversion;—

325 (c) A bulk assignee or bulk buyer as defined in s. 718.703;

326 or

327 (d) A state, county, or municipal entity ~~is not a developer~~
328 ~~for any purposes under this act when it is~~ acting as a lessor
329 and not otherwise named as a developer in the declaration of
330 condominium association.

331 Section 8. Subsection (13) of section 718.110, Florida
332 Statutes, is amended to read:

333 718.110 Amendment of declaration; correction of error or
334 omission in declaration by circuit court.—

335 (13) An ~~Any~~ amendment prohibiting restricting unit owners
336 from renting their units or altering the duration of the rental
337 term or specifying or limiting the number of times unit owners
338 are entitled to rent their units during a specified period
339 ~~owners' rights relating to the rental of units~~ applies only to
340 unit owners who consent to the amendment and unit owners who
341 acquire title to purchase their units after the effective date
342 of that amendment.

343 Section 9. Paragraphs (a), (b), (c), (d), (f), (g), (j),
344 and (n) of subsection (11) and subsections (12) and (13) of
345 section 718.111, Florida Statutes, are amended to read:

346 718.111 The association.—

347 (11) INSURANCE.—In order to protect the safety, health, and
348 welfare of the people of the State of Florida and to ensure

583-03052A-10

20101196c2

349 consistency in the provision of insurance coverage to
350 condominiums and their unit owners, this subsection applies to
351 every residential condominium in the state, regardless of the
352 date of its declaration of condominium. It is the intent of the
353 Legislature to encourage lower or stable insurance premiums for
354 associations described in this subsection.

355 (a) Adequate property ~~hazard~~ insurance, regardless of any
356 requirement in the declaration of condominium for coverage by
357 the association for full insurable value, replacement cost, or
358 similar coverage, must ~~shall~~ be based on ~~upon~~ the replacement
359 cost of the property to be insured as determined by an
360 independent insurance appraisal or update of a prior appraisal.
361 The replacement cost ~~must full insurable value shall~~ be
362 determined at least once every 36 months.

363 1. An association or group of associations may provide
364 adequate property ~~hazard~~ insurance through a self-insurance fund
365 that complies with the requirements of ss. 624.460-624.488.

366 2. The association may also provide adequate property
367 ~~hazard~~ insurance coverage for a group of at least ~~no fewer than~~
368 three communities created and operating under this chapter,
369 chapter 719, chapter 720, or chapter 721 by obtaining and
370 maintaining for such communities insurance coverage sufficient
371 to cover an amount equal to the probable maximum loss for the
372 communities for a 250-year windstorm event. Such probable
373 maximum loss must be determined through the use of a competent
374 model that has been accepted by the Florida Commission on
375 Hurricane Loss Projection Methodology. A ~~No~~ policy or program
376 providing such coverage may not ~~shall~~ be issued or renewed after
377 July 1, 2008, unless it has been reviewed and approved by the

583-03052A-10

20101196c2

378 Office of Insurance Regulation. The review and approval must
379 ~~shall~~ include approval of the policy and related forms pursuant
380 to ss. 627.410 and 627.411, approval of the rates pursuant to s.
381 627.062, a determination that the loss model approved by the
382 commission was accurately and appropriately applied to the
383 insured structures to determine the 250-year probable maximum
384 loss, and a determination that complete and accurate disclosure
385 of all material provisions is provided to condominium unit
386 owners before ~~prior to~~ execution of the agreement by a
387 condominium association.

388 3. When determining the adequate amount of property hazard
389 insurance coverage, the association may consider deductibles as
390 determined by this subsection.

391 (b) If an association is a developer-controlled
392 association, the association shall exercise its best efforts to
393 obtain and maintain insurance as described in paragraph (a).
394 Failure to obtain and maintain adequate property hazard
395 insurance during any period of developer control constitutes a
396 breach of fiduciary responsibility by the developer-appointed
397 members of the board of directors of the association, unless the
398 members can show that despite such failure, they have made their
399 best efforts to maintain the required coverage.

400 (c) Policies may include deductibles as determined by the
401 board.

402 1. The deductibles must ~~shall~~ be consistent with industry
403 standards and prevailing practice for communities of similar
404 size and age, and having similar construction and facilities in
405 the locale where the condominium property is situated.

406 2. The deductibles may be based upon available funds,

583-03052A-10

20101196c2

407 including reserve accounts, or predetermined assessment
408 authority at the time the insurance is obtained.

409 3. The board shall establish the amount of deductibles
410 based upon the level of available funds and predetermined
411 assessment authority at a meeting of the board. ~~Such meeting~~
412 ~~shall be open to all unit owners~~ in the manner set forth in s.
413 718.112(2)(e). ~~The notice of such meeting must state the~~
414 ~~proposed deductible and the available funds and the assessment~~
415 ~~authority relied upon by the board and estimate any potential~~
416 ~~assessment amount against each unit, if any. The meeting~~
417 ~~described in this paragraph may be held in conjunction with a~~
418 ~~meeting to consider the proposed budget or an amendment thereto.~~

419 (d) An association controlled by unit owners operating as a
420 residential condominium shall use its best efforts to obtain and
421 maintain adequate property insurance to protect the association,
422 the association property, the common elements, and the
423 condominium property that must ~~is required to~~ be insured by the
424 association pursuant to this subsection.

425 (f) Every property ~~hazard~~ insurance policy issued or
426 renewed on or after January 1, 2009, for the purpose of
427 protecting the condominium must ~~shall~~ provide primary coverage
428 for:

429 1. All portions of the condominium property as originally
430 installed or replacement of like kind and quality, in accordance
431 with the original plans and specifications.

432 2. All alterations or additions made to the condominium
433 property or association property pursuant to s. 718.113(2).

434 3. The coverage must ~~shall~~ exclude all personal property
435 within the unit or limited common elements, and floor, wall, and

583-03052A-10

20101196c2

436 ceiling coverings, electrical fixtures, appliances, water
437 heaters, water filters, built-in cabinets and countertops, and
438 window treatments, including curtains, drapes, blinds, hardware,
439 and similar window treatment components, or replacements of any
440 of the foregoing which are located within the boundaries of the
441 unit and serve only such unit. Such property and any insurance
442 thereupon is the responsibility of the unit owner.

443 (g) A condominium unit owner's policy must conform to the
444 requirements of s. 627.714. ~~Every hazard insurance policy issued~~
445 ~~or renewed on or after January 1, 2009, to an individual unit~~
446 ~~owner must contain a provision stating that the coverage~~
447 ~~afforded by such policy is excess coverage over the amount~~
448 ~~recoverable under any other policy covering the same property.~~
449 ~~Such policies must include special assessment coverage of no~~
450 ~~less than \$2,000 per occurrence. An insurance policy issued to~~
451 ~~an individual unit owner providing such coverage does not~~
452 ~~provide rights of subrogation against the condominium~~
453 ~~association operating the condominium in which such individual's~~
454 ~~unit is located.~~

455 1. ~~All improvements or additions to the condominium~~
456 ~~property that benefit fewer than all unit owners shall be~~
457 ~~insured by the unit owner or owners having the use thereof, or~~
458 ~~may be insured by the association at the cost and expense of the~~
459 ~~unit owners having the use thereof.~~

460 2. ~~The association shall require each owner to provide~~
461 ~~evidence of a currently effective policy of hazard and liability~~
462 ~~insurance upon request, but not more than once per year. Upon~~
463 ~~the failure of an owner to provide a certificate of insurance~~
464 ~~issued by an insurer approved to write such insurance in this~~

583-03052A-10

20101196c2

465 ~~state within 30 days after the date on which a written request~~
466 ~~is delivered, the association may purchase a policy of insurance~~
467 ~~on behalf of an owner. The cost of such a policy, together with~~
468 ~~reconstruction costs undertaken by the association but which are~~
469 ~~the responsibility of the unit owner, may be collected in the~~
470 ~~manner provided for the collection of assessments in s. 718.116.~~

471 1.3. All reconstruction work after a property ~~casualty~~ loss
472 must ~~shall~~ be undertaken by the association except as otherwise
473 authorized in this section. A unit owner may undertake
474 reconstruction work on portions of the unit with the prior
475 written consent of the board of administration. However, such
476 work may be conditioned upon the approval of the repair methods,
477 the qualifications of the proposed contractor, or the contract
478 that is used for that purpose. A unit owner must ~~shall~~ obtain
479 all required governmental permits and approvals before ~~prior to~~
480 commencing reconstruction.

481 2.4. Unit owners are responsible for the cost of
482 reconstruction of any portions of the condominium property for
483 which the unit owner is required to carry property ~~casualty~~
484 insurance, and any such reconstruction work undertaken by the
485 association is ~~shall be~~ chargeable to the unit owner and
486 enforceable as an assessment pursuant to s. 718.116. ~~The~~
487 ~~association must be an additional named insured and loss payee~~
488 ~~on all casualty insurance policies issued to unit owners in the~~
489 ~~condominium operated by the association.~~

490 3.5. A multicondominium association may elect, by a
491 majority vote of the collective members of the condominiums
492 operated by the association, to operate the ~~such~~ condominiums as
493 a single condominium for purposes of insurance matters,

583-03052A-10

20101196c2

494 including, but not limited to, the purchase of the property
495 ~~hazard~~ insurance required by this section and the apportionment
496 of deductibles and damages in excess of coverage. The election
497 to aggregate the treatment of insurance premiums, deductibles,
498 and excess damages constitutes an amendment to the declaration
499 of all condominiums operated by the association, and the costs
500 of insurance must ~~shall~~ be stated in the association budget. The
501 amendments must ~~shall~~ be recorded as required by s. 718.110.

502 (j) Any portion of the condominium property that must
503 ~~required to~~ be insured by the association against property
504 ~~casualty~~ loss pursuant to paragraph (f) which is damaged by
505 ~~casualty~~ shall be reconstructed, repaired, or replaced as
506 necessary by the association as a common expense. All property
507 ~~hazard~~ insurance deductibles, uninsured losses, and other
508 damages in excess of property ~~hazard~~ insurance coverage under
509 the property ~~hazard~~ insurance policies maintained by the
510 association are a common expense of the condominium, except
511 that:

512 1. A unit owner is responsible for the costs of repair or
513 replacement of any portion of the condominium property not paid
514 by insurance proceeds, if such damage is caused by intentional
515 conduct, negligence, or failure to comply with the terms of the
516 declaration or the rules of the association by a unit owner, the
517 members of his or her family, unit occupants, tenants, guests,
518 or invitees, without compromise of the subrogation rights of the
519 ~~any insurer as set forth in paragraph (g)~~.

520 2. The provisions of subparagraph 1. regarding the
521 financial responsibility of a unit owner for the costs of
522 repairing or replacing other portions of the condominium

583-03052A-10

20101196c2

523 property also apply to the costs of repair or replacement of
524 personal property of other unit owners or the association, as
525 well as other property, whether real or personal, which the unit
526 owners are required to insure ~~under paragraph (g)~~.

527 3. To the extent the cost of repair or reconstruction for
528 which the unit owner is responsible under this paragraph is
529 reimbursed to the association by insurance proceeds, and, ~~to the~~
530 ~~extent~~ the association has collected the cost of such repair or
531 reconstruction from the unit owner, the association shall
532 reimburse the unit owner without the waiver of any rights of
533 subrogation.

534 4. The association is not obligated to pay for
535 reconstruction or repairs of property casualty losses as a
536 common expense if the property casualty losses were known or
537 should have been known to a unit owner and were not reported to
538 the association until after the insurance claim of the
539 association for that property casualty was settled or resolved
540 with finality, or denied because ~~on the basis that~~ it was
541 untimely filed.

542 (n) The association is not obligated to pay for any
543 reconstruction or repair expenses due to property casualty loss
544 to any improvements installed by a current or former owner of
545 the unit or by the developer if the improvement benefits only
546 the unit for which it was installed and is not part of the
547 standard improvements installed by the developer on all units as
548 part of original construction, whether or not such improvement
549 is located within the unit. This paragraph does not relieve any
550 party of its obligations regarding recovery due under any
551 insurance implemented specifically for ~~any~~ such improvements.

583-03052A-10

20101196c2

552 (12) OFFICIAL RECORDS.—

553 (a) From the inception of the association, the association
554 shall maintain each of the following items, if ~~when~~ applicable,
555 which shall constitute the official records of the association:

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

558 2. A photocopy of the recorded declaration of condominium
559 of each condominium operated by the association and of each
560 amendment to each declaration.

561 3. A photocopy of the recorded bylaws of the association
562 and of each amendment to the bylaws.

563 4. A certified copy of the articles of incorporation of the
564 association, or other documents creating the association, and of
565 each amendment thereto.

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

567 6. A book or books which contain the minutes of all
568 meetings of the association, of the board of administration, and
569 of unit owners, which minutes must ~~shall~~ be retained for at
570 least ~~a period of not less than~~ 7 years.

571 7. A current roster of all unit owners and their mailing
572 addresses, unit identifications, voting certifications, and, if
573 known, telephone numbers. The association shall also maintain
574 the electronic mailing addresses and the numbers designated by
575 unit owners for receiving notice sent by electronic transmission
576 of those unit owners consenting to receive notice by electronic
577 transmission. The electronic mailing addresses and numbers must
578 ~~provided by unit owners to receive notice by electronic~~
579 ~~transmission shall~~ be removed from association records if ~~when~~
580 consent to receive notice by electronic transmission is revoked.

583-03052A-10

20101196c2

581 However, the association is not liable for an erroneous
582 disclosure of the electronic mail address or the number for
583 receiving electronic transmission of notices.

584 8. All current insurance policies of the association and
585 condominiums operated by the association.

586 9. A current copy of any management agreement, lease, or
587 other contract to which the association is a party or under
588 which the association or the unit owners have an obligation or
589 responsibility.

590 10. Bills of sale or transfer for all property owned by the
591 association.

592 11. Accounting records for the association and separate
593 accounting records for each condominium which the association
594 operates. All accounting records shall be maintained for at
595 least a period of not less than 7 years. Any person who
596 knowingly or intentionally defaces or destroys accounting
597 records required to be created and maintained by this chapter
598 during the period for which such records are required to be
599 maintained, or who knowingly or intentionally fails to create or
600 maintain such ~~accounting~~ records ~~required to be maintained by~~
601 ~~this chapter~~, with the intent of causing harm to the association
602 or one or more of its members, is personally subject to a civil
603 penalty pursuant to s. 718.501(1)(d). The accounting records
604 must ~~shall~~ include, but are not limited to:

605 a. Accurate, itemized, and detailed records of all receipts
606 and expenditures.

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

583-03052A-10

20101196c2

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

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

613 d. All contracts for work to be performed. Bids for work to
614 be performed are ~~shall~~ also be considered official records and
615 must ~~shall~~ be maintained by the association.

616 12. Ballots, sign-in sheets, voting proxies, and all other
617 papers relating to voting by unit owners, which must ~~shall~~ be
618 maintained for ~~a period of~~ 1 year from the date of the election,
619 vote, or meeting to which the document relates, notwithstanding
620 paragraph (b).

621 13. All rental records if, ~~when~~ the association is acting
622 as agent for the rental of condominium units.

623 14. A copy of the current question and answer sheet as
624 described in ~~by~~ s. 718.504.

625 15. All other records of the association not specifically
626 included in the foregoing which are related to the operation of
627 the association.

628 16. A copy of the inspection report as provided ~~for~~ in s.
629 718.301(4)(p).

630 (b) The official records of the association must ~~shall~~ be
631 maintained within the state for at least 7 years. The records of
632 the association shall be made available to a unit owner within
633 45 miles of the condominium property or within the county in
634 which the condominium property is located within 5 working days
635 after receipt of a written request by the board or its designee.
636 However, such distance requirement does not apply to an
637 association governing a timeshare condominium. This paragraph
638 may be complied with by having a copy of the official records of

583-03052A-10

20101196c2

639 the association available for inspection or copying on the
640 condominium property or association property, or the association
641 may offer the option of making the records ~~of the association~~
642 available to a unit owner ~~either~~ electronically via the Internet
643 or by allowing the records to be viewed in electronic format on
644 a computer screen and printed upon request. The association is
645 not responsible for the use or misuse of the information
646 provided to an association member or his or her authorized
647 representative pursuant to the compliance requirements of this
648 chapter unless the association has an affirmative duty not to
649 disclose such information pursuant to this chapter.

650 (c) The official records of the association are open to
651 inspection by any association member or the authorized
652 representative of such member at all reasonable times. The right
653 to inspect the records includes the right to make or obtain
654 copies, at the reasonable expense, if any, of the ~~association~~
655 member. The association may adopt reasonable rules regarding the
656 frequency, time, location, notice, and manner of record
657 inspections and copying. The failure of an association to
658 provide the records within 10 working days after receipt of a
659 written request creates ~~shall create~~ a rebuttable presumption
660 that the association willfully failed to comply with this
661 paragraph. A unit owner who is denied access to official records
662 is entitled to the actual damages or minimum damages for the
663 association's willful failure to comply ~~with this paragraph~~. ~~The~~
664 Minimum damages shall be \$50 per calendar day up to 10 days, the
665 calculation to begin on the 11th working day after receipt of
666 the written request. The failure to permit inspection of the
667 association records as provided herein entitles any person

583-03052A-10

20101196c2

668 prevailing in an enforcement action to recover reasonable
669 attorney's fees from the person in control of the records who,
670 directly or indirectly, knowingly denied access to the records
671 ~~for inspection~~. Any person who knowingly or intentionally
672 defaces or destroys accounting records that are required by this
673 chapter to be maintained during the period for which such
674 records are required to be maintained, or who knowingly or
675 intentionally fails to create or maintain accounting records
676 that are required to be created or maintained ~~by this chapter~~,
677 with the intent of causing harm to the association or one or
678 more of its members, is personally subject to a civil penalty
679 pursuant to s. 718.501(1)(d). The association shall maintain an
680 adequate number of copies of the declaration, articles of
681 incorporation, bylaws, and rules, and all amendments to each of
682 the foregoing, as well as the question and answer sheet provided
683 for in s. 718.504 and year-end financial information required in
684 this section, on the condominium property to ensure their
685 availability to unit owners and prospective purchasers, and may
686 charge its actual costs for preparing and furnishing these
687 documents to those requesting the documents ~~same~~.

688 Notwithstanding the provisions of this paragraph, the following
689 records are ~~shall~~ not be accessible to unit owners:

690 1. Any record protected by the lawyer-client privilege as
691 described in s. 90.502; and any record protected by the work-
692 product privilege, including any record prepared by an
693 association attorney or prepared at the attorney's express
694 direction; which reflects a mental impression, conclusion,
695 litigation strategy, or legal theory of the attorney or the
696 association, and which was prepared exclusively for civil or

583-03052A-10

20101196c2

697 criminal litigation or for adversarial administrative
698 proceedings, or which was prepared in anticipation of imminent
699 civil or criminal litigation or imminent adversarial
700 administrative proceedings until the conclusion of the
701 litigation or adversarial administrative proceedings.

702 2. Information obtained by an association in connection
703 with the approval of the lease, sale, or other transfer of a
704 unit.

705 3. Personnel records of association employees, including,
706 but not limited to, disciplinary, payroll, health, and insurance
707 records.

708 4.3. Medical records of unit owners.

709 5.4. Social security numbers, driver's license numbers,
710 credit card numbers, e-mail addresses, telephone numbers,
711 emergency contact information, any addresses of a unit owner
712 other than as provided to fulfill the association's notice
713 requirements, and other personal identifying information of any
714 person, excluding the person's name, unit designation, mailing
715 address, and property address.

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

718 7. The software and operating system used by the
719 association which allows manipulation of data, even if the owner
720 owns a copy of the same software used by the association. The
721 data is part of the official records of the association.

722 (13) FINANCIAL REPORTING.—Within 90 days after the end of
723 the fiscal year, or annually on a date provided in the bylaws,
724 the association shall prepare and complete, or contract for the
725 preparation and completion of, a financial report for the

583-03052A-10

20101196c2

726 preceding fiscal year. Within 21 days after the final financial
727 report is completed by the association or received from the
728 third party, but not later than 120 days after the end of the
729 fiscal year or other date as provided in the bylaws, the
730 association shall mail to each unit owner at the address last
731 furnished to the association by the unit owner, or hand deliver
732 to each unit owner, a copy of the financial report or a notice
733 that a copy of the financial report will be mailed or hand
734 delivered to the unit owner, without charge, upon receipt of a
735 written request from the unit owner. The division shall adopt
736 rules setting forth uniform accounting principles and standards
737 to be used by all associations and ~~shall adopt rules~~ addressing
738 the financial reporting requirements for multicondominium
739 associations. The rules must ~~shall~~ include, but not be limited
740 to, standards for presenting a summary of association reserves,
741 including a good faith estimate disclosing the annual amount of
742 reserve funds that would be necessary for the association to
743 fully fund reserves for each reserve item based on the straight-
744 line accounting method. This disclosure is not applicable to
745 reserves funded via the pooling method. ~~uniform accounting~~
746 ~~principles and standards for stating the disclosure of at least~~
747 ~~a summary of the reserves, including information as to whether~~
748 ~~such reserves are being funded at a level sufficient to prevent~~
749 ~~the need for a special assessment and, if not, the amount of~~
750 ~~assessments necessary to bring the reserves up to the level~~
751 ~~necessary to avoid a special assessment. The person preparing~~
752 ~~the financial reports shall be entitled to rely on an inspection~~
753 ~~report prepared for or provided to the association to meet the~~
754 ~~fiscal and fiduciary standards of this chapter. In adopting such~~

583-03052A-10

20101196c2

755 rules, the division shall consider the number of members and
756 annual revenues of an association. Financial reports shall be
757 prepared as follows:

758 (a) An association that meets the criteria of this
759 paragraph shall prepare ~~or cause to be prepared~~ a complete set
760 of financial statements in accordance with generally accepted
761 accounting principles. The financial statements must ~~shall~~ be
762 based upon the association's total annual revenues, as follows:

763 1. An association with total annual revenues of \$100,000 or
764 more, but less than \$200,000, shall prepare compiled financial
765 statements.

766 2. An association with total annual revenues of at least
767 \$200,000, but less than \$400,000, shall prepare reviewed
768 financial statements.

769 3. An association with total annual revenues of \$400,000 or
770 more shall prepare audited financial statements.

771 (b)1. An association with total annual revenues of less
772 than \$100,000 shall prepare a report of cash receipts and
773 expenditures.

774 2. An association that ~~which~~ operates fewer ~~less~~ than 75 ~~50~~
775 units, regardless of the association's annual revenues, shall
776 prepare a report of cash receipts and expenditures in lieu of
777 financial statements required by paragraph (a).

778 3. A report of cash receipts and disbursements must
779 disclose the amount of receipts by accounts and receipt
780 classifications and the amount of expenses by accounts and
781 expense classifications, including, but not limited to, the
782 following, as applicable: costs for security, professional and
783 management fees and expenses, taxes, costs for recreation

583-03052A-10

20101196c2

784 facilities, expenses for refuse collection and utility services,
785 expenses for lawn care, costs for building maintenance and
786 repair, insurance costs, administration and salary expenses, and
787 reserves accumulated and expended for capital expenditures,
788 deferred maintenance, and any other category for which the
789 association maintains reserves.

790 (c) An association may prepare ~~or cause to be prepared~~,
791 without a meeting of or approval by the unit owners:

792 1. Compiled, reviewed, or audited financial statements, if
793 the association is required to prepare a report of cash receipts
794 and expenditures;

795 2. Reviewed or audited financial statements, if the
796 association is required to prepare compiled financial
797 statements; or

798 3. Audited financial statements if the association is
799 required to prepare reviewed financial statements.

800 (d) If approved by a majority of the voting interests
801 present at a properly called meeting of the association, an
802 association may prepare ~~or cause to be prepared~~:

803 1. A report of cash receipts and expenditures in lieu of a
804 compiled, reviewed, or audited financial statement;

805 2. A report of cash receipts and expenditures or a compiled
806 financial statement in lieu of a reviewed or audited financial
807 statement; or

808 3. A report of cash receipts and expenditures, a compiled
809 financial statement, or a reviewed financial statement in lieu
810 of an audited financial statement.

811
812 Such meeting and approval must occur before ~~prior to~~ the end of

583-03052A-10

20101196c2

813 the fiscal year and is effective only for the fiscal year in
814 which the vote is taken, except that the approval may also ~~may~~
815 be effective for the following fiscal year. With respect to an
816 association to which the developer has not turned over control
817 of the association, all unit owners, including the developer,
818 may vote on issues related to the preparation of financial
819 reports for the first 2 fiscal years of the association's
820 operation, beginning with the fiscal year in which the
821 declaration is recorded. Thereafter, all unit owners except the
822 developer may vote on such issues until control is turned over
823 to the association by the developer. Any audit or review
824 prepared under this section shall be paid for by the developer
825 if done before ~~prior to~~ turnover of control of the association.
826 An association may not waive the financial reporting
827 requirements of this section for more than 3 consecutive years.

828 Section 10. Paragraphs (d), (l), (n), and (o) of subsection
829 (2) of section 718.112, Florida Statutes, are amended to read:

830 718.112 Bylaws.—

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

834 (d) *Unit owner meetings*.—

835 1. ~~There shall be~~ An annual meeting of the unit owners
836 shall be held at the location provided in the association bylaws
837 and, if the bylaws are silent as to the location, the meeting
838 shall be held within 45 miles of the condominium property.
839 However, such distance requirement does not apply to an
840 association governing a timeshare condominium. Unless the bylaws
841 provide otherwise, a vacancy on the board caused by the

583-03052A-10

20101196c2

842 expiration of a director's term shall be filled by electing a
843 new board member, and the election must ~~shall~~ be by secret
844 ballot. ~~However,~~ if the number of vacancies equals or exceeds
845 the number of candidates, an ~~no~~ election is not required. Except
846 in a timeshare condominium, the terms of all members of the
847 board ~~shall~~ expire at the annual meeting and such board members
848 may stand for reelection unless otherwise permitted by the
849 bylaws. If ~~In the event that~~ the bylaws permit staggered terms
850 of no more than 2 years and upon approval of a majority of the
851 total voting interests, the association board members may serve
852 2-year staggered terms. If the number of board members whose
853 terms have expired exceeds the number of eligible members
854 showing interest in or demonstrating an intention to run for the
855 vacant positions ~~no person is interested in or demonstrates an~~
856 ~~intention to run for the position of a board member whose term~~
857 ~~has expired according to the provisions of this subparagraph,~~
858 each such board member whose term has expired is eligible for
859 reappointment ~~shall be automatically reappointed~~ to the board of
860 administration and need not stand for reelection. In a
861 condominium association of more than 10 units or in a
862 condominium association that does not include timeshare units or
863 timeshare interests, coowners of a unit may not serve as members
864 of the board of directors at the same time unless they own more
865 than one unit or unless there are not enough eligible candidates
866 to fill the vacancies on the board at the time of the vacancy.
867 Any unit owner desiring to be a candidate for board membership
868 must ~~shall~~ comply with sub-subparagraph ~~subparagraph~~ 3.a. A
869 person who has been suspended or removed by the division under
870 this chapter, or who is delinquent in the payment of any fee,

583-03052A-10

20101196c2

871 fine, or special or regular assessment as provided in paragraph
872 (n), is not eligible for board membership. A person who has been
873 convicted of any felony in this state or in a United States
874 District or Territorial Court, or who has been convicted of any
875 offense in another jurisdiction that would be considered a
876 felony if committed in this state, is not eligible for board
877 membership unless such felon's civil rights have been restored
878 for at least ~~a period of no less than~~ 5 years as of the date on
879 which such person seeks election to the board. The validity of
880 an action by the board is not affected if it is later determined
881 that a member of the board is ineligible for board membership
882 due to having been convicted of a felony.

883 2. The bylaws must ~~shall~~ provide the method of calling
884 meetings of unit owners, including annual meetings. Written
885 notice, which ~~notice~~ must include an agenda, shall be mailed,
886 hand delivered, or electronically transmitted to each unit owner
887 at least 14 days before ~~prior to~~ the annual meeting and must
888 ~~shall~~ be posted in a conspicuous place on the condominium
889 property at least 14 continuous days preceding the annual
890 meeting. Upon notice to the unit owners, the board shall, by
891 duly adopted rule, designate a specific location on the
892 condominium property or association property upon which all
893 notices of unit owner meetings shall be posted. ~~However~~, if
894 there is no condominium property or association property upon
895 which notices can be posted, this requirement does not apply. In
896 lieu of or in addition to the physical posting of meeting
897 notices ~~notice of any meeting of the unit owners on the~~
898 ~~condominium property~~, the association may, by reasonable rule,
899 adopt a procedure for conspicuously posting and repeatedly

583-03052A-10

20101196c2

900 broadcasting the notice and the agenda on a closed-circuit cable
901 television system serving the condominium association. However,
902 if broadcast notice is used in lieu of a notice posted
903 physically on the condominium property, the notice and agenda
904 must be broadcast at least four times every broadcast hour of
905 each day that a posted notice is otherwise required under this
906 section. If ~~When~~ broadcast notice is provided, the notice and
907 agenda must be broadcast in a manner and for a sufficient
908 continuous length of time so as to allow an average reader to
909 observe the notice and read and comprehend the entire content of
910 the notice and the agenda. Unless a unit owner waives in writing
911 the right to receive notice of the annual meeting, such notice
912 must ~~shall~~ be hand delivered, mailed, or electronically
913 transmitted to each unit owner. Notice for meetings and notice
914 for all other purposes must ~~shall~~ be mailed to each unit owner
915 at the address last furnished to the association by the unit
916 owner, or hand delivered to each unit owner. However, if a unit
917 is owned by more than one person, the association shall provide
918 notice, for meetings and all other purposes, to that one address
919 which the developer initially identifies for that purpose and
920 thereafter as one or more of the owners of the unit shall ~~se~~
921 advise the association in writing, or if no address is given or
922 the owners of the unit do not agree, to the address provided on
923 the deed of record. An officer of the association, or the
924 manager or other person providing notice of the association
925 meeting, shall provide an affidavit or United States Postal
926 Service certificate of mailing, to be included in the official
927 records of the association affirming that the notice was mailed
928 or hand delivered, in accordance with this provision.

583-03052A-10

20101196c2

929 3. The members of the board shall be elected by written
930 ballot or voting machine. Proxies may not ~~shall in no event~~ be
931 used in electing the board, ~~either~~ in general elections or
932 elections to fill vacancies caused by recall, resignation, or
933 otherwise, unless otherwise provided in this chapter.

934 a. At least ~~Not less than~~ 60 days before a scheduled
935 election, the association shall mail, deliver, or electronically
936 transmit, whether by separate association mailing or included in
937 another association mailing, delivery, or transmission,
938 including regularly published newsletters, to each unit owner
939 entitled to a vote, a first notice of the date of the election
940 ~~along with a certification form provided by the division~~
941 ~~attesting that he or she has read and understands, to the best~~
942 ~~of his or her ability, the governing documents of the~~
943 ~~association and the provisions of this chapter and any~~
944 ~~applicable rules.~~ Any unit owner or other eligible person
945 desiring to be a candidate for the board must give written
946 notice of his or her intent to be a candidate to the association
947 at least ~~not less than~~ 40 days before a scheduled election.
948 Together with the written notice and agenda as set forth in
949 subparagraph 2., the association shall mail, deliver, or
950 electronically transmit a second notice of the election to all
951 unit owners entitled to vote ~~therein~~, together with a ballot
952 that lists ~~which shall list~~ all candidates. Upon request of a
953 candidate, ~~the association shall include~~ an information sheet,
954 no larger than 8 1/2 inches by 11 inches, which must be
955 furnished by the candidate at least ~~not less than~~ 35 days before
956 the election, must ~~along with the signed certification form~~
957 ~~provided for in this subparagraph, to be included with the~~

583-03052A-10

20101196c2

958 mailing, delivery, or transmission of the ballot, with the costs
959 of mailing, delivery, or electronic transmission and copying to
960 be borne by the association. The association is not liable for
961 the contents of the information sheets prepared by the
962 candidates. In order to reduce costs, the association may print
963 or duplicate the information sheets on both sides of the paper.
964 The division shall by rule establish voting procedures
965 consistent with this sub-subparagraph ~~the provisions contained~~
966 ~~herein~~, including rules establishing procedures for giving
967 notice by electronic transmission and rules providing for the
968 secrecy of ballots. Elections shall be decided by a plurality of
969 those ballots cast. There is ~~shall be~~ no quorum requirement;
970 however, at least 20 percent of the eligible voters must cast a
971 ballot in order to have a valid election of members of the
972 board. A No unit owner may not ~~shall~~ permit any other person to
973 vote his or her ballot, and any ~~such~~ ballots improperly cast are
974 ~~shall be deemed~~ invalid, provided any unit owner who violates
975 this provision may be fined by the association in accordance
976 with s. 718.303. A unit owner who needs assistance in casting
977 the ballot for the reasons stated in s. 101.051 may obtain such
978 ~~assistance in casting the ballot~~. The regular election must
979 ~~shall~~ occur on the date of the annual meeting. ~~The provisions of~~
980 This sub-subparagraph does ~~subparagraph shall~~ not apply to
981 timeshare condominium associations. Notwithstanding ~~the~~
982 ~~provisions of this sub-subparagraph~~ ~~subparagraph~~, an election is
983 not required unless more candidates file notices of intent to
984 run or are nominated than board vacancies exist.

985 b. Within 90 days after being elected or appointed to the
986 board, each newly elected or appointed director shall certify in

583-03052A-10

20101196c2

987 writing to the secretary of the association that he or she has
988 read the association's declaration of condominium, articles of
989 incorporation, bylaws, and current written policies; that he or
990 she will work to uphold such documents and policies to the best
991 of his or her ability; and that he or she will faithfully
992 discharge his or her fiduciary responsibility to the
993 association's members. In lieu of this written certification,
994 the newly elected or appointed director may submit a certificate
995 of satisfactory completion of the educational curriculum
996 administered by a division-approved condominium education
997 provider. A director who fails to timely file the written
998 certification or educational certificate is suspended from
999 service on the board until he or she complies with this sub-
1000 subparagraph. The board may temporarily fill the vacancy during
1001 the period of suspension. The secretary shall cause the
1002 association to retain a director's written certification or
1003 educational certificate for inspection by the members for 5
1004 years after a director's election. Failure to have such written
1005 certification or educational certificate on file does not affect
1006 the validity of any action.

1007 4. Any approval by unit owners called for by this chapter
1008 or the applicable declaration or bylaws, including, but not
1009 limited to, the approval requirement in s. 718.111(8), shall be
1010 made at a duly noticed meeting of unit owners and is ~~shall be~~
1011 subject to all requirements of this chapter or the applicable
1012 condominium documents relating to unit owner decisionmaking,
1013 except that unit owners may take action by written agreement,
1014 without meetings, on matters for which action by written
1015 agreement without meetings is expressly allowed by the

583-03052A-10

20101196c2

1016 applicable bylaws or declaration or any statute that provides
1017 for such action.

1018 5. Unit owners may waive notice of specific meetings if
1019 allowed by the applicable bylaws or declaration or any statute.
1020 If authorized by the bylaws, notice of meetings of the board of
1021 administration, unit owner meetings, except unit owner meetings
1022 called to recall board members under paragraph (j), and
1023 committee meetings may be given by electronic transmission to
1024 unit owners who consent to receive notice by electronic
1025 transmission.

1026 6. Unit owners shall have the right to participate in
1027 meetings of unit owners with reference to all designated agenda
1028 items. However, the association may adopt reasonable rules
1029 governing the frequency, duration, and manner of unit owner
1030 participation.

1031 7. Any unit owner may tape record or videotape a meeting of
1032 the unit owners subject to reasonable rules adopted by the
1033 division.

1034 8. Unless otherwise provided in the bylaws, any vacancy
1035 occurring on the board before the expiration of a term may be
1036 filled by the affirmative vote of the majority of the remaining
1037 directors, even if the remaining directors constitute less than
1038 a quorum, or by the sole remaining director. In the alternative,
1039 a board may hold an election to fill the vacancy, in which case
1040 the election procedures must conform to the requirements of sub-
1041 subparagraph ~~subparagraph~~ 3.a. unless the association governs 10
1042 units or fewer ~~less~~ and has opted out of the statutory election
1043 process, in which case the bylaws of the association control.
1044 Unless otherwise provided in the bylaws, a board member

583-03052A-10

20101196c2

1045 appointed or elected under this section shall fill the vacancy
1046 for the unexpired term of the seat being filled. Filling
1047 vacancies created by recall is governed by paragraph (j) and
1048 rules adopted by the division.

1049
1050 Notwithstanding ~~subparagraph~~ ~~subparagraphs~~ (b)2. and ~~sub-~~
1051 subparagraph (d)3.a., an association of 10 or fewer units may,
1052 by ~~the~~ affirmative vote of a majority of the total voting
1053 interests, provide for different voting and election procedures
1054 in its bylaws, which vote may be by a proxy specifically
1055 delineating the different voting and election procedures. The
1056 different voting and election procedures may provide for
1057 elections to be conducted by limited or general proxy.

1058 (1) *Certificate of compliance.* ~~There shall be~~ A provision
1059 that a certificate of compliance from a licensed electrical
1060 contractor or electrician may be accepted by the association's
1061 board as evidence of compliance of the condominium units with
1062 the applicable fire and life safety code must be included.
1063 Notwithstanding ~~the provisions of~~ chapter 633 or of any other
1064 code, statute, ordinance, administrative rule, or regulation, or
1065 any interpretation of the foregoing, an association,
1066 condominium, or unit owner is not obligated to retrofit the
1067 common elements, common areas, association property, or units of
1068 a residential condominium with a fire sprinkler system or any
1069 other form of engineered lifesafety system in a building that
1070 has been certified for occupancy by the applicable governmental
1071 entity, if the unit owners have voted to forego such
1072 retrofitting and engineered lifesafety system by the affirmative
1073 vote of two-thirds of all voting interests in the affected

583-03052A-10

20101196c2

1074 condominium. ~~However, a condominium association may not vote to~~
1075 ~~forego the retrofitting with a fire sprinkler system of common~~
1076 ~~areas in a high-rise building. For purposes of this subsection,~~
1077 ~~the term "high-rise building" means a building that is greater~~
1078 ~~than 75 feet in height where the building height is measured~~
1079 ~~from the lowest level of fire department access to the floor of~~
1080 ~~the highest occupiable story. For purposes of this subsection,~~
1081 ~~the term "common areas" means any enclosed hallway, corridor,~~
1082 ~~lobby, stairwell, or entryway. In no event shall~~ The local
1083 authority having jurisdiction may not require completion of
1084 retrofitting ~~of common areas~~ with a sprinkler system or any
1085 other form of engineered lifesafety system before the end of
1086 2019 2014.

1087 1. A vote to forego retrofitting may be obtained by limited
1088 proxy or by a ballot personally cast at a duly called membership
1089 meeting, or by execution of a written consent by the member, and
1090 is ~~shall be~~ effective upon ~~the~~ recording ~~of~~ a certificate
1091 attesting to such vote in the public records of the county where
1092 the condominium is located. The association shall mail or~~7~~ hand
1093 deliver~~7~~, ~~or electronically transmit~~ to each unit owner written
1094 notice at least 14 days before the ~~prior to such~~ membership
1095 meeting in which the vote to forego retrofitting of the required
1096 fire sprinkler system or any other form of engineered lifesafety
1097 system is to take place. Within 30 days after the association's
1098 opt-out vote, notice of the results of the opt-out vote must
1099 ~~shall~~ be mailed or~~7~~ hand delivered~~7~~, ~~or electronically~~
1100 ~~transmitted~~ to all unit owners. Evidence of compliance with this
1101 30-day notice requirement must ~~shall~~ be made by ~~an~~ affidavit
1102 executed by the person providing the notice and filed among the

583-03052A-10

20101196c2

1103 official records of the association. After ~~such~~ notice is
1104 provided to each owner, a copy must ~~of such notice shall~~ be
1105 provided by the current owner to a new owner before ~~prior to~~
1106 closing and ~~shall be provided~~ by a unit owner to a renter before
1107 ~~prior to~~ signing a lease.

1108 2. If there has been a previous vote to forego
1109 retrofitting, a vote to require retrofitting may be obtained at
1110 a special meeting of the unit owners called by a petition of
1111 least 10 percent of the voting interests. Such a vote may only
1112 be called once every 3 years. Notice shall be provided as
1113 required for any regularly called meeting of the unit owners,
1114 and must state the purpose of the meeting. Electronic
1115 transmission may not be used to provide notice of a meeting
1116 called in whole or in part for this purpose.

1117 3.2. As part of the information collected annually from
1118 condominiums, the division shall require condominium
1119 associations to report the membership vote and recording of a
1120 certificate under this subsection and, if retrofitting has been
1121 undertaken, the per-unit cost of such work. The division shall
1122 annually report to the Division of State Fire Marshal of the
1123 Department of Financial Services the number of condominiums that
1124 have elected to forego retrofitting.

1125 4. Notwithstanding s. 553.509, an association may not be
1126 obligated to, and may forego the retrofitting of, any
1127 improvements required by s. 553.509(2) upon an affirmative vote
1128 of a majority of the voting interests in the affected
1129 condominium.

1130 (n) *Director or officer delinquencies.*—A director or
1131 officer more than 90 days delinquent in the payment of any

583-03052A-10

20101196c2

1132 monetary obligation due the association ~~regular assessments~~
1133 shall be deemed to have abandoned the office, creating a vacancy
1134 in the office to be filled according to law.

1135 (o) *Director or officer offenses.*—A director or officer
1136 charged by information or indictment with a felony theft or
1137 embezzlement offense involving the association's funds or
1138 property must ~~shall~~ be removed from office, creating a vacancy
1139 in the office to be filled according to law until the end of the
1140 period of the suspension or the end of the director's term of
1141 office, whichever occurs first. While such director or officer
1142 has such criminal charge pending, he or she may not be appointed
1143 or elected to a position as a director or officer. However, if
1144 ~~should~~ the charges are ~~be~~ resolved without a finding of guilt,
1145 the director or officer shall be reinstated for the remainder of
1146 his or her term of office, if any.

1147 Section 11. Paragraph (d) of subsection (1) of section
1148 718.115, Florida Statutes, is amended to read:

1149 718.115 Common expenses and common surplus.—

1150 (1)

1151 (d) If ~~se~~ provided in the declaration, the cost of
1152 communications services as defined in chapter 202, information
1153 services, or Internet services ~~a master antenna television~~
1154 ~~system or duly franchised cable television service~~ obtained
1155 pursuant to a bulk contract is ~~shall be deemed~~ a common expense.
1156 If the declaration does not provide for the cost of such
1157 services ~~a master antenna television system or duly franchised~~
1158 ~~cable television service obtained under a bulk contract~~ as a
1159 common expense, the board may enter into such a contract, and
1160 the cost of the service will be a common expense. The cost for

583-03052A-10

20101196c2

1161 the services under a bulk-rate contract may be ~~but~~ allocated on
1162 a per-unit basis rather than a percentage basis if the
1163 declaration provides for other than an equal sharing of common
1164 expenses, and any contract entered into before July 1, 1998, in
1165 which the cost of the service is not equally divided among all
1166 unit owners, may be changed by vote of a majority of the voting
1167 interests present at a regular or special meeting of the
1168 association, to allocate the cost equally among all units. The
1169 contract must be for at least ~~shall be for a term of not less~~
1170 ~~than~~ 2 years.

1171 1. Any contract made by the board on or after July 1, 1998,
1172 ~~the effective date hereof for a community antenna system or duly~~
1173 ~~franchised cable television service~~ may be canceled by a
1174 majority of the voting interests present at the next regular or
1175 special meeting of the association. Any member may make a motion
1176 to cancel the said contract, but if no motion is made or if such
1177 motion fails to obtain the required majority at the next regular
1178 or special meeting, whichever occurs first ~~is sooner~~, following
1179 the making of the contract, ~~then~~ such contract shall be deemed
1180 ratified for the term therein expressed.

1181 2. ~~Any~~ Such contract must ~~shall~~ provide, and is ~~shall be~~
1182 deemed to provide if not expressly set forth, that any hearing-
1183 impaired or legally blind unit owner who does not occupy the
1184 unit with a non-hearing-impaired or sighted person, or any unit
1185 owner receiving supplemental security income under Title XVI of
1186 the Social Security Act or food stamps as administered by the
1187 Department of Children and Family Services pursuant to s.
1188 414.31, may discontinue the cable or video service without
1189 incurring disconnect fees, penalties, or subsequent service

583-03052A-10

20101196c2

1190 charges, and, as to such units, the owners are ~~shall~~ not ~~be~~
1191 required to pay any common expenses charge related to such
1192 service. If fewer ~~less~~ than all members of an association share
1193 the expenses of cable or video service ~~television~~, the expense
1194 shall be shared equally by all participating unit owners. The
1195 association may use the provisions of s. 718.116 to enforce
1196 payment of the shares of such costs by the unit owners receiving
1197 cable or video service ~~television~~.

1198 Section 12. Subsection (3) and paragraph (b) of subsection
1199 (5) of section 718.116, Florida Statutes, is amended, and
1200 subsection (11) is added to that section, to read:

1201 718.116 Assessments; liability; lien and priority;
1202 interest; collection.—

1203 (3) Assessments and installments on assessments ~~them~~ which
1204 are not paid when due bear interest at the rate provided in the
1205 declaration, from the due date until paid. This rate may not
1206 exceed the rate allowed by law, and, if no rate is provided in
1207 the declaration, interest accrues ~~shall accrue~~ at the rate of 18
1208 percent per year. Also, if provided by the declaration or bylaws
1209 ~~so provide~~, the association may, in addition to such interest,
1210 charge an administrative late fee of up to ~~in addition to such~~
1211 ~~interest, in an amount not to exceed~~ the greater of \$25 or 5
1212 percent of each installment of the assessment for each
1213 delinquent installment for which ~~that~~ the payment is late. Any
1214 payment received by an association must ~~shall~~ be applied first
1215 to any interest accrued by the association, then to any
1216 administrative late fee, then to any costs and reasonable
1217 attorney's fees incurred in collection, and then to the
1218 delinquent assessment. Costs may include delinquency letters and

583-03052A-10

20101196c2

1219 other collections efforts by a licensed management company or a
1220 licensed manager relating to a delinquent installment of an
1221 assessment incurred before filing a claim of lien that does not
1222 exceed \$75. The foregoing ~~is shall be~~ applicable notwithstanding
1223 any restrictive endorsement, designation, or instruction placed
1224 on or accompanying a payment. A late fee ~~is shall~~ not be subject
1225 to ~~the provisions in~~ chapter 687 or s. 718.303(3).

1226 (5)

1227 (b) To be valid, a claim of lien must state the description
1228 of the condominium parcel, the name of the record owner, the
1229 name and address of the association, the amount due, and the due
1230 dates. It must be executed and acknowledged by an officer or
1231 authorized agent of the association. The ~~No such~~ lien is not
1232 ~~shall be~~ effective longer than 1 year after the claim of lien
1233 was recorded unless, within that time, an action to enforce the
1234 lien is commenced. The 1-year period ~~is shall~~ automatically ~~be~~
1235 extended for any length of time during which the association is
1236 prevented from filing a foreclosure action by an automatic stay
1237 resulting from a bankruptcy petition filed by the parcel owner
1238 or any other person claiming an interest in the parcel. The
1239 claim of lien secures ~~shall secure~~ all unpaid assessments that
1240 ~~which~~ are due and that ~~which~~ may accrue after ~~subsequent to the~~
1241 ~~recording of~~ the claim of lien is recorded and through ~~prior to~~
1242 the entry of a final judgment ~~certificate of title~~, as well as
1243 interest and all reasonable costs and attorney's fees incurred
1244 by the association incident to the collection process. Upon
1245 payment in full, the person making the payment is entitled to a
1246 satisfaction of the lien.

1247

583-03052A-10

20101196c2

1248 After notice of contest of lien has been recorded, the clerk of
1249 the circuit court shall mail a copy of the recorded notice to
1250 the association by certified mail, return receipt requested, at
1251 the address shown in the claim of lien or most recent amendment
1252 to it and shall certify to the service on the face of the
1253 notice. Service is complete upon mailing. After service, the
1254 association has 90 days in which to file an action to enforce
1255 the lien; and, if the action is not filed within the 90-day
1256 period, the lien is void. However, the 90-day period shall be
1257 extended for any length of time that the association is
1258 prevented from filing its action because of an automatic stay
1259 resulting from the filing of a bankruptcy petition by the unit
1260 owner or by any other person claiming an interest in the parcel.

1261 (11) If the unit is occupied by a tenant and the unit owner
1262 is delinquent in paying any monetary obligation due to the
1263 association, the association may make a written demand that the
1264 tenant pay the future monetary obligations related to the
1265 condominium unit to the association, and the tenant must make
1266 such payment. The demand is continuing in nature and, upon
1267 demand, the tenant must pay the monetary obligations to the
1268 association until the association releases the tenant or the
1269 tenant discontinues tenancy in the unit. The association must
1270 mail written notice to the unit owner of the association's
1271 demand that the tenant make payments to the association. The
1272 association shall, upon request, provide the tenant with written
1273 receipts for payments made. A tenant who acts in good faith in
1274 response to a written demand from an association is immune from
1275 any claim from the unit owner.

1276 (a) If the tenant prepaid rent to the unit owner before

583-03052A-10

20101196c2

1277 receiving the demand from the association and provides written
1278 evidence of paying the rent to the association within 14 days
1279 after receiving the demand, the tenant must make any subsequent
1280 rental payments to the association to be credited against the
1281 monetary obligations of the unit owner to the association.

1282 (b) The tenant is not liable for increases in the amount of
1283 the monetary obligations due unless the tenant was notified in
1284 writing of the increase at least 10 days before the date the
1285 rent is due. The liability of the tenant may not exceed the
1286 amount due from the tenant to the tenant's landlord. The
1287 tenant's landlord shall provide the tenant a credit against
1288 rents due to the unit owner in the amount of monies paid to the
1289 association under this section.

1290 (c) The association may issue notices under s. 83.56 and
1291 may sue for eviction under ss. 83.59-83.625 as if the
1292 association were a landlord under part II of chapter 83 if the
1293 tenant fails to pay a required payment to the association.
1294 However, the association is not otherwise considered a landlord
1295 under chapter 83 and specifically has no duties under s. 83.51.

1296 (d) The tenant does not, by virtue of payment of monetary
1297 obligations to the association, have any of the rights of a unit
1298 owner to vote in any election or to examine the books and
1299 records of the association.

1300 (e) A court may supersede the effect of this subsection by
1301 appointing a receiver.

1302 Section 13. Subsections (2) and (19) of section 718.117,
1303 Florida Statutes, are amended to read:

1304 718.117 Termination of condominium.—

1305 (2) TERMINATION BECAUSE OF ECONOMIC WASTE OR

583-03052A-10

20101196c2

1306 IMPOSSIBILITY.—

1307 (a) Notwithstanding any provision ~~to the contrary~~ in the
1308 declaration, the condominium form of ownership of a property may
1309 be terminated by a plan of termination approved by the lesser of
1310 the lowest percentage of voting interests necessary to amend the
1311 declaration or as otherwise provided in the declaration for
1312 approval of termination if ~~when~~:

1313 1. The total estimated cost of construction or repairs
1314 necessary to construct the intended improvements or restore the
1315 improvements to their former condition or bring them into
1316 compliance with applicable laws or regulations exceeds the
1317 combined fair market value of the ~~all~~ units in the condominium
1318 after completion of the construction or repairs; or

1319 2. It becomes impossible to operate or reconstruct a
1320 condominium to ~~in~~ its prior physical configuration because of
1321 land use laws or regulations.

1322 (b) Notwithstanding paragraph (a), a condominium in which
1323 75 percent or more of the units are timeshare units may be
1324 terminated only pursuant to a plan of termination approved by 80
1325 percent of the total voting interests of the association and the
1326 holders of 80 percent of the original principal amount of
1327 outstanding recorded mortgage liens of timeshare estates in the
1328 condominium, unless the declaration provides for a lower voting
1329 percentage.

1330 (19) CREATION OF ANOTHER CONDOMINIUM.—The termination of a
1331 condominium does not bar the filing of a declaration of
1332 condominium or an amended and restated declaration of
1333 condominium ~~creation~~ by the termination trustee ~~of another~~
1334 ~~condominium~~ affecting any portion of the same property.

583-03052A-10

20101196c2

1335 Section 14. Subsection (1) of section 718.301, Florida
1336 Statutes, is amended to read:

1337 718.301 Transfer of association control; claims of defect
1338 by association.—

1339 (1) ~~If~~ When unit owners other than the developer own 15
1340 percent or more of the units in a condominium that will be
1341 operated ultimately by an association, the unit owners other
1342 than the developer are ~~shall be~~ entitled to elect at least ~~no~~
1343 ~~less than~~ one-third of the members of the board of
1344 administration of the association. Unit owners other than the
1345 developer are entitled to elect at least ~~not less than~~ a
1346 majority of the members of the board of administration of an
1347 association:

1348 (a) Three years after 50 percent of the units that will be
1349 operated ultimately by the association have been conveyed to
1350 purchasers;

1351 (b) Three months after 90 percent of the units that will be
1352 operated ultimately by the association have been conveyed to
1353 purchasers;

1354 (c) When all the units that will be operated ultimately by
1355 the association have been completed, some of them have been
1356 conveyed to purchasers, and none of the others are being offered
1357 for sale by the developer in the ordinary course of business;

1358 (d) When some of the units have been conveyed to purchasers
1359 and none of the others are being constructed or offered for sale
1360 by the developer in the ordinary course of business;

1361 (e) When the developer files a petition seeking protection
1362 in bankruptcy;

1363 (f) When a receiver for the developer is appointed by a

583-03052A-10

20101196c2

1364 circuit court and is not discharged within 30 days after such
1365 appointment, unless the court determines within 30 days after
1366 appointment of the receiver that transfer of control would be
1367 detrimental to the association or its members; or

1368 (g) Seven years after recordation of the declaration of
1369 condominium; or, in the case of an association that ~~which~~ may
1370 ultimately operate more than one condominium, 7 years after
1371 recordation of the declaration for the first condominium it
1372 operates; or, in the case of an association operating a phase
1373 condominium created pursuant to s. 718.403, 7 years after
1374 recordation of the declaration creating the initial phase,
1375 whichever occurs first. The developer is entitled to elect at
1376 least one member of the board of administration of an
1377 association as long as the developer holds for sale in the
1378 ordinary course of business at least 5 percent, in condominiums
1379 with fewer than 500 units, and 2 percent, in condominiums with
1380 more than 500 units, of the units in a condominium operated by
1381 the association. After ~~Following the time~~ the developer
1382 relinquishes control of the association, the developer may
1383 exercise the right to vote any developer-owned units in the same
1384 manner as any other unit owner except for purposes of
1385 reacquiring control of the association or selecting the majority
1386 members of the board of administration.

1387 Section 15. Section 718.303, Florida Statutes, is amended
1388 to read:

1389 718.303 Obligations of owners and occupants; remedies
1390 ~~waiver; levy of fine against unit by association.-~~

1391 (1) Each unit owner, each tenant and other invitee, and
1392 each association is ~~shall be~~ governed by, and must ~~shall~~ comply

583-03052A-10

20101196c2

1393 with the provisions of, this chapter, the declaration, the
1394 documents creating the association, and the association bylaws
1395 which ~~and the provisions thereof~~ shall be deemed expressly
1396 incorporated into any lease of a unit. Actions for damages or
1397 for injunctive relief, or both, for failure to comply with these
1398 provisions may be brought by the association or by a unit owner
1399 against:

1400 (a) The association.

1401 (b) A unit owner.

1402 (c) Directors designated by the developer, for actions
1403 taken by them before ~~prior to the time~~ control of the
1404 association is assumed by unit owners other than the developer.

1405 (d) Any director who willfully and knowingly fails to
1406 comply with these provisions.

1407 (e) Any tenant leasing a unit, and any other invitee
1408 occupying a unit.

1409

1410 The prevailing party in any such action or in any action in
1411 which the purchaser claims a right of voidability based upon
1412 contractual provisions as required in s. 718.503(1)(a) is
1413 entitled to recover reasonable attorney's fees. A unit owner
1414 prevailing in an action between the association and the unit
1415 owner under this section, in addition to recovering his or her
1416 reasonable attorney's fees, may recover additional amounts as
1417 determined by the court to be necessary to reimburse the unit
1418 owner for his or her share of assessments levied by the
1419 association to fund its expenses of the litigation. This relief
1420 does not exclude other remedies provided by law. Actions arising
1421 under this subsection may ~~shall~~ not be deemed to be actions for

583-03052A-10

20101196c2

1422 specific performance.

1423 (2) A provision of this chapter may not be waived if the
1424 waiver would adversely affect the rights of a unit owner or the
1425 purpose of the provision, except that unit owners or members of
1426 a board of administration may waive notice of specific meetings
1427 in writing if provided by the bylaws. Any instruction given in
1428 writing by a unit owner or purchaser to an escrow agent may be
1429 relied upon by an escrow agent, whether or not such instruction
1430 and the payment of funds thereunder might constitute a waiver of
1431 any provision of this chapter.

1432 (3) If a unit owner is delinquent for more than 90 days in
1433 paying a monetary obligation due to the association ~~the~~
1434 ~~declaration or bylaws so provide~~, the association may suspend
1435 the right of a unit owner or a unit's occupant, licensee, or
1436 invitee to use common elements, common facilities, or any other
1437 association property until the monetary obligation is paid. This
1438 subsection does not apply to limited common elements intended to
1439 be used only by that unit, common elements that must be used to
1440 access the unit, utility services provided to the unit, parking
1441 spaces, or elevators. The association may also levy reasonable
1442 ~~finer against a unit~~ for the failure of the owner of the unit,
1443 or its occupant, licensee, or invitee, to comply with any
1444 provision of the declaration, the association bylaws, or
1445 reasonable rules of the association. A ~~No~~ fine does not will
1446 become a lien against a unit. A ~~No~~ fine may not exceed \$100 per
1447 violation. However, a fine may be levied on the basis of each
1448 day of a continuing violation, with a single notice and
1449 opportunity for hearing. However, ~~the provided that no such~~ fine
1450 may not shall in the aggregate exceed \$1,000. A ~~No~~ fine may not

583-03052A-10

20101196c2

1451 be levied and a suspension may not be imposed unless the
1452 association first provides at least 14 days' written ~~except~~
1453 ~~after giving reasonable~~ notice and an opportunity for a hearing
1454 to the unit owner and, if applicable, its occupant, licensee, or
1455 invitee. The hearing must be held before a committee of other
1456 unit owners who are neither board members nor persons residing
1457 in a board member's household. If the committee does not agree
1458 with the fine or suspension, the fine or suspension may not be
1459 levied or imposed. ~~The provisions of this subsection do not~~
1460 ~~apply to unoccupied units.~~

1461 (4) The notice and hearing requirements of subsection (3)
1462 do not apply to the imposition of suspensions or fines against a
1463 unit owner or a unit's occupant, licensee, or invitee because of
1464 failing to pay any amounts due the association. If such a fine
1465 or suspension is imposed, the association must levy the fine or
1466 impose a reasonable suspension at a properly noticed board
1467 meeting, and after the imposition of such fine or suspension,
1468 the association must notify the unit owner and, if applicable,
1469 the unit's occupant, licensee, or invitee by mail or hand
1470 delivery.

1471 (5) An association may also suspend the voting rights of a
1472 member due to nonpayment of any monetary obligation due to the
1473 association which is more than 90 days delinquent. The
1474 suspension ends upon full payment of all obligations currently
1475 due or overdue the association.

1476 Section 16. Subsection (1) of section 718.501, Florida
1477 Statutes, is amended to read:

1478 718.501 Authority, responsibility, and duties of Division
1479 of Florida Condominiums, Timeshares, and Mobile Homes.—

583-03052A-10

20101196c2

1480 (1) The division may ~~of Florida Condominiums, Timeshares,~~
1481 ~~and Mobile Homes of the Department of Business and Professional~~
1482 ~~Regulation, referred to as the "division" in this part, has the~~
1483 ~~power to~~ enforce and ensure compliance with the provisions of
1484 this chapter and rules relating to the development,
1485 construction, sale, lease, ownership, operation, and management
1486 of residential condominium units. In performing its duties, the
1487 division has complete jurisdiction to investigate complaints and
1488 enforce compliance ~~with the provisions of this chapter~~ with
1489 respect to associations that are still under developer control
1490 or the control of a bulk assignee or bulk buyer pursuant to part
1491 VII of this chapter and complaints against developers, bulk
1492 assignees, or bulk buyers involving improper turnover or failure
1493 to turnover, pursuant to s. 718.301. However, after turnover has
1494 occurred, the division has ~~shall only have~~ jurisdiction to
1495 investigate complaints related only to financial issues,
1496 elections, and unit owner access to association records pursuant
1497 to s. 718.111(12).

1498 (a)1. The division may make necessary public or private
1499 investigations within or outside this state to determine whether
1500 any person has violated this chapter or any rule or order
1501 hereunder, to aid in the enforcement of this chapter, or to aid
1502 in the adoption of rules or forms ~~hereunder~~.

1503 2. The division may submit any official written report,
1504 worksheet, or other related paper, or a duly certified copy
1505 thereof, compiled, prepared, drafted, or otherwise made by and
1506 duly authenticated by a financial examiner or analyst to be
1507 admitted as competent evidence in any hearing in which the
1508 financial examiner or analyst is available for cross-examination

583-03052A-10

20101196c2

1509 and attests under oath that such documents were prepared as a
1510 result of an examination or inspection conducted pursuant to
1511 this chapter.

1512 (b) The division may require or permit any person to file a
1513 statement in writing, under oath or otherwise, as the division
1514 determines, as to the facts and circumstances concerning a
1515 matter to be investigated.

1516 (c) For the purpose of any investigation under this
1517 chapter, the division director or any officer or employee
1518 designated by the division director may administer oaths or
1519 affirmations, subpoena witnesses and compel their attendance,
1520 take evidence, and require the production of any matter which is
1521 relevant to the investigation, including the existence,
1522 description, nature, custody, condition, and location of any
1523 books, documents, or other tangible things and the identity and
1524 location of persons having knowledge of relevant facts or any
1525 other matter reasonably calculated to lead to the discovery of
1526 material evidence. Upon the failure by a person to obey a
1527 subpoena or to answer questions propounded by the investigating
1528 officer and upon reasonable notice to all ~~persons~~ affected
1529 persons ~~thereby~~, the division may apply to the circuit court for
1530 an order compelling compliance.

1531 (d) Notwithstanding any remedies available to unit owners
1532 and associations, if the division has reasonable cause to
1533 believe that a violation of any provision of this chapter or
1534 related rule has occurred, the division may institute
1535 enforcement proceedings in its own name against any developer,
1536 bulk assignee, bulk buyer, association, officer, or member of
1537 the board of administration, or its assignees or agents, as

583-03052A-10

20101196c2

1538 follows:

1539 1. The division may permit a person whose conduct or
1540 actions may be under investigation to waive formal proceedings
1541 and enter into a consent proceeding whereby orders, rules, or
1542 letters of censure or warning, whether formal or informal, may
1543 be entered against the person.

1544 2. The division may issue an order requiring the developer,
1545 bulk assignee, bulk buyer, association, developer-designated
1546 officer, or developer-designated member of the board of
1547 administration, developer-designated assignees or agents, bulk
1548 assignee-designated assignees or agents, bulk buyer-designated
1549 assignees or agents, community association manager, or community
1550 association management firm to cease and desist from the
1551 unlawful practice and take such affirmative action as in the
1552 judgment of the division ~~will~~ carry out the purposes of this
1553 chapter. If the division finds that a developer, bulk assignee,
1554 bulk buyer, association, officer, or member of the board of
1555 administration, or its assignees or agents, is violating or is
1556 about to violate any provision of this chapter, any rule adopted
1557 or order issued by the division, or any written agreement
1558 entered into with the division, and presents an immediate danger
1559 to the public requiring an immediate final order, it may issue
1560 an emergency cease and desist order reciting with particularity
1561 the facts underlying such findings. The emergency cease and
1562 desist order is effective for 90 days. If the division begins
1563 nonemergency cease and desist proceedings, the emergency cease
1564 and desist order remains effective until the conclusion of the
1565 proceedings under ss. 120.569 and 120.57.

1566 3. If a developer, bulk assignee, or bulk buyer, fails to

583-03052A-10

20101196c2

1567 pay any restitution determined by the division to be owed, plus
1568 any accrued interest at the highest rate permitted by law,
1569 within 30 days after expiration of any appellate time period of
1570 a final order requiring payment of restitution or the conclusion
1571 of any appeal thereof, whichever is later, the division must
1572 ~~shall~~ bring an action in circuit or county court on behalf of
1573 any association, class of unit owners, lessees, or purchasers
1574 for restitution, declaratory relief, injunctive relief, or any
1575 other available remedy. The division may also temporarily revoke
1576 its acceptance of the filing for the developer to which the
1577 restitution relates until payment of restitution is made.

1578 4. The division may petition the court for ~~the~~ appointment
1579 of a receiver or conservator. If appointed, the receiver or
1580 conservator may take action to implement the court order to
1581 ensure the performance of the order and to remedy any breach
1582 thereof. In addition to all other means provided by law for the
1583 enforcement of an injunction or temporary restraining order, the
1584 circuit court may impound or sequester the property of a party
1585 defendant, including books, papers, documents, and related
1586 records, and allow the examination and use of the property by
1587 the division and a court-appointed receiver or conservator.

1588 5. The division may apply to the circuit court for an order
1589 of restitution whereby the defendant in an action brought
1590 pursuant to subparagraph 4. is ~~shall be~~ ordered to make
1591 restitution of those sums shown by the division to have been
1592 obtained by the defendant in violation of this chapter. ~~Such~~
1593 ~~restitution shall,~~ At the option of the court, such restitution
1594 is ~~be~~ payable to the conservator or receiver appointed pursuant
1595 to subparagraph 4. or directly to the persons whose funds or

583-03052A-10

20101196c2

1596 assets were obtained in violation of this chapter.

1597 6. The division may impose a civil penalty against a
1598 developer, bulk assignee, or bulk buyer, or association, or its
1599 assignee or agent, for any violation of this chapter or related
1600 a rule ~~adopted under this chapter~~. The division may impose a
1601 civil penalty individually against an ~~any~~ officer or board
1602 member who willfully and knowingly violates a provision of this
1603 chapter, adopted rule, or a final order of the division; may
1604 order the removal of such individual as an officer or from the
1605 board of administration or as an officer of the association; and
1606 may prohibit such individual from serving as an officer or on
1607 the board of a community association for a period of time. The
1608 term "willfully and knowingly" means that the division informed
1609 the officer or board member that his or her action or intended
1610 action violates this chapter, a rule adopted under this chapter,
1611 or a final order of the division and that the officer or board
1612 member refused to comply with the requirements of this chapter,
1613 a rule adopted under this chapter, or a final order of the
1614 division. The division, before ~~prior to~~ initiating formal agency
1615 action under chapter 120, must ~~shall~~ afford the officer or board
1616 member an opportunity to voluntarily comply and ~~with this~~
1617 ~~chapter, a rule adopted under this chapter, or a final order of~~
1618 ~~the division.~~ an officer or board member who complies within 10
1619 days is not subject to a civil penalty. A penalty may be imposed
1620 on the basis of each day of continuing violation, but ~~in no~~
1621 ~~event shall~~ the penalty for any offense may not exceed \$5,000.
1622 By January 1, 1998, the division shall adopt, by rule, penalty
1623 guidelines applicable to possible violations or to categories of
1624 violations of this chapter or rules adopted by the division. The

583-03052A-10

20101196c2

1625 guidelines must specify a meaningful range of civil penalties
1626 for each such violation of the statute and rules and must be
1627 based upon the harm caused by the violation, the repetition of
1628 the violation, and upon such other factors deemed relevant by
1629 the division. For example, the division may consider whether the
1630 violations were committed by a developer, bulk assignee, or bulk
1631 buyer, or owner-controlled association, the size of the
1632 association, and other factors. The guidelines must designate
1633 the possible mitigating or aggravating circumstances that
1634 justify a departure from the range of penalties provided by the
1635 rules. It is the legislative intent that minor violations be
1636 distinguished from those which endanger the health, safety, or
1637 welfare of the condominium residents or other persons and that
1638 such guidelines provide reasonable and meaningful notice to the
1639 public of likely penalties that may be imposed for proscribed
1640 conduct. This subsection does not limit the ability of the
1641 division to informally dispose of administrative actions or
1642 complaints by stipulation, agreed settlement, or consent order.
1643 All amounts collected shall be deposited with the Chief
1644 Financial Officer to the credit of the Division of Florida
1645 Condominiums, Timeshares, and Mobile Homes Trust Fund. If a
1646 developer, bulk assignee, or bulk buyer fails to pay the civil
1647 penalty and the amount deemed to be owed to the association, the
1648 division shall issue an order directing that such developer,
1649 bulk assignee, or bulk buyer cease and desist from further
1650 operation until such time as the civil penalty is paid or may
1651 pursue enforcement of the penalty in a court of competent
1652 jurisdiction. If an association fails to pay the civil penalty,
1653 the division shall pursue enforcement in a court of competent

583-03052A-10

20101196c2

1654 jurisdiction, and the order imposing the civil penalty or the
1655 cease and desist order is ~~will~~ not ~~become~~ effective until 20
1656 days after the date of such order. Any action commenced by the
1657 division shall be brought in the county in which the division
1658 has its executive offices or in the county where the violation
1659 occurred.

1660 7. If a unit owner presents the division with proof that
1661 the unit owner has requested access to official records in
1662 writing by certified mail, and that after 10 days the unit owner
1663 again made the same request for access to official records in
1664 writing by certified mail, and that more than 10 days has
1665 elapsed since the second request and the association has still
1666 failed or refused to provide access to official records as
1667 required by this chapter, the division shall issue a subpoena
1668 requiring production of the requested records where the records
1669 are kept pursuant to s. 718.112.

1670 8. In addition to subparagraph 6., the division may seek
1671 the imposition of a civil penalty through the circuit court for
1672 any violation for which the division may issue a notice to show
1673 cause under paragraph (r). The civil penalty shall be at least
1674 \$500 but no more than \$5,000 for each violation. The court may
1675 also award to the prevailing party court costs and reasonable
1676 attorney's fees and, if the division prevails, may also award
1677 reasonable costs of investigation.

1678 (e) The division may prepare and disseminate a prospectus
1679 and other information to assist prospective owners, purchasers,
1680 lessees, and developers of residential condominiums in assessing
1681 the rights, privileges, and duties pertaining thereto.

1682 (f) The division may ~~has authority to~~ adopt rules pursuant

583-03052A-10

20101196c2

1683 ~~to ss. 120.536(1) and 120.54~~ to administer ~~implement~~ and enforce
1684 the provisions of this chapter.

1685 (g) The division shall establish procedures for providing
1686 notice to an association and the developer, bulk assignee, or
1687 bulk buyer during the period in which ~~where~~ the developer, bulk
1688 assignee, or bulk buyer controls the association if ~~when~~ the
1689 division is considering the issuance of a declaratory statement
1690 with respect to the declaration of condominium or any related
1691 document governing ~~in~~ such condominium community.

1692 (h) The division shall furnish each association that ~~which~~
1693 pays the fees required by paragraph (2) (a) a copy of this
1694 chapter, as amended ~~act, subsequent changes to this act on an~~
1695 ~~annual basis, an amended version of this act as it becomes~~
1696 ~~available from the Secretary of State's office on a biennial~~
1697 ~~basis,~~ and the rules adopted thereto on an annual basis.

1698 (i) The division shall annually provide each association
1699 with a summary of declaratory statements and formal legal
1700 opinions relating to the operations of condominiums which were
1701 rendered by the division during the previous year.

1702 (j) The division shall provide training and educational
1703 programs for condominium association board members and unit
1704 owners. The training may, in the division's discretion, include
1705 web-based electronic media, and live training and seminars in
1706 various locations throughout the state. The division may ~~shall~~
1707 ~~have the authority to~~ review and approve education and training
1708 programs for board members and unit owners offered by providers
1709 and shall maintain a current list of approved programs and
1710 providers and ~~shall~~ make such list available to board members
1711 and unit owners in a reasonable and cost-effective manner.

583-03052A-10

20101196c2

1712 (k) The division shall maintain a toll-free telephone
1713 number accessible to condominium unit owners.

1714 (l) The division shall develop a program to certify both
1715 volunteer and paid mediators to provide mediation of condominium
1716 disputes. The division shall provide, upon request, a list of
1717 such mediators to any association, unit owner, or other
1718 participant in arbitration proceedings under s. 718.1255
1719 requesting a copy of the list. The division shall include on the
1720 list of volunteer mediators only the names of persons who have
1721 received at least 20 hours of training in mediation techniques
1722 or who have mediated at least 20 disputes. In order to become
1723 initially certified by the division, paid mediators must be
1724 certified by the Supreme Court to mediate court cases in county
1725 or circuit courts. However, the division may adopt, by rule,
1726 additional factors for the certification of paid mediators,
1727 which ~~factors~~ must be related to experience, education, or
1728 background. Any person initially certified as a paid mediator by
1729 the division must, in order to continue to be certified, comply
1730 with the factors or requirements adopted by rule ~~imposed by~~
1731 ~~rules adopted by the division~~.

1732 (m) If ~~When~~ a complaint is made, the division must ~~shall~~
1733 conduct its inquiry with due regard for ~~to~~ the interests of the
1734 affected parties. Within 30 days after receipt of a complaint,
1735 the division shall acknowledge the complaint in writing and
1736 notify the complainant whether the complaint is within the
1737 jurisdiction of the division and whether additional information
1738 is needed by the division from the complainant. The division
1739 shall conduct its investigation and ~~shall~~, within 90 days after
1740 receipt of the original complaint or of timely requested

583-03052A-10

20101196c2

1741 additional information, take action upon the complaint. However,
1742 the failure to complete the investigation within 90 days does
1743 not prevent the division from continuing the investigation,
1744 accepting or considering evidence obtained or received after 90
1745 days, or taking administrative action if reasonable cause exists
1746 to believe that a violation of this chapter or a rule ~~of the~~
1747 ~~division~~ has occurred. If an investigation is not completed
1748 within the time limits established in this paragraph, the
1749 division shall, on a monthly basis, notify the complainant in
1750 writing of the status of the investigation. When reporting its
1751 action to the complainant, the division shall inform the
1752 complainant of any right to a hearing pursuant to ss. 120.569
1753 and 120.57.

1754 (n) Condominium association directors, officers, and
1755 employees; condominium developers; bulk assignees, bulk buyers,
1756 and community association managers; and community association
1757 management firms have an ongoing duty to reasonably cooperate
1758 with the division in any investigation pursuant to this section.
1759 The division shall refer to local law enforcement authorities
1760 any person whom the division believes has altered, destroyed,
1761 concealed, or removed any record, document, or thing required to
1762 be kept or maintained by this chapter with the purpose to impair
1763 its verity or availability in the department's investigation.

1764 (o) The division may:

- 1765 1. Contract with agencies in this state or other
1766 jurisdictions to perform investigative functions; or
- 1767 2. Accept grants-in-aid from any source.

1768 (p) The division shall cooperate with similar agencies in
1769 other jurisdictions to establish uniform filing procedures and

583-03052A-10

20101196c2

1770 forms, public offering statements, advertising standards, and
1771 rules and common administrative practices.

1772 (q) The division shall consider notice to a developer, bulk
1773 assignee, or bulk buyer to be complete when it is delivered to
1774 the ~~developer's~~ address of the developer, bulk assignee, or bulk
1775 buyer currently on file with the division.

1776 (r) In addition to its enforcement authority, the division
1777 may issue a notice to show cause, which must ~~shall~~ provide for a
1778 hearing, upon written request, in accordance with chapter 120.

1779 (s) The division shall submit to the Governor, the
1780 President of the Senate, the Speaker of the House of
1781 Representatives, and the chairs of the legislative
1782 appropriations committees an annual report that includes, but
1783 need not be limited to, the number of training programs provided
1784 for condominium association board members and unit owners, the
1785 number of complaints received by type, the number and percent of
1786 complaints acknowledged in writing within 30 days and the number
1787 and percent of investigations acted upon within 90 days in
1788 accordance with paragraph (m), and the number of investigations
1789 exceeding the 90-day requirement. The annual report must ~~shall~~
1790 also include an evaluation of the division's core business
1791 processes and make recommendations for improvements, including
1792 statutory changes. The report shall be submitted by September 30
1793 following the end of the fiscal year.

1794 Section 17. Part VII of chapter 718, Florida Statutes,
1795 consisting of sections 718.701, 718.702, 718.703, 718.704,
1796 718.705, 718.706, 718.707, and 718.708, is created to read:

1797 718.701 Short title.—This part may be cited as the
1798 "Distressed Condominium Relief Act."

583-03052A-10

20101196c2

1799 718.702 Legislative intent.-

1800 (1) The Legislature acknowledges the massive downturn in
1801 the condominium market which has occurred throughout the state
1802 and the impact of such downturn on developers, lenders, unit
1803 owners, and condominium associations. Numerous condominium
1804 projects have failed or are in the process of failing such that
1805 the condominium has a small percentage of third-party unit
1806 owners as compared to the unsold inventory of units. As a result
1807 of the inability to find purchasers for this inventory of units,
1808 which results in part from the devaluing of real estate in this
1809 state, developers are unable to satisfy the requirements of
1810 their lenders, leading to defaults on mortgages. Consequently,
1811 lenders are faced with the task of finding a solution to the
1812 problem in order to receive payment for their investments.

1813 (2) The Legislature recognizes that all of the factors
1814 listed in this section lead to condominiums becoming distressed,
1815 resulting in detriment to the unit owners and the condominium
1816 association due to the resulting shortage of assessment moneys
1817 available for proper maintenance of the condominium. Such
1818 shortage and the resulting lack of proper maintenance further
1819 erodes property values. The Legislature finds that individuals
1820 and entities within this state and in other states have
1821 expressed interest in purchasing unsold inventory in one or more
1822 condominium projects, but are reticent to do so because of
1823 accompanying liabilities inherited from the original developer,
1824 which are by definition imputed to the successor purchaser,
1825 including a foreclosing mortgagee. This results in the potential
1826 successor purchaser having unknown and unquantifiable risks that
1827 the potential purchaser is unwilling to accept. As a result,

583-03052A-10

20101196c2

1828 condominium projects stagnate, leaving all parties involved at
1829 an impasse and without the ability to find a solution.

1830 (3) The Legislature declares that it is the public policy
1831 of this state to protect the interests of developers, lenders,
1832 unit owners, and condominium associations with regard to
1833 distressed condominiums, and that there is a need for relief
1834 from certain provisions of the Florida Condominium Act geared
1835 toward enabling economic opportunities for successor purchasers,
1836 including foreclosing mortgagees. Such relief would benefit
1837 existing unit owners and condominium associations. The
1838 Legislature further finds and declares that this situation
1839 cannot be open-ended without potentially prejudicing the rights
1840 of unit owners and condominium associations, and thereby
1841 declares that the provisions of this part may be used by
1842 purchasers of condominium inventory for only a specific and
1843 defined period.

1844 718.703 Definitions.—As used in this part, the term:

1845 (1) "Bulk assignee" means a person who:

1846 (a) Acquires more than seven condominium parcels as set
1847 forth in s. 718.707; and

1848 (b) Receives an assignment of some or all of the rights of
1849 the developer as set forth in the declaration of condominium or
1850 this chapter by a written instrument recorded as an exhibit to
1851 the deed or as a separate instrument in the public records of
1852 the county in which the condominium is located.

1853 (2) "Bulk buyer" means a person who acquires more than
1854 seven condominium parcels as set forth in s. 718.707, but who
1855 does not receive an assignment of developer rights other than
1856 the right to conduct sales, leasing, and marketing activities

583-03052A-10

20101196c2

1857 within the condominium; the right to be exempt from the payment
1858 of working capital contributions to the condominium association
1859 arising out of, or in connection with, the bulk buyer's
1860 acquisition of a bulk number of units; and the right to be
1861 exempt from any rights of first refusal which may be held by the
1862 condominium association and would otherwise be applicable to
1863 subsequent transfers of title from the bulk buyer to a third
1864 party purchaser concerning one or more units.

1865 718.704 Assignment and assumption of developer rights by
1866 bulk assignee; bulk buyer.-

1867 (1) A bulk assignee assumes and is liable for all duties
1868 and responsibilities of the developer under the declaration and
1869 this chapter, except:

1870 (a) Warranties of the developer under s. 718.203(1) or s.
1871 718.618, except for design, construction, development, or repair
1872 work performed by or on behalf of such bulk assignee;

1873 (b) The obligation to:

1874 1. Fund converter reserves under s. 718.618 for a unit that
1875 was not acquired by the bulk assignee; or

1876 2. Provide converter warranties on any portion of the
1877 condominium property except as expressly provided by the bulk
1878 assignee in the contract for purchase and sale executed with a
1879 purchaser and pertaining to any design, construction,
1880 development, or repair work performed by or on behalf of the
1881 bulk assignee;

1882 (c) The requirement to provide the association with a
1883 cumulative audit of the association's finances from the date of
1884 formation of the condominium association as required by s.
1885 718.301(4)(c). However, the bulk assignee must provide an audit

583-03052A-10

20101196c2

1886 for the period during which the bulk assignee elects a majority
1887 of the members of the board of administration;

1888 (d) Any liability arising out of or in connection with
1889 actions taken by the board of administration or the developer-
1890 appointed directors before the bulk assignee elects a majority
1891 of the members of the board of administration; and

1892 (e) Any liability for or arising out of the developer's
1893 failure to fund previous assessments or to resolve budgetary
1894 deficits in relation to a developer's right to guarantee
1895 assessments, except as otherwise provided in subsection (2).

1896
1897 The bulk assignee is also responsible for delivering documents
1898 and materials in accordance with s. 718.705(3). A bulk assignee
1899 may expressly assume some or all of the obligations of the
1900 developer described in paragraphs (a)-(e).

1901 (2) A bulk assignee receiving the assignment of the rights
1902 of the developer to guarantee the level of assessments and fund
1903 budgetary deficits pursuant to s. 718.116 assumes and is liable
1904 for all obligations of the developer with respect to such
1905 guarantee, including any applicable funding of reserves to the
1906 extent required by law, for as long as the guarantee remains in
1907 effect. A bulk assignee not receiving such assignment or a bulk
1908 buyer does not assume and is not liable for the obligations of
1909 the developer with respect to such guarantee, but is responsible
1910 for payment of assessments in the same manner as all other
1911 owners of condominium parcels.

1912 (3) A bulk buyer is liable for the duties and
1913 responsibilities of the developer under the declaration and this
1914 chapter only to the extent provided in this part, together with

583-03052A-10

20101196c2

1915 any other duties or responsibilities of the developer expressly
1916 assumed in writing by the bulk buyer.

1917 (4) An acquirer of condominium parcels is not a bulk
1918 assignee or a bulk buyer if the transfer to such acquirer was
1919 made before the effective date of this part with the intent to
1920 hinder, delay, or defraud any purchaser, unit owner, or the
1921 association, or if the acquirer is a person who would be
1922 considered an insider under s. 726.102(7).

1923 (5) An assignment of developer rights to a bulk assignee
1924 may be made by the developer, a previous bulk assignee, or a
1925 court acting on behalf of the developer or the previous bulk
1926 assignee. At any particular time, there may be no more than one
1927 bulk assignee within a condominium, but there may be more than
1928 one bulk buyer. If more than one acquirer of condominium parcels
1929 in the same condominium receives an assignment of developer
1930 rights from the same person, the bulk assignee is the acquirer
1931 whose instrument of assignment is recorded first.

1932 718.705 Board of administration; transfer of control.-

1933 (1) For purposes of determining the timing for transfer of
1934 control of the board of administration of the association to
1935 unit owners other than the developer under s. 718.301(1)(a) and
1936 (b), if a bulk assignee is entitled to elect a majority of the
1937 members of the board, a condominium parcel acquired by the bulk
1938 assignee is conveyed to a purchaser, or owned by an owner other
1939 than the developer, until the condominium parcel is conveyed to
1940 an owner who is not a bulk assignee.

1941 (2) Unless control of the board of administration of the
1942 association has already been relinquished pursuant to s.
1943 718.301(1), the bulk assignee must relinquish control of the

583-03052A-10

20101196c2

1944 association pursuant to s. 718.301 and this part, as if the bulk
1945 assignee were the developer.

1946 (3) If a bulk assignee relinquishes control of the board of
1947 administration as set forth in s. 718.301, the bulk assignee
1948 must deliver all of those items required by s. 718.301(4).
1949 However, the bulk assignee is not required to deliver items and
1950 documents not in the possession of the bulk assignee during the
1951 period during which the bulk assignee was entitled to elect at
1952 least a majority of the members of the board of administration.
1953 In conjunction with acquisition of condominium parcels, a bulk
1954 assignee shall undertake a good faith effort to obtain the
1955 documents and materials that must be provided to the association
1956 pursuant to s. 718.301(4). If the bulk assignee is not able to
1957 obtain all of such documents and materials, the bulk assignee
1958 must certify in writing to the association the names or
1959 descriptions of the documents and materials that were not
1960 obtainable by the bulk assignee. Delivery of the certificate
1961 relieves the bulk assignee of responsibility for delivering the
1962 documents and materials referenced in the certificate as
1963 otherwise required under ss. 718.112 and 718.301 and this part.
1964 The responsibility of the bulk assignee for the audit required
1965 by s. 718.301(4) commences as of the date on which the bulk
1966 assignee elected a majority of the members of the board of
1967 administration.

1968 (4) If a conflict arises between the provisions or
1969 application of this section and s. 718.301, this section
1970 prevails.

1971 (5) Failure of a bulk assignee or bulk buyer to
1972 substantially comply with all the requirements in this part

583-03052A-10

20101196c2

1973 results in the loss of any and all protections or exemptions
1974 provided under this part.

1975 718.706 Specific provisions pertaining to offering of units
1976 by a bulk assignee or bulk buyer.-

1977 (1) Before offering any units for sale or for lease for a
1978 term exceeding 5 years, a bulk assignee or a bulk buyer must
1979 file the following documents with the division and provide such
1980 documents to a prospective purchaser or tenant:

1981 (a) An updated prospectus or offering circular, or a
1982 supplement to the prospectus or offering circular, filed by the
1983 creating developer prepared in accordance with s. 718.504, which
1984 must include the form of contract for sale and for lease in
1985 compliance with s. 718.503(2);

1986 (b) An updated Frequently Asked Questions and Answers
1987 sheet;

1988 (c) The executed escrow agreement if required under s.
1989 718.202; and

1990 (d) The financial information required by s. 718.111(13).
1991 However, if a financial information report does not exist for
1992 the fiscal year before acquisition of title by the bulk assignee
1993 or bulk buyer, or accounting records cannot be obtained in good
1994 faith by the bulk assignee or the bulk buyer which would permit
1995 preparation of the required financial information report, the
1996 bulk assignee or bulk buyer is excused from the requirement of
1997 this paragraph. However, the bulk assignee or bulk buyer must
1998 include in the purchase contract the following statement in
1999 conspicuous type:

2000

2001 THE FINANCIAL INFORMATION REPORT REQUIRED UNDER S.

583-03052A-10

20101196c2

2002 718.111(13) FOR THE IMMEDIATELY PRECEDING FISCAL YEAR
2003 OF THE ASSOCIATION IS NOT AVAILABLE OR CANNOT BE
2004 CREATED BY THE SELLER DUE TO THE INSUFFICIENT
2005 ACCOUNTING RECORDS OF THE ASSOCIATION.

2006
2007 (2) Before offering any units for sale or for lease for a
2008 term exceeding 5 years, a bulk assignee must file with the
2009 division and provide to a prospective purchaser a disclosure
2010 statement that includes, but is not limited to:

2011 (a) A description of any rights of the developer which have
2012 been assigned to the bulk assignee;

2013 (b) The following statement in conspicuous type:

2014
2015 THE SELLER IS NOT OBLIGATED FOR ANY WARRANTIES OF THE
2016 DEVELOPER UNDER S. 718.203(1) OR S. 718.618, AS
2017 APPLICABLE, EXCEPT FOR DESIGN, CONSTRUCTION,
2018 DEVELOPMENT, OR REPAIR WORK PERFORMED BY OR ON BEHALF
2019 OF SELLER; and

2020 (c) If the condominium is a conversion subject to part VI,
2021 the following statement in conspicuous type:

2022
2023 THE SELLER HAS NO OBLIGATION TO FUND CONVERTER
2024 RESERVES OR TO PROVIDE CONVERTER WARRANTIES UNDER S.
2025 718.618 ON ANY PORTION OF THE CONDOMINIUM PROPERTY
2026 EXCEPT AS MAY BE EXPRESSLY REQUIRED OF THE SELLER IN
2027 THE CONTRACT FOR PURCHASE AND SALE EXECUTED BY THE
2028 SELLER AND THE PREVIOUS DEVELOPER AND PERTAINING TO
2029 ANY DESIGN, CONSTRUCTION, DEVELOPMENT, OR REPAIR WORK
2030 PERFORMED BY OR ON BEHALF OF THE SELLER.

583-03052A-10

20101196c2

2031 (3) A bulk assignee, while it is in control of the board of
2032 administration of the association, may not authorize, on behalf
2033 of the association:

2034 (a) The waiver of reserves or the reduction of funding of
2035 the reserves pursuant to s. 718.112(2)(f)2., unless approved by
2036 a majority of the voting interests not controlled by the
2037 developer, bulk assignee, and bulk buyer; or

2038 (b) The use of reserve expenditures for other purposes
2039 pursuant to s. 718.112(2)(f)3., unless approved by a majority of
2040 the voting interests not controlled by the developer, bulk
2041 assignee, and bulk buyer.

2042 (4) A bulk assignee or a bulk buyer must comply with all
2043 the requirements of s. 718.302 regarding any contracts entered
2044 into by the association during the period the bulk assignee or
2045 bulk buyer maintains control of the board of administration.
2046 Unit owners shall be afforded all the protections contained in
2047 s. 718.302 regarding agreements entered into by the association
2048 before unit owners other than the developer, bulk assignee, or
2049 bulk buyer elected a majority of the board of administration.

2050 (5) A bulk buyer must comply with the requirements
2051 contained in the declaration regarding any transfer of a unit,
2052 including sales, leases, and subleases. A bulk buyer is not
2053 entitled to any exemptions afforded a developer or successor
2054 developer under this chapter regarding the transfer of a unit,
2055 including sales, leases, or subleases.

2056 718.707 Time limitation for classification as bulk assignee
2057 or bulk buyer.—A person acquiring condominium parcels may not be
2058 classified as a bulk assignee or bulk buyer unless the
2059 condominium parcels were acquired before July 1, 2012. The date

583-03052A-10

20101196c2

2060 of such acquisition shall be determined by the date of recording
2061 of a deed or other instrument of conveyance for such parcels in
2062 the public records of the county in which the condominium is
2063 located, or by the date of issuance of a certificate of title in
2064 a foreclosure proceeding with respect to such condominium
2065 parcels.

2066 718.708 Liability of developers and others.—An assignment
2067 of developer rights to a bulk assignee or bulk buyer does not
2068 release the creating developer from liabilities under the
2069 declaration or this chapter. This part does not limit the
2070 liability of the creating developer for claims brought by unit
2071 owners, bulk assignees, or bulk buyers for violations of this
2072 chapter by the creating developer, unless specifically excluded
2073 in this part. This part does not waive, release, compromise, or
2074 limit liability established under chapter 718 except as
2075 specifically excluded under this part.

2076 Section 18. Paragraph (d) of subsection (1) of section
2077 719.106, Florida Statutes, is amended to read:

2078 719.106 Bylaws; cooperative ownership.—

2079 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
2080 documents shall provide for the following, and if they do not,
2081 they shall be deemed to include the following:

2082 (d) *Shareholder meetings*.—There shall be an annual meeting
2083 of the shareholders. All members of the board of administration
2084 shall be elected at the annual meeting unless the bylaws provide
2085 for staggered election terms or for their election at another
2086 meeting. Any unit owner desiring to be a candidate for board
2087 membership must ~~shall~~ comply with subparagraph 1. The bylaws
2088 must ~~shall~~ provide the method for calling meetings, including

583-03052A-10

20101196c2

2089 annual meetings. Written notice, which must ~~notice shall~~
2090 incorporate an identification of agenda items, shall be given to
2091 each unit owner at least 14 days before ~~prior to~~ the annual
2092 meeting and ~~shall be~~ posted in a conspicuous place on the
2093 cooperative property at least 14 continuous days preceding the
2094 annual meeting. Upon notice to the unit owners, the board must
2095 ~~shall~~ by duly adopted rule designate a specific location on the
2096 cooperative property upon which all notice of unit owner
2097 meetings are ~~shall be~~ posted. In lieu of or in addition to the
2098 physical posting of the meeting notice ~~of any meeting of the~~
2099 ~~shareholders on the cooperative property~~, the association may,
2100 by reasonable rule, adopt a procedure for conspicuously posting
2101 and repeatedly broadcasting the notice and the agenda on a
2102 closed-circuit cable television system serving the cooperative
2103 association. However, if broadcast notice is used in lieu of a
2104 posted notice ~~posted physically on the cooperative property~~, the
2105 notice and agenda must be broadcast at least four times every
2106 broadcast hour of each day that a posted notice is otherwise
2107 required under this section. If ~~When~~ broadcast notice is
2108 provided, the notice and agenda must be broadcast in a manner
2109 and for a sufficient continuous length of time ~~so as~~ to allow an
2110 average reader to observe the notice and read and comprehend the
2111 entire content of the notice and the agenda. Unless a unit owner
2112 waives in writing the right to receive notice of the annual
2113 meeting, the notice of the annual meeting must ~~shall~~ be sent by
2114 mail, hand delivered, or electronically transmitted to each unit
2115 owner. An officer of the association must ~~shall~~ provide an
2116 affidavit or United States Postal Service certificate of
2117 mailing, to be included in the official records of the

583-03052A-10

20101196c2

2118 association, affirming that notices of the association meeting
2119 were mailed, hand delivered, or electronically transmitted, in
2120 accordance with this provision, to each unit owner at the
2121 address last furnished to the association.

2122 1. ~~After January 1, 1992,~~ The board of administration shall
2123 be elected by written ballot or voting machine. A proxy may not
2124 ~~Proxies shall in no event~~ be used in electing the board of
2125 administration, ~~either~~ in general elections or elections to fill
2126 vacancies caused by recall, resignation, or otherwise unless
2127 otherwise provided in this chapter. At least ~~Not less than~~ 60
2128 days before a scheduled election, the association shall mail,
2129 deliver, or transmit, whether by separate association mailing,
2130 delivery, or electronic transmission or included in another
2131 association mailing, delivery, or electronic transmission,
2132 including regularly published newsletters, to each unit owner
2133 entitled to vote, a first notice of the date of the election.
2134 Any unit owner or other eligible person desiring to be a
2135 candidate for the board of administration must ~~shall~~ give
2136 written notice to the association at least ~~not less than~~ 40 days
2137 before a scheduled election. Together with the written notice
2138 and agenda as set forth in this section, the association shall
2139 mail, deliver, or electronically transmit a second notice of
2140 election to all unit owners entitled to vote ~~therein~~, together
2141 with a ballot which lists ~~shall list~~ all candidates. Upon
2142 request of a candidate, the association shall include an
2143 information sheet, no larger than 8 1/2 inches by 11 inches,
2144 which must be furnished by the candidate at least ~~not less than~~
2145 35 days before ~~prior to~~ the election, to be included with the
2146 mailing, delivery, or electronic transmission of the ballot,

583-03052A-10

20101196c2

2147 with the costs of mailing, delivery, or transmission and copying
2148 to be borne by the association. The association is not liable
2149 ~~has no liability~~ for the contents of the information sheets
2150 provided by the candidates. In order to reduce costs, the
2151 association may print or duplicate the information sheets on
2152 both sides of the paper. The division shall by rule establish
2153 voting procedures consistent with this subparagraph ~~the~~
2154 ~~provisions contained herein~~, including rules establishing
2155 procedures for giving notice by electronic transmission and
2156 rules providing for the secrecy of ballots. Elections shall be
2157 decided by a plurality of those ballots cast. There is ~~shall be~~
2158 no quorum requirement. However, at least 20 percent of the
2159 eligible voters must cast a ballot in order to have a valid
2160 election ~~of members of the board of administration~~. A ~~No~~ unit
2161 owner may not ~~shall~~ permit any other person to vote his or her
2162 ballot, and any such ballots improperly cast are ~~shall be deemed~~
2163 invalid. A unit owner who needs assistance in casting the ballot
2164 for the reasons stated in s. 101.051 may obtain assistance in
2165 casting the ballot. Any unit owner violating this provision may
2166 be fined by the association in accordance with s. 719.303. The
2167 regular election must ~~shall~~ occur on the date of the annual
2168 meeting. ~~The provisions of~~ This subparagraph does ~~shall~~ not
2169 apply to timeshare cooperatives. Notwithstanding ~~the provisions~~
2170 ~~of~~ this subparagraph, an election and balloting are not required
2171 unless more candidates file a notice of intent to run or are
2172 nominated than vacancies exist on the board.

2173 2. Any approval by unit owners called for by this chapter,
2174 or the applicable cooperative documents, must ~~shall~~ be made at a
2175 duly noticed meeting of unit owners and is ~~shall be~~ subject to

583-03052A-10

20101196c2

2176 ~~all requirements of~~ this chapter or the applicable cooperative
2177 documents relating to unit owner decisionmaking, except that
2178 unit owners may take action by written agreement, without
2179 meetings, on matters for which action by written agreement
2180 without meetings is expressly allowed by the applicable
2181 cooperative documents or law ~~any Florida statute~~ which provides
2182 for the unit owner action.

2183 3. Unit owners may waive notice of specific meetings if
2184 allowed by the applicable cooperative documents or law ~~any~~
2185 ~~Florida statute~~. If authorized by the bylaws, notice of meetings
2186 of the board of administration, shareholder meetings, except
2187 shareholder meetings called to recall board members under
2188 paragraph (f), and committee meetings may be given by electronic
2189 transmission to unit owners who consent to receive notice by
2190 electronic transmission.

2191 4. Unit owners ~~shall~~ have the right to participate in
2192 meetings of unit owners with reference to all designated agenda
2193 items. However, the association may adopt reasonable rules
2194 governing the frequency, duration, and manner of unit owner
2195 participation.

2196 5. Any unit owner may tape record or videotape meetings of
2197 the unit owners subject to reasonable rules adopted by the
2198 division.

2199 6. Unless otherwise provided in the bylaws, a vacancy
2200 occurring on the board before the expiration of a term may be
2201 filled by the affirmative vote of the majority of the remaining
2202 directors, even if the remaining directors constitute less than
2203 a quorum, or by the sole remaining director. In the alternative,
2204 a board may hold an election to fill the vacancy, in which case

583-03052A-10

20101196c2

2205 the election procedures must conform to the requirements of
2206 subparagraph 1. unless the association has opted out of the
2207 statutory election process, in which case the bylaws of the
2208 association control. Unless otherwise provided in the bylaws, a
2209 board member appointed or elected under this subparagraph shall
2210 fill the vacancy for the unexpired term of the seat being
2211 filled. Filling vacancies created by recall is governed by
2212 paragraph (f) and rules adopted by the division.

2213
2214 Notwithstanding subparagraphs (b)2. and (d)1., an association
2215 may, by the affirmative vote of a majority of the total voting
2216 interests, provide for a different voting and election procedure
2217 in its bylaws, which vote may be by a proxy specifically
2218 delineating the different voting and election procedures. The
2219 different voting and election procedures may provide for
2220 elections to be conducted by limited or general proxy.

2221 Section 19. Subsection (5) of section 719.1055, Florida
2222 Statutes, is amended to read:

2223 719.1055 Amendment of cooperative documents; alteration and
2224 acquisition of property.—

2225 (5) The bylaws must include a provision whereby a
2226 certificate of compliance from a licensed electrical contractor
2227 or electrician may be accepted by the association's board as
2228 evidence of compliance of the cooperative units with the
2229 applicable fire and life safety code. Notwithstanding ~~the~~
2230 ~~provisions of~~ chapter 633 or of any other code, statute,
2231 ordinance, administrative rule, or regulation, or any
2232 interpretation of the foregoing, a cooperative or unit owner is
2233 not obligated to retrofit the common elements, common areas,

583-03052A-10

20101196c2

2234 association property, or units of a residential cooperative with
2235 a fire sprinkler system or any other form of engineered
2236 lifesafety ~~life safety~~ system in a building that has been
2237 certified for occupancy by the applicable governmental entity,
2238 if the unit owners have voted to forego such retrofitting and
2239 engineered lifesafety ~~life safety~~ system by the affirmative vote
2240 of two-thirds of all voting interests in the affected
2241 cooperative. ~~However, a cooperative may not forego the~~
2242 ~~retrofitting with a fire sprinkler system of common areas in a~~
2243 ~~high-rise building. For purposes of this subsection, the term~~
2244 ~~"high-rise building" means a building that is greater than 75~~
2245 ~~feet in height where the building height is measured from the~~
2246 ~~lowest level of fire department access to the floor of the~~
2247 ~~highest occupiable story. For purposes of this subsection, the~~
2248 ~~term "common areas" means any enclosed hallway, corridor, lobby,~~
2249 ~~stairwell, or entryway. In no event shall~~ The local authority
2250 having jurisdiction may not require completion of retrofitting
2251 ~~of common areas~~ with a sprinkler system or other form of
2252 engineered lifesafety system before the end of 2019 ~~2014~~.

2253 (a) A vote to forego retrofitting may be obtained by
2254 limited proxy or by a ballot personally cast at a duly called
2255 membership meeting, or by execution of a written consent by the
2256 member, and is ~~shall be~~ effective upon ~~the~~ recording ~~of~~ a
2257 certificate attesting to such vote in the public records of the
2258 county where the cooperative is located. The association shall
2259 mail or ~~hand deliver, or electronically transmit~~ to each unit
2260 owner written notice at least 14 days before ~~prior to~~ such
2261 membership meeting in which the vote to forego retrofitting of
2262 the required fire sprinkler system or any other form of

583-03052A-10

20101196c2

2263 engineered lifesafety system is to take place. Within 30 days
2264 after the association's opt-out vote, notice of the results of
2265 the opt-out vote shall be mailed or, hand delivered, ~~or~~
2266 ~~electronically transmitted~~ to all unit owners. Evidence of
2267 compliance with this ~~30-day~~ notice must ~~shall~~ be made by an
2268 affidavit executed by the person providing the notice and filed
2269 among the official records of the association. After such notice
2270 is provided to each owner, a copy of the ~~such~~ notice shall be
2271 provided by the current owner to a new owner before ~~prior to~~
2272 closing and ~~shall be provided~~ by a unit owner to a renter before
2273 ~~prior to~~ signing a lease.

2274 (b) If there has been a previous vote to forego
2275 retrofitting, a vote to require retrofitting may be obtained at
2276 a special meeting of the unit owners called by a petition of
2277 least 10 percent of the voting interests. Such vote may only be
2278 called once every 3 years. Notice must be provided as required
2279 for any regularly called meeting of the unit owners, and the
2280 notice must state the purpose of the meeting. Electronic
2281 transmission may not be used to provide notice of a meeting
2282 called in whole or in part for this purpose.

2283 (c) ~~(b)~~ As part of the information collected annually from
2284 cooperatives, the division shall require associations to report
2285 the membership vote and recording of a certificate under this
2286 subsection and, if retrofitting has been undertaken, the per-
2287 unit cost of such work. The division shall annually report to
2288 the Division of State Fire Marshal of the Department of
2289 Financial Services the number of cooperatives that have elected
2290 to forego retrofitting.

2291 Section 20. Subsections (3) and (4) of section 719.108,

583-03052A-10

20101196c2

2292 Florida Statutes, are amended, and subsection (10) is added to
2293 that section, to read:

2294 719.108 Rents and assessments; liability; lien and
2295 priority; interest; collection; cooperative ownership.—

2296 (3) Rents and assessments, and installments on them, not
2297 paid when due bear interest at the rate provided in the
2298 cooperative documents from the date due until paid. This rate
2299 may not exceed the rate allowed by law, and, if a ~~no~~ rate is not
2300 provided in the cooperative documents, ~~then~~ interest accrues
2301 ~~shall acerue~~ at 18 percent per annum. ~~Also,~~ If the cooperative
2302 documents or bylaws so provide, the association may charge an
2303 administrative late fee in addition to such interest, in an
2304 amount not to exceed the greater of \$25 or 5 percent of each
2305 installment of the assessment for each delinquent installment
2306 that the payment is late. Any payment received by an association
2307 must ~~shall~~ be applied first to any interest accrued by the
2308 association, then to any administrative late fee, then to any
2309 costs and reasonable attorney's fees incurred in collection, and
2310 then to the delinquent assessment. Costs may include delinquency
2311 letters and other collections efforts by a licensed management
2312 company or a licensed manager relating to a delinquent
2313 installment of an assessment incurred before filing a claim of
2314 lien that does not exceed \$75. The foregoing applies ~~shall be~~
2315 ~~applicable~~ notwithstanding any restrictive endorsement,
2316 designation, or instruction placed on or accompanying a payment.
2317 A late fee is not subject to chapter 687 or s. 719.303(3).

2318 (4) The association has ~~shall have~~ a lien on each
2319 cooperative parcel for any unpaid rents and assessments, plus
2320 interest, any authorized administrative late fees, and any

583-03052A-10

20101196c2

2321 reasonable costs for collection services for which the
2322 association has contracted against the unit owner of the
2323 cooperative parcel. If authorized by the cooperative documents,
2324 the said lien shall also secures ~~secure~~ reasonable attorney's
2325 fees incurred by the association incident to the collection of
2326 the rents and assessments or enforcement of such lien. The lien
2327 is effective from and after ~~the~~ recording ~~of~~ a claim of lien in
2328 the public records in the county in which the cooperative parcel
2329 is located which states the description of the cooperative
2330 parcel, the name of the unit owner, the amount due, and the due
2331 dates. The lien expires ~~shall expire~~ if a claim of lien is not
2332 filed within 1 year after the date the assessment was due, and
2333 the no-such lien does not ~~shall~~ continue for a longer ~~period~~
2334 than 1 year after the claim of lien has been recorded unless,
2335 within that time, an action to enforce the lien is commenced ~~in~~
2336 ~~a court of competent jurisdiction~~. Except as otherwise provided
2337 in this chapter, a lien may not be filed by the association
2338 against a cooperative parcel until 30 days after the date on
2339 which a notice of intent to file a lien has been delivered to
2340 the owner.

2341 (a) The notice must be sent to the unit owner at the
2342 address of the unit by first-class United States mail and:
2343 1. If the most recent address of the unit owner on the
2344 records of the association is the address of the unit, the
2345 notice must be sent by registered or certified mail, return
2346 receipt requested, to the unit owner at the address of the unit.
2347 2. If the most recent address of the unit owner on the
2348 records of the association is in the United States, but is not
2349 the address of the unit, the notice must be sent by registered

583-03052A-10

20101196c2

2350 or certified mail, return receipt requested, to the unit owner
2351 at his or her most recent address.

2352 3. If the most recent address of the unit owner on the
2353 records of the association is not in the United States, the
2354 notice must be sent by first-class United States mail to the
2355 unit owner at his or her most recent address.

2356 (b) A notice that is sent pursuant to this subsection is
2357 deemed delivered upon mailing. ~~No lien may be filed by the~~
2358 ~~association against a cooperative parcel until 30 days after the~~
2359 ~~date on which a notice of intent to file a lien has been served~~
2360 ~~on the unit owner of the cooperative parcel by certified mail or~~
2361 ~~by personal service in the manner authorized by chapter 48 and~~
2362 ~~the Florida Rules of Civil Procedure.~~

2363 (10) If the unit is occupied by a tenant and the share
2364 owner is delinquent in paying any monetary obligation due to the
2365 association, the association may make a written demand that the
2366 tenant pay the future monetary obligations related to the
2367 cooperative share to the association and the tenant must make
2368 such payment. The demand is continuing in nature, and upon
2369 demand, the tenant must pay the monetary obligations to the
2370 association until the association releases the tenant or the
2371 tenant discontinues tenancy in the unit. The association must
2372 mail written notice to the unit owner of the association's
2373 demand that the tenant make payments to the association. The
2374 association shall, upon request, provide the tenant with written
2375 receipts for payments made. A tenant who acts in good faith in
2376 response to a written demand from an association is immune from
2377 any claim from the unit owner.

2378 (a) If the tenant prepaid rent to the unit owner before

583-03052A-10

20101196c2

2379 receiving the demand from the association and provides written
2380 evidence of paying the rent to the association within 14 days
2381 after receiving the demand, the tenant must make any subsequent
2382 rental payments to the association to be credited against the
2383 monetary obligations of the unit owner to the association.

2384 (b) The tenant is not liable for increases in the amount of
2385 the regular monetary obligations due unless the tenant was
2386 notified in writing of the increase at least 10 days before the
2387 date on which the rent is due. The liability of the tenant may
2388 not exceed the amount due from the tenant to the tenants'
2389 landlord. The tenant's landlord shall provide the tenant a
2390 credit against rents due to the unit owner in the amount of
2391 monies paid to the association under this section.

2392 (c) The association may issue notices under s. 83.56 and
2393 may sue for eviction under ss. 83.59-83.625 as if the
2394 association were a landlord under part II of chapter 83 if the
2395 tenant fails to pay a required payment. However, the association
2396 is not otherwise considered a landlord under chapter 83 and
2397 specifically has no duties under s. 83.51.

2398 (d) The tenant does not, by virtue of payment of monetary
2399 obligations, have any of the rights of a unit owner to vote in
2400 any election or to examine the books and records of the
2401 association.

2402 (e) A court may supersede the effect of this subsection by
2403 appointing a receiver.

2404 Section 21. Paragraph (b) of subsection (2) of section
2405 720.304, Florida Statutes, is amended to read:

2406 720.304 Right of owners to peaceably assemble; display of
2407 flag; SLAPP suits prohibited.-

583-03052A-10

20101196c2

2408 (2)

2409 (b) Any homeowner may erect a freestanding flagpole no more

2410 than 20 feet high on any portion of the homeowner's real

2411 property, regardless of any covenants, restrictions, bylaws,

2412 rules, or requirements of the association, if the flagpole does

2413 not obstruct sightlines at intersections and is not erected

2414 within or upon an easement. The homeowner may further display in

2415 a respectful manner from that flagpole, regardless of any

2416 covenants, restrictions, bylaws, rules, or requirements of the

2417 association, one official United States flag, not larger than 4

2418 1/2 feet by 6 feet, and may additionally display one official

2419 flag of the State of Florida or the United States Army, Navy,

2420 Air Force, Marines, or Coast Guard, or a POW-MIA flag. Such

2421 additional flag must be equal in size to or smaller than the

2422 United States flag. The flagpole and display are subject to all

2423 building codes, zoning setbacks, and other applicable

2424 governmental regulations, including, but not limited to, noise

2425 and lighting ordinances in the county or municipality in which

2426 the flagpole is erected and all setback and locational criteria

2427 contained in the governing documents.

2428 Section 22. Subsection (2) of section 720.305, Florida

2429 Statutes, is amended to read:

2430 720.305 Obligations of members; remedies at law or in

2431 equity; levy of fines and suspension of use rights.-

2432 (2) If a member is delinquent for more than 90 days in

2433 paying a monetary obligation due the association ~~the governing~~

2434 ~~documents so provide~~, an association may suspend, until such

2435 monetary obligation is paid ~~for a reasonable period of time~~, the

2436 rights of a member or a member's tenants, guests, or invitees,

583-03052A-10

20101196c2

2437 or both, to use common areas and facilities and may levy
2438 reasonable fines of up to, ~~not to exceed~~ \$100 per violation,
2439 against any member or any tenant, guest, or invitee. A fine may
2440 be levied for ~~on the basis of~~ each day of a continuing
2441 violation, with a single notice and opportunity for hearing,
2442 except that a no such fine may not shall exceed \$1,000 in the
2443 aggregate unless otherwise provided in the governing documents.
2444 A fine of less than \$1,000 may shall not become a lien against a
2445 parcel. In any action to recover a fine, the prevailing party is
2446 entitled to collect its reasonable attorney's fees and costs
2447 from the nonprevailing party as determined by the court. The
2448 provisions regarding the suspension-of-use rights do not apply
2449 to the portion of common areas that must be used to provide
2450 access to the parcel or utility services provided to the parcel.

2451 (a) A fine or suspension may not be imposed without ~~notice~~
2452 ~~of~~ at least 14 days notice to the person sought to be fined or
2453 suspended and an opportunity for a hearing before a committee of
2454 at least three members appointed by the board who are not
2455 officers, directors, or employees of the association, or the
2456 spouse, parent, child, brother, or sister of an officer,
2457 director, or employee. If the committee, by majority vote, does
2458 not approve a proposed fine or suspension, it may not be
2459 imposed. If the association imposes a fine or suspension, the
2460 association must provide written notice of such fine or
2461 suspension by mail or hand delivery to the parcel owner and, if
2462 applicable, to any tenant, licensee, or invitee of the parcel
2463 owner.

2464 ~~(b) The requirements of this subsection do not apply to the~~
2465 ~~imposition of suspensions or fines upon any member because of~~

583-03052A-10

20101196c2

2466 ~~the failure of the member to pay assessments or other charges~~
2467 ~~when due if such action is authorized by the governing~~
2468 ~~documents.~~

2469 (b)~~(e)~~ Suspension of common-area-use rights do ~~shall~~ not
2470 impair the right of an owner or tenant of a parcel to have
2471 vehicular and pedestrian ingress to and egress from the parcel,
2472 including, but not limited to, the right to park.

2473 Section 23. Subsections (7) and (9) of section 720.306,
2474 Florida Statutes, are amended to read:

2475 720.306 Meetings of members; voting and election
2476 procedures; amendments.—

2477 (7) ADJOURNMENT.—Unless the bylaws require otherwise,
2478 adjournment of an annual or special meeting to a different date,
2479 time, or place must be announced at that meeting before an
2480 adjournment is taken, or notice must be given of the new date,
2481 time, or place pursuant to s. 720.303(2). Any business that
2482 might have been transacted on the original date of the meeting
2483 may be transacted at the adjourned meeting. If a new record date
2484 for the adjourned meeting is or must be fixed under s. 607.0707
2485 ~~s. 617.0707~~, notice of the adjourned meeting must be given to
2486 persons who are entitled to vote and are members as of the new
2487 record date but were not members as of the previous record date.

2488 (9) ELECTIONS AND BOARD VACANCIES.—Elections of directors
2489 must be conducted in accordance with the procedures set forth in
2490 the governing documents of the association. All members of the
2491 association are ~~shall be~~ eligible to serve on the board of
2492 directors, and a member may nominate himself or herself as a
2493 candidate for the board at a meeting where the election is to be
2494 held. Except as otherwise provided in the governing documents,

583-03052A-10

20101196c2

2495 boards of directors must be elected by a plurality of the votes
2496 cast by eligible voters. Any election dispute between a member
2497 and an association must be submitted to mandatory binding
2498 arbitration with the division. Such proceedings must ~~shall~~ be
2499 conducted in the manner provided by s. 718.1255 and the
2500 procedural rules adopted by the division. Unless otherwise
2501 provided in the bylaws, any vacancy occurring on the board
2502 before the expiration of a term may be filled by an affirmative
2503 vote of the majority of the remaining directors, even if the
2504 remaining directors constitute less than a quorum, or by the
2505 sole remaining director. In the alternative, a board may hold an
2506 election to fill the vacancy, in which case the election
2507 procedures must conform to the requirements of the governing
2508 documents. Unless otherwise provided in the bylaws, a board
2509 member appointed or elected under this section is appointed for
2510 the unexpired term of the seat being filled. Filling vacancies
2511 created by recall is governed by s. 720.303(10) and rules
2512 adopted by the division.

2513 Section 24. Subsection (8) is added to section 720.3085,
2514 Florida Statutes, to read:

2515 720.3085 Payment for assessments; lien claims.-

2516 (8) If the parcel is occupied by a tenant and the parcel
2517 owner is delinquent in paying any monetary obligation due to the
2518 association, the association may demand that the tenant pay to
2519 the association the future monetary obligations related to the
2520 parcel. The demand is continuing in nature, and upon demand, the
2521 tenant must continue to pay the monetary obligations until the
2522 association releases the tenant or the tenant discontinues
2523 tenancy in the parcel. A tenant who acts in good faith in

583-03052A-10

20101196c2

2524 response to a written demand from an association is immune from
2525 any claim from the parcel owner.

2526 (a) If the tenant prepaid rent to the parcel owner before
2527 receiving the demand from the association and provides written
2528 evidence of paying the rent to the association within 14 days
2529 after receiving the demand, the tenant must make any subsequent
2530 rental payments to the association to be credited against the
2531 monetary obligations of the parcel owner to the association. The
2532 association shall, upon request, provide the tenant with written
2533 receipts for payments made. The association shall mail written
2534 notice to the parcel owner of the association's demand that the
2535 tenant pay monetary obligations to the association.

2536 (b) The tenant is not liable for increases in the amount of
2537 the monetary obligations due unless the tenant was notified in
2538 writing of the increase at least 10 days before the date on
2539 which the rent is due. The tenant shall be given a credit
2540 against rents due to the parcel owner in the amount of
2541 assessments paid to the association.

2542 (c) The association may issue notices under s. 83.56 and
2543 may sue for eviction under ss. 83.59-83.625 as if the
2544 association were a landlord under part II of chapter 83 if the
2545 tenant fails to pay a monetary obligation. However, the
2546 association is not otherwise considered a landlord under chapter
2547 83 and specifically has no duties under s. 83.51.

2548 (d) The tenant does not, by virtue of payment of monetary
2549 obligations, have any of the rights of a parcel owner to vote in
2550 any election or to examine the books and records of the
2551 association.

2552 (e) A court may supersede the effect of this subsection by

583-03052A-10

20101196c2

2553 appointing a receiver.

2554 Section 25. Subsection (6) is added to section 720.31,
2555 Florida Statutes, to read:

2556 720.31 Recreational leaseholds; right to acquire;
2557 escalation clauses.—

2558 (6) An association may enter into agreements to acquire
2559 leaseholds, memberships, and other possessory or use interests
2560 in lands or facilities, including, but not limited to, country
2561 clubs, golf courses, marinas, submerged land, parking areas,
2562 conservation areas, and other recreational facilities. An
2563 association may enter into such agreements regardless of whether
2564 the lands or facilities are contiguous to the lands of the
2565 community or whether such lands or facilities are intended to
2566 provide enjoyment, recreation, or other use or benefit to the
2567 owners. All leaseholds, memberships, and other possessory or use
2568 interests existing or created at the time of recording the
2569 declaration must be stated and fully described in the
2570 declaration. Subsequent to recording the declaration, agreements
2571 acquiring leaseholds, memberships, or other possessory or use
2572 interests not entered into within 12 months after recording the
2573 declaration may be entered into only if authorized by the
2574 declaration as a material alteration or substantial addition to
2575 the common areas or association property. If the declaration is
2576 silent, any such transaction requires the approval of 75 percent
2577 of the total voting interests of the association. The
2578 declaration may provide that the rental, membership fees,
2579 operations, replacements, or other expenses are common expenses;
2580 impose covenants and restrictions concerning their use; and
2581 contain other provisions not inconsistent with this subsection.

583-03052A-10

20101196c2

2582 An association exercising its rights under this subsection may
2583 join with other associations that are part of the same
2584 development or with a master association responsible for the
2585 enforcement of shared covenants, conditions, and restrictions in
2586 carrying out the intent of this subsection. This subsection is
2587 intended to clarify law in existence before July 1, 2010.

2588 Section 26. Paragraph (b) of subsection (2), paragraphs (a)
2589 and (c) of subsection (5), and paragraphs (b), (c), (d), (f),
2590 and (g) of subsection (6) of section 720.303, Florida Statutes,
2591 are amended, and subsection (12) is added to that section, to
2592 read:

2593 720.303 Association powers and duties; meetings of board;
2594 official records; budgets; financial reporting; association
2595 funds; recalls.—

2596 (2) BOARD MEETINGS.—

2597 (b) Members have the right to attend all meetings of the
2598 board and to speak on any matter placed on the agenda by
2599 petition of the voting interests for at least 3 minutes. The
2600 association may adopt written reasonable rules expanding the
2601 right of members to speak and governing the frequency, duration,
2602 and other manner of member statements, which rules must be
2603 consistent with this paragraph and may include a sign-up sheet
2604 for members wishing to speak. Notwithstanding any other law, ~~the~~
2605 ~~requirement that board meetings and committee meetings be open~~
2606 ~~to the members is inapplicable to~~ meetings between the board or
2607 a committee and the association's attorney to discuss proposed
2608 or pending litigation, or with respect to meetings of the board
2609 held for the purpose of discussing personnel matters are not
2610 required to be open to the members other than directors.

583-03052A-10

20101196c2

2611 (5) INSPECTION AND COPYING OF RECORDS.—The official records
2612 shall be maintained within the state and must be open to
2613 inspection and available for photocopying by members or their
2614 authorized agents at reasonable times and places within 10
2615 business days after receipt of a written request for access.
2616 This subsection may be complied with by having a copy of the
2617 official records available for inspection or copying in the
2618 community. If the association has a photocopy machine available
2619 where the records are maintained, it must provide parcel owners
2620 with copies on request during the inspection if the entire
2621 request is limited to no more than 25 pages.

2622 (a) The failure of an association to provide access to the
2623 records within 10 business days after receipt of a written
2624 request submitted by certified mail, return receipt requested,
2625 creates a rebuttable presumption that the association willfully
2626 failed to comply with this subsection.

2627 (c) The association may adopt reasonable written rules
2628 governing the frequency, time, location, notice, records to be
2629 inspected, and manner of inspections, but may not require ~~impose~~
2630 ~~a requirement that~~ a parcel owner to demonstrate any proper
2631 purpose for the inspection, state any reason for the inspection,
2632 or limit a parcel owner's right to inspect records to less than
2633 one 8-hour business day per month. The association may impose
2634 fees to cover the costs of providing copies of the official
2635 records, including, without limitation, the costs of copying.
2636 The association may charge up to 50 cents per page for copies
2637 made on the association's photocopier. If the association does
2638 not have a photocopy machine available where the records are
2639 kept, or if the records requested to be copied exceed 25 pages

583-03052A-10

20101196c2

2640 in length, the association may have copies made by an outside
2641 vendor or association management company personnel and may
2642 charge the actual cost of copying, including any reasonable
2643 costs involving personnel fees and charges at an hourly rate for
2644 vendor or employee time to cover administrative costs to the
2645 vendor or association. The association shall maintain an
2646 adequate number of copies of the recorded governing documents,
2647 to ensure their availability to members and prospective members.
2648 Notwithstanding ~~the provisions of~~ this paragraph, the following
2649 records are ~~shall not be~~ accessible to members or parcel owners:

2650 1. Any record protected by the lawyer-client privilege as
2651 described in s. 90.502 and any record protected by the work-
2652 product privilege, including, but not limited to, any record
2653 prepared by an association attorney or prepared at the
2654 attorney's express direction which reflects a mental impression,
2655 conclusion, litigation strategy, or legal theory of the attorney
2656 or the association and which was prepared exclusively for civil
2657 or criminal litigation or for adversarial administrative
2658 proceedings or which was prepared in anticipation of imminent
2659 civil or criminal litigation or imminent adversarial
2660 administrative proceedings until the conclusion of the
2661 litigation or ~~adversarial~~ administrative proceedings.

2662 2. Information obtained by an association in connection
2663 with the approval of the lease, sale, or other transfer of a
2664 parcel.

2665 3. ~~Disciplinary, health, insurance, and Personnel~~ records
2666 of the association's employees, including, but not limited to,
2667 disciplinary, payroll, health, and insurance records.

2668 4. Medical records of parcel owners or community residents.

583-03052A-10

20101196c2

2669 5. Social security numbers, driver's license numbers,
2670 credit card numbers, electronic mailing addresses, telephone
2671 numbers, emergency contact information, any addresses for a
2672 parcel owner other than as provided for association notice
2673 requirements, and other personal identifying information of any
2674 person, excluding the person's name, parcel designation, mailing
2675 address, and property address.

2676 6. Any electronic security measure that is used by the
2677 association to safeguard data, including passwords.

2678 7. The software and operating system used by the
2679 association which allows the manipulation of data, even if the
2680 owner owns a copy of the same software used by the association.
2681 The data is part of the official records of the association.

2682 (6) BUDGETS.—

2683 (b) In addition to annual operating expenses, the budget
2684 may include reserve accounts for capital expenditures and
2685 deferred maintenance for which the association is responsible.
2686 If reserve accounts are not established pursuant to paragraph
2687 (d), funding of such reserves is limited to the extent that the
2688 governing documents ~~do not~~ limit increases in assessments,
2689 including reserves. If the budget of the association includes
2690 reserve accounts established pursuant to paragraph (d), such
2691 reserves shall be determined, maintained, and waived in the
2692 manner provided in this subsection. Once an association provides
2693 for reserve accounts pursuant to paragraph (d) ~~in the budget~~,
2694 the association shall thereafter determine, maintain, and waive
2695 reserves in compliance with this subsection. This section does
2696 not preclude the termination of a reserve account established
2697 pursuant to this paragraph upon approval of a majority of the

583-03052A-10

20101196c2

2698 total voting interests of the association. Upon such approval,
2699 the terminating reserve account shall be removed from the
2700 budget.

2701 (c)1. If the budget of the association does not provide for
2702 reserve accounts pursuant to paragraph (d) ~~governed by this~~
2703 ~~subsection~~ and the association is responsible for the repair and
2704 maintenance of capital improvements that may result in a special
2705 assessment if reserves are not provided, each financial report
2706 for the preceding fiscal year required by subsection (7) must
2707 ~~shall~~ contain the following statement in conspicuous type:

2708
2709 THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR
2710 RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED
2711 MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS.
2712 OWNERS MAY ELECT TO PROVIDE FOR RESERVE ACCOUNTS
2713 PURSUANT TO ~~THE PROVISIONS OF~~ SECTION 720.303(6),
2714 FLORIDA STATUTES, UPON OBTAINING THE APPROVAL OF ~~NOT~~
2715 ~~LESS THAN~~ A MAJORITY OF THE TOTAL VOTING INTERESTS OF
2716 THE ASSOCIATION BY VOTE OF THE MEMBERS AT A MEETING OR
2717 BY WRITTEN CONSENT.

2718 2. If the budget of the association does provide for
2719 funding accounts for deferred expenditures, including, but not
2720 limited to, funds for capital expenditures and deferred
2721 maintenance, but such accounts are not created or established
2722 pursuant to paragraph (d), each financial report for the
2723 preceding fiscal year required under subsection (7) must also
2724 contain the following statement in conspicuous type:

2725
2726 THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED

583-03052A-10

20101196c2

2727 VOLUNTARY DEFERRED EXPENDITURE ACCOUNTS, INCLUDING
2728 CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE, SUBJECT
2729 TO LIMITS ON FUNDING CONTAINED IN OUR GOVERNING
2730 DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED TO
2731 PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION
2732 720.303(6), FLORIDA STATUTES, THESE FUNDS ARE NOT
2733 SUBJECT TO THE RESTRICTIONS ON USE OF SUCH FUNDS SET
2734 FORTH IN THAT STATUTE, NOR ARE RESERVES CALCULATED IN
2735 ACCORDANCE WITH THAT STATUTE.

2736 (d) An association is ~~shall be~~ deemed to have provided for
2737 reserve accounts if ~~when~~ reserve accounts have been initially
2738 established by the developer or if ~~when~~ the membership of the
2739 association affirmatively elects to provide for reserves. If
2740 reserve accounts are not initially provided ~~for~~ by the
2741 developer, the membership of the association may elect to do so
2742 upon the affirmative approval of ~~not less than~~ a majority of the
2743 total voting interests of the association. Such approval may be
2744 obtained ~~attained~~ by vote of the members at a duly called
2745 meeting of the membership or by the ~~upon a~~ written consent of
2746 ~~executed by not less than~~ a majority of the total voting
2747 interests of the association ~~in the community~~. The approval
2748 action of the membership must ~~shall~~ state that reserve accounts
2749 shall be provided for in the budget and must designate the
2750 components for which the reserve accounts are to be established.
2751 Upon approval by the membership, the board of directors shall
2752 include ~~provide for~~ the required reserve accounts ~~for inclusion~~
2753 in the budget in the next fiscal year following the approval and
2754 ~~in~~ each year thereafter. Once established as provided in this
2755 subsection, the reserve accounts must ~~shall~~ be funded or

583-03052A-10

20101196c2

2756 maintained or ~~shall~~ have their funding waived in the manner
2757 provided in paragraph (f).

2758 (f) After one or more ~~Once a reserve account or~~ reserve
2759 accounts are established, the membership of the association,
2760 upon a majority vote at a meeting at which a quorum is present,
2761 may provide for no reserves or less reserves than required by
2762 this section. If a meeting of the unit owners has been called to
2763 determine whether to waive or reduce the funding of reserves and
2764 ~~no~~ such result is not achieved or a quorum is not present, the
2765 reserves as included in the budget ~~shall~~ go into effect. After
2766 the turnover, the developer may vote its voting interest to
2767 waive or reduce the funding of reserves. Any vote taken pursuant
2768 to this subsection to waive or reduce reserves is ~~shall be~~
2769 applicable only to one budget year.

2770 (g) Funding formulas for reserves authorized by this
2771 section must ~~shall~~ be based on ~~either~~ a separate analysis of
2772 each of the required assets or a pooled analysis of two or more
2773 of the required assets.

2774 1. If the association maintains separate reserve accounts
2775 for each of the required assets, the amount of the contribution
2776 to each reserve account is ~~shall be~~ the sum of the following two
2777 calculations:

2778 a. The total amount necessary, if any, to bring a negative
2779 component balance to zero.

2780 b. The total estimated deferred maintenance expense or
2781 estimated replacement cost of the reserve component less the
2782 estimated balance of the reserve component as of the beginning
2783 of the period ~~for which~~ the budget will be in effect. The
2784 remainder, if greater than zero, shall be divided by the

583-03052A-10

20101196c2

2785 estimated remaining useful life of the component.

2786

2787 The formula may be adjusted each year for changes in estimates
2788 and deferred maintenance performed during the year and may
2789 include factors such as inflation and earnings on invested
2790 funds.

2791 2. If the association maintains a pooled account of two or
2792 more of the required reserve assets, the amount of the
2793 contribution to the pooled reserve account as disclosed on the
2794 proposed budget may ~~shall~~ not be less than that required to
2795 ensure that the balance on hand at the beginning of the period
2796 ~~for which~~ the budget will go into effect plus the projected
2797 annual cash inflows over the remaining estimated useful life of
2798 all of the assets that make up the reserve pool are equal to or
2799 greater than the projected annual cash outflows over the
2800 remaining estimated useful lives of all ~~of~~ the assets that make
2801 up the reserve pool, based on the current reserve analysis. The
2802 projected annual cash inflows may include estimated earnings
2803 from investment of principal and accounts receivable minus the
2804 allowance for doubtful accounts. The reserve funding formula may
2805 ~~shall~~ not include any type of balloon payments.

2806 (12) COMPENSATION PROHIBITED.—A director, officer, or
2807 committee member of the association may not directly receive any
2808 salary or compensation from the association for the performance
2809 of duties as a director, officer, or committee member and may
2810 not in any other way benefit financially from service to the
2811 association. This subsection does not preclude:

2812 (a) Participation by such person in a financial benefit
2813 accruing to all or a significant number of members as a result

583-03052A-10

20101196c2

2814 of actions lawfully taken by the board or a committee of which
2815 he or she is a member, including, but not limited to, routine
2816 maintenance, repair, or replacement of community assets.

2817 (b) Reimbursement for out-of-pocket expenses incurred by
2818 such person on behalf of the association, subject to approval in
2819 accordance with procedures established by the association's
2820 governing documents or, in the absence of such procedures, in
2821 accordance with an approval process established by the board.

2822 (c) Any recovery of insurance proceeds derived from a
2823 policy of insurance maintained by the association for the
2824 benefit of its members.

2825 (d) Any fee or compensation authorized in the governing
2826 documents.

2827 (e) Any fee or compensation authorized in advance by a vote
2828 of a majority of the voting interests voting in person or by
2829 proxy at a meeting of the members.

2830 (f) A developer or its representative from serving as a
2831 director, officer, or committee member of the association and
2832 benefitting financially from service to the association.

2833 Section 27. Subsections (8) and (9) of section 720.306,
2834 Florida Statutes, are amended to read:

2835 720.306 Meetings of members; voting and election
2836 procedures; amendments.—

2837 (8) PROXY VOTING.—The members have the right, unless
2838 otherwise provided in this subsection or in the governing
2839 documents, to vote in person or by proxy.

2840 (a) To be valid, a proxy must be dated, must state the
2841 date, time, and place of the meeting for which it was given, and
2842 must be signed by the authorized person who executed the proxy.

583-03052A-10

20101196c2

2843 A proxy is effective only for the specific meeting for which it
2844 was originally given, as the meeting may lawfully be adjourned
2845 and reconvened from time to time, and automatically expires 90
2846 days after the date of the meeting for which it was originally
2847 given. A proxy is revocable at any time at the pleasure of the
2848 person who executes it. If the proxy form expressly so provides,
2849 any proxy holder may appoint, in writing, a substitute to act in
2850 his or her place.

2851 (b) If the governing documents permit voting by secret
2852 ballot by members who are not in attendance at a meeting of the
2853 members for the election of directors, such ballots must be
2854 placed in an inner envelope with no identifying markings and
2855 mailed or delivered to the association in an outer envelope
2856 bearing identifying information reflecting the name of the
2857 member, the lot or parcel for which the vote is being cast, and
2858 the signature of the lot or parcel owner casting that ballot. If
2859 the eligibility of the member to vote is confirmed and no other
2860 ballot has been submitted for that lot or parcel, the inner
2861 envelope shall be removed from the outer envelope bearing the
2862 identification information, placed with the ballots which were
2863 personally cast, and opened when the ballots are counted. If
2864 more than one ballot is submitted for a lot or parcel, the
2865 ballots for that lot or parcel shall be disqualified. Any vote
2866 by ballot received after the closing of the balloting may not be
2867 considered.

2868 (9) ELECTIONS.—Elections of directors must be conducted in
2869 accordance with the procedures set forth in the governing
2870 documents of the association. All members of the association are
2871 ~~shall be~~ eligible to serve on the board of directors, and a

583-03052A-10

20101196c2

2872 member may nominate himself or herself as a candidate for the
2873 board at a meeting where the election is to be held or, if the
2874 election process allows voting by absentee ballot, in advance of
2875 the balloting. Except as otherwise provided in the governing
2876 documents, boards of directors must be elected by a plurality of
2877 the votes cast by eligible voters. Any election dispute between
2878 a member and an association must be submitted to mandatory
2879 binding arbitration with the division. Such proceedings must
2880 ~~shall~~ be conducted in the manner provided by s. 718.1255 and the
2881 procedural rules adopted by the division.

2882 Section 28. Paragraph (a) of subsection (5) of section
2883 720.3085, Florida Statutes, is amended to read:

2884 720.3085 Payment for assessments; lien claims.—

2885 (5) The association may bring an action in its name to
2886 foreclose a lien for unpaid assessments secured by a lien in the
2887 same manner that a mortgage of real property is foreclosed and
2888 may also bring an action to recover a money judgment for the
2889 unpaid assessments without waiving any claim of lien. The action
2890 to foreclose the lien may not be brought until 45 days after the
2891 parcel owner has been provided notice of the association's
2892 intent to foreclose and collect the unpaid amount. The notice
2893 must be given in the manner provided in paragraph (4) (b), and
2894 the notice may not be provided until the passage of the 45 days
2895 required in paragraph (4) (a).

2896 (a) The association may recover any interest, late charges,
2897 costs, and reasonable attorney's fees incurred in a lien
2898 foreclosure action or in an action to recover a money judgment
2899 for the unpaid assessments. Costs may include delinquency
2900 letters and other collections efforts by a licensed management

583-03052A-10

20101196c2

2901 company or a licensed manager relating to a delinquent
2902 installment of an assessment incurred before filing a claim of
2903 lien that does not exceed \$75.

2904 Section 29. Section 720.315, Florida Statutes, is created
2905 to read:

2906 720.315 Passage of special assessments.—Before turnover,
2907 the board of directors controlled by the developer may not levy
2908 a special assessment unless a majority of the parcel owners
2909 other than the developer have approved the special assessment by
2910 a majority vote at a duly called special meeting of the
2911 membership at which a quorum is present.

2912 Section 30. This act shall take effect July 1, 2010.