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1
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; creating 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; specifying
23 the maximum amount of any unit owner's loss assessment
24 coverage that can be assessed for any loss; providing
25 that certain changes to the limits of a unit owner's
26 coverage for loss assessments made on or after a
27 specified period before the date of loss do not apply
28 to the loss; providing that certain insurers are not
29 required to pay more than an amount equal to that unit

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30 owner's loss assessment coverage limit; requiring that
31 every property insurance policy to an individual unit
32 owner contain a specified provision; amending s.
33 633.0215, F.S.; exempting certain residential
34 buildings from a requirement to install a manual fire
35 alarm system; amending s. 718.103, F.S.; redefining
36 the term "developer"; amending s. 718.110, F.S.;
37 allowing the condominium association to have the
38 authority to restrict through an amendment to a
39 declaration of condominium, rather than prohibit, the
40 rental of condominium units; authorizing the
41 classification of certain portions of common elements
42 as limited common elements upon receipt of the
43 required vote to amend a declaration; providing that
44 such reclassification is not an amendment pursuant to
45 specified provisions of state law; amending s.
46 718.111, F.S.; deleting a requirement for the board of
47 a condominium to hold a meeting open to unit owners to
48 establish the amount of an insurance deductible;
49 revising the property to which a property insurance
50 policy for a condominium association applies; revising
51 the requirements for a condominium unit owner's
52 property insurance policy; limiting the circumstances
53 under which a person who violates requirements to
54 maintain association records may be personally liable
55 for a civil penalty; providing that a condominium
56 association is not responsible for the use of certain
57 information provided to an association member under
58 certain circumstances; specifying records of a

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59 condominium association which are exempt from a
60 requirement that records be available for inspection
61 by an association member; increasing the amount of
62 time within which a condominium association must
63 provide unit owners with a copy of the association's
64 annual financial report; revising the requirements for
65 rules relating to the financial report that must be
66 adopted by the Division of Florida Condominiums,
67 Timeshares, and Mobile Homes of the Department of
68 Business and Professional Regulation; revising the
69 requirements for a financial report based on the
70 amount of a condominium's revenues; amending s.
71 718.112, F.S.; revising provisions relating to the
72 terms or appointment or election of condominium
73 members to a board of administration; creating
74 exceptions to such provisions for condominiums that
75 contain timeshares; specifying a certification that a
76 person who is appointed or elected to a board of
77 administration must make or educational requirements
78 such board member must satisfy; conforming cross-
79 references to changes made by the act; deleting a
80 provision prohibiting an association from foregoing
81 the retrofitting with a fire sprinkler system of
82 common areas in a high-rise building; prohibiting
83 local authorities having jurisdiction from requiring
84 retrofitting with a sprinkler system or other
85 engineered lifesafety system before a specified date;
86 requiring that certain associations initiate, before a
87 specified date, an application for a building permit

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88 for the required fire sprinkler installation with the
89 local government having jurisdiction demonstrating
90 that the association will be in compliance with
91 certain firesafety requirements by a specified date;
92 authorizing an association to forgo retrofitting under
93 certain circumstances; providing requirements for a
94 special meeting of unit owners which may be called
95 every 3 years in order to vote to forgo retrofitting
96 of the sprinkler system or other engineered lifesafety
97 systems; providing meeting notice requirements;
98 expanding the monetary obligations that a director or
99 officer must satisfy to avoid abandoning his or her
100 office; amending s. 718.115, F.S.; specifying certain
101 services provided in a declaration of condominium
102 which are obtained pursuant to a bulk contract to be
103 deemed a common expense; specifying provisions that
104 must be contained in a bulk contract; specifying
105 cancellation procedures for bulk contracts; amending
106 s. 718.116, F.S.; increasing the period of accrual of
107 certain assessments used to determine the amount of
108 limited liability of certain first mortgagees or their
109 successors or assignees; requiring a tenant in a unit
110 owned by a person who is delinquent in the payment of
111 a monetary obligation to the condominium association
112 to pay rent to the association under certain
113 circumstances; authorizing the condominium association
114 to sue such tenant who fails to pay rent for eviction
115 under certain circumstances; providing that the tenant
116 is immune from claims from the unit owner as the

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117 result of paying rent to the association under certain
118 circumstances; amending s. 718.117, F.S.; revising the
119 circumstances under which a condominium association
120 may be terminated due to economic waste or
121 impossibility; revising provisions specifying the
122 effect of a termination of condominium; amending s.
123 718.202, F.S.; authorizing the deposit of certain
124 funds into multiple escrow accounts; requiring that an
125 escrow agent maintain separate accounting records for
126 each purchaser under certain circumstances; amending
127 s. 718.301, F.S.; revising conditions under which unit
128 owners other than the developer may elect at least a
129 majority of the members of the board of administration
130 of an association; amending s. 718.303, F.S.;

131 authorizing an association to suspend for a reasonable
132 time the right of a unit owner or the unit's occupant,
133 licensee, or invitee to use certain common elements
134 under certain circumstances; prohibiting a fine from
135 being levied or a suspension from being imposed unless
136 the association meets certain requirements for notice
137 and provides an opportunity for a hearing; authorizing
138 an association to suspend voting rights of a member
139 due to nonpayment of assessments, fines, or other
140 charges under certain circumstances; amending s.
141 718.501, F.S.; specifying that the jurisdiction of the
142 Division of Florida Condominiums, Timeshares, and
143 Mobile Homes includes bulk assignees and bulk buyers;
144 creating part VII of ch. 718, F.S.; creating the
145 "Distressed Condominium Relief Act"; providing

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146 legislative findings and intent; defining the terms
147 "bulk assignee" and "bulk buyer"; providing for the
148 assignment of developer rights by a bulk assignee;
149 specifying liabilities of bulk assignees and bulk
150 buyers; providing exceptions; providing additional
151 responsibilities of bulk assignees and bulk buyers;
152 authorizing certain entities to assign developer
153 rights to a bulk assignee; limiting the number of bulk
154 assignees at any given time; providing for the
155 transfer of control of a board of administration to
156 unit owners; providing effects of such transfer on
157 parcels acquired by a bulk assignee; providing
158 obligations of a bulk assignee upon the transfer of
159 control of a board of administration; requiring that a
160 bulk assignee certify certain information in writing;
161 providing for the resolution of a conflict between
162 specified provisions of state law; providing that the
163 failure of a bulk assignee or bulk buyer to comply
164 with specified provisions of state law results in the
165 loss of certain protections and exemptions; requiring
166 that a bulk assignee or bulk buyer file certain
167 information with the Division of Florida Condominiums,
168 Timeshares, and Mobile Homes of the Department of
169 Business and Professional Regulation before offering
170 any units for sale or lease in excess of a specified
171 term; requiring that a copy of such information be
172 provided to a prospective purchaser or tenant;
173 requiring that certain contracts and disclosure
174 statements contain specified statements; requiring

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175 that a bulk assignee or bulk buyer comply with certain
176 disclosure requirements; prohibiting a bulk assignee
177 from authorizing certain actions on behalf of an
178 association while the bulk assignee is in control of
179 the board of administration of the association;
180 requiring that a bulk assignee or bulk buyer comply
181 with certain laws with respect to contracts entered
182 into by the association while the bulk assignee or
183 bulk buyer was in control of the board of
184 administration; providing parcel owners with specified
185 protections regarding certain contracts; requiring
186 that a bulk buyer comply with certain requirements
187 regarding the transfer of a parcel; prohibiting a
188 person from being classified as a bulk assignee or
189 bulk buyer unless condominium parcels were acquired
190 before a specified date; providing that the assignment
191 of developer rights to a bulk assignee does not
192 release a developer from certain liabilities; amending
193 s. 719.106, F.S.; providing for the filling of
194 vacancies on the condominium board of administration;
195 amending s. 719.1055, F.S.; providing an additional
196 required provision in cooperative bylaws; deleting a
197 provision prohibiting an association from foregoing
198 the retrofitting with a fire sprinkler system of
199 common areas in a high-rise building; prohibiting
200 local authorities having jurisdiction from requiring
201 retrofitting with a sprinkler system or other
202 engineered lifesafety system before a specified date;
203 providing requirements for a special meeting of unit

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204 owners which may be called every 3 years in order to
205 vote to require retrofitting of the sprinkler system
206 or other engineered lifesafety system; providing
207 meeting notice requirements; amending s. 719.108,
208 F.S.; providing a prioritized list for disbursement of
209 payments received by an association; providing for a
210 lien by an association on a condominium unit for
211 certain fees and costs; providing procedures and
212 notice requirements for the filing of a lien by an
213 association; requiring a tenant in a unit owned by a
214 person who is delinquent in the payment of a monetary
215 obligation to the condominium association to pay rent
216 to the association under certain circumstances;
217 amending s. 720.303, F.S.; revising provisions
218 relating to homeowners' association board meetings,
219 inspection and copying of records, and reserve
220 accounts of budgets; expanding the list of association
221 records that are not accessible to members and parcel
222 owners; prohibiting certain association personnel from
223 receiving a salary or compensation; providing
224 exceptions; amending s. 720.304, F.S.; providing that
225 a flagpole and any flagpole display are subject to
226 certain codes and regulations; amending s. 720.305,
227 F.S.; authorizing the association to suspend rights to
228 use common areas and facilities if the member is
229 delinquent on the payment of a monetary obligation due
230 for a certain period of time; providing procedures and
231 notice requirements for levying a fine or imposing a
232 suspension; amending s. 720.306, F.S.; providing

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233 requirements for secret ballots; providing procedures
234 for filling a vacancy on the board of directors;
235 amending s. 720.3085, F.S.; requiring a tenant in a
236 property owned by a person who is delinquent in the
237 payment of a monetary obligation to the condominium
238 association to pay rent to the association under
239 certain circumstances; amending s. 720.31, F.S.;
240 authorizing an association to enter into certain
241 agreements to use lands or facilities; requiring that
242 certain items be stated and fully described in the
243 declaration; limiting an association's power to enter
244 into such agreements after a specified period
245 following the recording of a declaration; requiring
246 that certain agreements be approved by a specified
247 percentage of voting interests of an association when
248 the declaration is silent as to the authority of an
249 association to enter into such agreement; authorizing
250 an association to join with other associations or a
251 master association under certain circumstances and for
252 specified purposes; creating s. 720.315, F.S.;
253 prohibiting the board of directors of a homeowners'
254 association from levying a special assessment before
255 turnover of the association by the developer unless
256 certain conditions are met; providing an effective
257 date.

258
259 Be It Enacted by the Legislature of the State of Florida:

260
261 Section 1. Subsection (8) is added to section 399.02,

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262 Florida Statutes, to read:

263 399.02 General requirements.—

264 (8) Updates to the code requiring modifications for Phase
265 II Firefighters' Service on existing elevators, as amended into
266 the Safety Code for Existing Elevators and Escalators, ASME
267 A17.1 and A17.3, may not be enforced on elevators in
268 condominiums, cooperatives, or multifamily residential buildings
269 issued a certificate of occupancy by the local building
270 authority as of July 1, 2008, for 5 years or until the elevator
271 is replaced or requires major modification, whichever occurs
272 first. This exception does not apply to a building for which a
273 certificate of occupancy was issued after July 1, 2008. This
274 exception does not prevent an elevator owner from requesting a
275 variance from the applicable codes before or after the
276 expiration of the 5-year term. This subsection does not prohibit
277 the division from granting variances pursuant to s. 120.542. The
278 division shall adopt rules to administer this subsection.

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

281 617.0721 Voting by members.—

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

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

287 617.0808 Removal of directors.—

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

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291 Section 4. Section 617.1606, Florida Statutes, is created
292 to read:

293 617.1606 Access to records.—Sections 617.1601-617.1605 do
294 not apply to a corporation that is an association, as defined in
295 s. 720.301, or a corporation regulated under chapter 718 or
296 chapter 719.

297 Section 5. Section 627.714, Florida Statutes, is created to
298 read:

299 627.714 Residential condominium unit owner coverage; loss
300 assessment coverage required.—

301 (1) For policies issued or renewed on or after July 1,
302 2010, coverage under a unit owner's residential property policy
303 must include at least \$2,000 in property loss assessment
304 coverage for all assessments made as a result of the same direct
305 loss to the property, regardless of the number of assessments,
306 owned by all members of the association collectively if such
307 loss is of the type of loss covered by the unit owner's
308 residential property insurance policy, to which a deductible of
309 no more than \$250 per direct property loss applies. If a
310 deductible was or will be applied to other property loss
311 sustained by the unit owner resulting from the same direct loss
312 to the property, no deductible applies to the loss assessment
313 coverage.

314 (2) The maximum amount of any unit owner's loss assessment
315 coverage that can be assessed for any loss shall be an amount
316 equal to that unit owner's loss assessment coverage limit in
317 effect one day before the date of the occurrence. Any changes to
318 the limits of a unit owner's coverage for loss assessments made
319 on or after the day before the date of the occurrence are not

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320 applicable to such loss.

321 (3) Regardless of the number of assessments, an insurer
322 providing loss assessment coverage to a unit owner is not
323 required to pay more than an amount equal to that unit owner's
324 loss assessment coverage limit as a result of the same direct
325 loss to property.

326 (4) Every individual unit owner's residential property
327 policy must contain a provision stating that the coverage
328 afforded by such policy is excess coverage over the amount
329 recoverable under any other policy covering the same property.

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

332 633.0215 Florida Fire Prevention Code.—

333 (13) A condominium, cooperative, or multifamily residential
334 building that is less than four stories in height and has a
335 corridor providing an exterior means of egress is exempt from
336 the requirement to install a manual fire alarm system under s.
337 9.6 of the Life Safety Code adopted in the Florida Fire
338 Prevention Code.

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

341 718.103 Definitions.—As used in this chapter, the term:

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

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

348 (b) A cooperative association that ~~which~~ creates a

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349 condominium by conversion of an existing residential cooperative
350 after control of the association has been transferred to the
351 unit owners if, following the conversion, the unit owners are
352 ~~will be~~ the same persons who were unit owners of the cooperative
353 and no units are offered for sale or lease to the public as part
354 of the plan of conversion; ~~:-~~

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

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

361 Section 8. Subsection (13) of section 718.110, Florida
362 Statutes, is amended, and subsection (14) is added to that
363 section, to read:

364 718.110 Amendment of declaration; correction of error or
365 omission in declaration by circuit court.-

366 (13) An Any amendment prohibiting restricting unit owners
367 from renting their units or altering the duration of the rental
368 term or specifying or limiting the number of times unit owners
369 are entitled to rent their units during a specified period
370 ~~owners' rights relating to the rental of units~~ applies only to
371 unit owners who consent to the amendment and unit owners who
372 acquire title to purchase their units after the effective date
373 of that amendment.

374 (14) Except for those portions of the common elements
375 designed and intended to be used by all unit owners, a portion
376 of the common elements serving only one unit or a group of units
377 may be reclassified as a limited common element upon the vote

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378 required to amend the declaration as provided therein or as
379 required under paragraph (1)(a), and shall not be considered an
380 amendment pursuant to subsection (4). This is a clarification of
381 existing law.

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

385 718.111 The association.—

386 (11) INSURANCE.—In order to protect the safety, health, and
387 welfare of the people of the State of Florida and to ensure
388 consistency in the provision of insurance coverage to
389 condominiums and their unit owners, this subsection applies to
390 every residential condominium in the state, regardless of the
391 date of its declaration of condominium. It is the intent of the
392 Legislature to encourage lower or stable insurance premiums for
393 associations described in this subsection.

394 (a) Adequate property hazard insurance, regardless of any
395 requirement in the declaration of condominium for coverage by
396 the association for full insurable value, replacement cost, or
397 similar coverage, must shall be based on upon the replacement
398 cost of the property to be insured as determined by an
399 independent insurance appraisal or update of a prior appraisal.
400 The replacement cost must full insurable value shall be
401 determined at least once every 36 months.

402 1. An association or group of associations may provide
403 adequate property hazard insurance through a self-insurance fund
404 that complies with the requirements of ss. 624.460-624.488.

405 2. The association may also provide adequate property
406 hazard insurance coverage for a group of at least no fewer than

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407 three communities created and operating under this chapter,
408 chapter 719, chapter 720, or chapter 721 by obtaining and
409 maintaining for such communities insurance coverage sufficient
410 to cover an amount equal to the probable maximum loss for the
411 communities for a 250-year windstorm event. Such probable
412 maximum loss must be determined through the use of a competent
413 model that has been accepted by the Florida Commission on
414 Hurricane Loss Projection Methodology. A ~~No~~ policy or program
415 providing such coverage may not ~~shall~~ be issued or renewed after
416 July 1, 2008, unless it has been reviewed and approved by the
417 Office of Insurance Regulation. The review and approval must
418 ~~shall~~ include approval of the policy and related forms pursuant
419 to ss. 627.410 and 627.411, approval of the rates pursuant to s.
420 627.062, a determination that the loss model approved by the
421 commission was accurately and appropriately applied to the
422 insured structures to determine the 250-year probable maximum
423 loss, and a determination that complete and accurate disclosure
424 of all material provisions is provided to condominium unit
425 owners before ~~prior to~~ execution of the agreement by a
426 condominium association.

427 3. When determining the adequate amount of property hazard
428 insurance coverage, the association may consider deductibles as
429 determined by this subsection.

430 (b) If an association is a developer-controlled
431 association, the association shall exercise its best efforts to
432 obtain and maintain insurance as described in paragraph (a).
433 Failure to obtain and maintain adequate property hazard
434 insurance during any period of developer control constitutes a
435 breach of fiduciary responsibility by the developer-appointed

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436 members of the board of directors of the association, unless the
437 members can show that despite such failure, they have made their
438 best efforts to maintain the required coverage.

439 (c) Policies may include deductibles as determined by the
440 board.

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

445 2. The deductibles may be based upon available funds,
446 including reserve accounts, or predetermined assessment
447 authority at the time the insurance is obtained.

448 3. The board shall establish the amount of deductibles
449 based upon the level of available funds and predetermined
450 assessment authority at a meeting of the board. ~~Such meeting~~
451 ~~shall be open to all unit owners in the manner set forth in s.~~
452 ~~718.112(2)(e). The notice of such meeting must state the~~
453 ~~proposed deductible and the available funds and the assessment~~
454 ~~authority relied upon by the board and estimate any potential~~
455 ~~assessment amount against each unit, if any. The meeting~~
456 ~~described in this paragraph may be held in conjunction with a~~
457 ~~meeting to consider the proposed budget or an amendment thereto.~~

458 (d) An association controlled by unit owners operating as a
459 residential condominium shall use its best efforts to obtain and
460 maintain adequate property insurance to protect the association,
461 the association property, the common elements, and the
462 condominium property that must ~~is required to~~ be insured by the
463 association pursuant to this subsection.

464 (f) Every property ~~hazard~~ insurance policy issued or

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465 renewed on or after January 1, 2009, for the purpose of
466 protecting the condominium must ~~shall~~ provide primary coverage
467 for:

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

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

473 3. The coverage must ~~shall~~ exclude all personal property
474 within the unit or limited common elements, and floor, wall, and
475 ceiling coverings, electrical fixtures, appliances, water
476 heaters, water filters, built-in cabinets and countertops, and
477 window treatments, including curtains, drapes, blinds, hardware,
478 and similar window treatment components, or replacements of any
479 of the foregoing which are located within the boundaries of the
480 unit and serve only such unit. Such property and any insurance
481 thereupon is the responsibility of the unit owner.

482 (g) A condominium unit owner's policy must conform to the
483 requirements of s. 627.714. Every hazard insurance policy issued
484 or renewed on or after January 1, 2009, to an individual unit
485 owner must contain a provision stating that the coverage
486 afforded by such policy is excess coverage over the amount
487 recoverable under any other policy covering the same property.
488 Such policies must include special assessment coverage of no
489 less than \$2,000 per occurrence. An insurance policy issued to
490 an individual unit owner providing such coverage does not
491 provide rights of subrogation against the condominium
492 association operating the condominium in which such individual's
493 unit is located.

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494 ~~1. All improvements or additions to the condominium~~
495 ~~property that benefit fewer than all unit owners shall be~~
496 ~~insured by the unit owner or owners having the use thereof, or~~
497 ~~may be insured by the association at the cost and expense of the~~
498 ~~unit owners having the use thereof.~~

499 ~~2. The association shall require each owner to provide~~
500 ~~evidence of a currently effective policy of hazard and liability~~
501 ~~insurance upon request, but not more than once per year. Upon~~
502 ~~the failure of an owner to provide a certificate of insurance~~
503 ~~issued by an insurer approved to write such insurance in this~~
504 ~~state within 30 days after the date on which a written request~~
505 ~~is delivered, the association may purchase a policy of insurance~~
506 ~~on behalf of an owner. The cost of such a policy, together with~~
507 ~~reconstruction costs undertaken by the association but which are~~
508 ~~the responsibility of the unit owner, may be collected in the~~
509 ~~manner provided for the collection of assessments in s. 718.116.~~

510 ~~1.3.~~ All reconstruction work after a property ~~casualty~~ loss
511 must ~~shall~~ be undertaken by the association except as otherwise
512 authorized in this section. A unit owner may undertake
513 reconstruction work on portions of the unit with the prior
514 written consent of the board of administration. However, such
515 work may be conditioned upon the approval of the repair methods,
516 the qualifications of the proposed contractor, or the contract
517 that is used for that purpose. A unit owner must ~~shall~~ obtain
518 all required governmental permits and approvals before ~~prior to~~
519 commencing reconstruction.

520 ~~2.4.~~ Unit owners are responsible for the cost of
521 reconstruction of any portions of the condominium property for
522 which the unit owner is required to carry property ~~casualty~~

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523 insurance, and any such reconstruction work undertaken by the
524 association is ~~shall be~~ chargeable to the unit owner and
525 enforceable as an assessment pursuant to s. 718.116. ~~The~~
526 ~~association must be an additional named insured and loss payee~~
527 ~~on all casualty insurance policies issued to unit owners in the~~
528 ~~condominium operated by the association.~~

529 3.5. A multicondominium association may elect, by a
530 majority vote of the collective members of the condominiums
531 operated by the association, to operate the ~~such~~ condominiums as
532 a single condominium for purposes of insurance matters,
533 including, but not limited to, the purchase of the property
534 ~~hazard~~ insurance required by this section and the apportionment
535 of deductibles and damages in excess of coverage. The election
536 to aggregate the treatment of insurance premiums, deductibles,
537 and excess damages constitutes an amendment to the declaration
538 of all condominiums operated by the association, and the costs
539 of insurance must ~~shall~~ be stated in the association budget. The
540 amendments must ~~shall~~ be recorded as required by s. 718.110.

541 (j) Any portion of the condominium property that must
542 ~~required to~~ be insured by the association against property
543 ~~casualty~~ loss pursuant to paragraph (f) which is damaged by
544 ~~casualty~~ shall be reconstructed, repaired, or replaced as
545 necessary by the association as a common expense. All property
546 ~~hazard~~ insurance deductibles, uninsured losses, and other
547 damages in excess of property ~~hazard~~ insurance coverage under
548 the property ~~hazard~~ insurance policies maintained by the
549 association are a common expense of the condominium, except
550 that:

551 1. A unit owner is responsible for the costs of repair or

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552 replacement of any portion of the condominium property not paid
553 by insurance proceeds, if such damage is caused by intentional
554 conduct, negligence, or failure to comply with the terms of the
555 declaration or the rules of the association by a unit owner, the
556 members of his or her family, unit occupants, tenants, guests,
557 or invitees, without compromise of the subrogation rights of the
558 ~~any insurer as set forth in paragraph (g).~~

559 2. The provisions of subparagraph 1. regarding the
560 financial responsibility of a unit owner for the costs of
561 repairing or replacing other portions of the condominium
562 property also apply to the costs of repair or replacement of
563 personal property of other unit owners or the association, as
564 well as other property, whether real or personal, which the unit
565 owners are required to insure ~~under paragraph (g).~~

566 3. To the extent the cost of repair or reconstruction for
567 which the unit owner is responsible under this paragraph is
568 reimbursed to the association by insurance proceeds, and, ~~to the~~
569 ~~extent~~ the association has collected the cost of such repair or
570 reconstruction from the unit owner, the association shall
571 reimburse the unit owner without the waiver of any rights of
572 subrogation.

573 4. The association is not obligated to pay for
574 reconstruction or repairs of property casualty losses as a
575 common expense if the property casualty losses were known or
576 should have been known to a unit owner and were not reported to
577 the association until after the insurance claim of the
578 association for that property casualty was settled or resolved
579 with finality, or denied because ~~on the basis that~~ it was
580 untimely filed.

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581 (n) The association is not obligated to pay for any
582 reconstruction or repair expenses due to property ~~casualty~~ loss
583 to any improvements installed by a current or former owner of
584 the unit or by the developer if the improvement benefits only
585 the unit for which it was installed and is not part of the
586 standard improvements installed by the developer on all units as
587 part of original construction, whether or not such improvement
588 is located within the unit. This paragraph does not relieve any
589 party of its obligations regarding recovery due under any
590 insurance implemented specifically for ~~any~~ such improvements.

591 (12) OFFICIAL RECORDS.—

592 (a) From the inception of the association, the association
593 shall maintain each of the following items, if ~~when~~ applicable,
594 which shall constitute the official records of the association:

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

597 2. A photocopy of the recorded declaration of condominium
598 of each condominium operated by the association and of each
599 amendment to each declaration.

600 3. A photocopy of the recorded bylaws of the association
601 and of each amendment to the bylaws.

602 4. A certified copy of the articles of incorporation of the
603 association, or other documents creating the association, and of
604 each amendment thereto.

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

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

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610 7. A current roster of all unit owners and their mailing
611 addresses, unit identifications, voting certifications, and, if
612 known, telephone numbers. The association shall also maintain
613 the electronic mailing addresses and the numbers designated by
614 unit owners for receiving notice sent by electronic transmission
615 of those unit owners consenting to receive notice by electronic
616 transmission. The electronic mailing addresses and telephone
617 numbers must ~~provided by unit owners to receive notice by~~
618 ~~electronic transmission shall~~ be removed from association
619 records if ~~when~~ consent to receive notice by electronic
620 transmission is revoked. However, the association is not liable
621 for an erroneous disclosure of the electronic mail address or
622 the number for receiving electronic transmission of notices.

623 8. All current insurance policies of the association and
624 condominiums operated by the association.

625 9. A current copy of any management agreement, lease, or
626 other contract to which the association is a party or under
627 which the association or the unit owners have an obligation or
628 responsibility.

629 10. Bills of sale or transfer for all property owned by the
630 association.

631 11. Accounting records for the association and separate
632 accounting records for each condominium which the association
633 operates. All accounting records shall be maintained for at
634 least ~~a period of not less than~~ 7 years. Any person who
635 knowingly or intentionally defaces or destroys accounting
636 records required to be created and maintained by this chapter
637 during the period for which such records are required to be
638 maintained, or who knowingly or intentionally fails to create or

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639 maintain such ~~accounting~~ records ~~required to be maintained by~~
640 ~~this chapter,~~ with the intent of causing harm to the association
641 or one or more of its members, is personally subject to a civil
642 penalty pursuant to s. 718.501(1)(d). The accounting records
643 must ~~shall~~ include, but are not limited to:

644 a. Accurate, itemized, and detailed records of all receipts
645 and expenditures.

646 b. A current account and a monthly, bimonthly, or quarterly
647 statement of the account for each unit designating the name of
648 the unit owner, the due date and amount of each assessment, the
649 amount paid upon the account, and the balance due.

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

652 d. All contracts for work to be performed. Bids for work to
653 be performed are ~~shall~~ also ~~be~~ considered official records and
654 must ~~shall~~ be maintained by the association.

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

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

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

664 15. All other records of the association not specifically
665 included in the foregoing which are related to the operation of
666 the association.

667 16. A copy of the inspection report as provided ~~for~~ in s.

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668 718.301(4)(p).

669 (b) The official records of the association must ~~shall~~ be
670 maintained within the state for at least 7 years. The records of
671 the association shall be made available to a unit owner within
672 45 miles of the condominium property or within the county in
673 which the condominium property is located within 5 working days
674 after receipt of a written request by the board or its designee.
675 However, such distance requirement does not apply to an
676 association governing a timeshare condominium. This paragraph
677 may be complied with by having a copy of the official records of
678 the association available for inspection or copying on the
679 condominium property or association property, or the association
680 may offer the option of making the records ~~of the association~~
681 available to a unit owner ~~either~~ electronically via the Internet
682 or by allowing the records to be viewed in electronic format on
683 a computer screen and printed upon request. The association is
684 not responsible for the use or misuse of the information
685 provided to an association member or his or her authorized
686 representative pursuant to the compliance requirements of this
687 chapter unless the association has an affirmative duty not to
688 disclose such information pursuant to this chapter.

689 (c) The official records of the association are open to
690 inspection by any association member or the authorized
691 representative of such member at all reasonable times. The right
692 to inspect the records includes the right to make or obtain
693 copies, at the reasonable expense, if any, of the ~~association~~
694 member. The association may adopt reasonable rules regarding the
695 frequency, time, location, notice, and manner of record
696 inspections and copying. The failure of an association to

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697 provide the records within 10 working days after receipt of a
698 written request creates ~~shall create~~ a rebuttable presumption
699 that the association willfully failed to comply with this
700 paragraph. A unit owner who is denied access to official records
701 is entitled to the actual damages or minimum damages for the
702 association's willful failure to comply ~~with this paragraph~~. The
703 Minimum damages shall be \$50 per calendar day up to 10 days, the
704 calculation to begin on the 11th working day after receipt of
705 the written request. The failure to permit inspection of the
706 association records as provided herein entitles any person
707 prevailing in an enforcement action to recover reasonable
708 attorney's fees from the person in control of the records who,
709 directly or indirectly, knowingly denied access to the records
710 ~~for inspection~~. Any person who knowingly or intentionally
711 defaces or destroys accounting records that are required by this
712 chapter to be maintained during the period for which such
713 records are required to be maintained, or who knowingly or
714 intentionally fails to create or maintain accounting records
715 that are required to be created or maintained ~~by this chapter~~,
716 with the intent of causing harm to the association or one or
717 more of its members, is personally subject to a civil penalty
718 pursuant to s. 718.501(1)(d). The association shall maintain an
719 adequate number of copies of the declaration, articles of
720 incorporation, bylaws, and rules, and all amendments to each of
721 the foregoing, as well as the question and answer sheet provided
722 for in s. 718.504 and year-end financial information required in
723 this section, on the condominium property to ensure their
724 availability to unit owners and prospective purchasers, and may
725 charge its actual costs for preparing and furnishing these

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726 documents to those requesting the documents ~~same~~.

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

729 1. Any record protected by the lawyer-client privilege as
730 described in s. 90.502; and any record protected by the work-
731 product privilege, including any record prepared by an
732 association attorney or prepared at the attorney's express
733 direction; which reflects a mental impression, conclusion,
734 litigation strategy, or legal theory of the attorney or the
735 association, and which was prepared exclusively for civil or
736 criminal litigation or for adversarial administrative
737 proceedings, or which was prepared in anticipation of imminent
738 civil or criminal litigation or imminent adversarial
739 administrative proceedings until the conclusion of the
740 litigation or adversarial administrative proceedings.

741 2. Information obtained by an association in connection
742 with the approval of the lease, sale, or other transfer of a
743 unit.

744 3. Personnel records of association employees, including,
745 but not limited to, disciplinary, payroll, health, and insurance
746 records.

747 4.3. Medical records of unit owners.

748 5.4. Social security numbers, driver's license numbers,
749 credit card numbers, e-mail addresses, telephone numbers,
750 emergency contact information, any addresses of a unit owner
751 other than as provided to fulfill the association's notice
752 requirements, and other personal identifying information of any
753 person, excluding the person's name, unit designation, mailing
754 address, and property address.

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

757 7. The software and operating system used by the
758 association which allows manipulation of data, even if the owner
759 owns a copy of the same software used by the association. The
760 data is part of the official records of the association.

761 (13) FINANCIAL REPORTING.—Within 90 days after the end of
762 the fiscal year, or annually on a date provided in the bylaws,
763 the association shall prepare and complete, or contract for the
764 preparation and completion of, a financial report for the
765 preceding fiscal year. Within 21 days after the final financial
766 report is completed by the association or received from the
767 third party, but not later than 120 days after the end of the
768 fiscal year or other date as provided in the bylaws, the
769 association shall mail to each unit owner at the address last
770 furnished to the association by the unit owner, or hand deliver
771 to each unit owner, a copy of the financial report or a notice
772 that a copy of the financial report will be mailed or hand
773 delivered to the unit owner, without charge, upon receipt of a
774 written request from the unit owner. The division shall adopt
775 rules setting forth uniform accounting principles and standards
776 to be used by all associations and ~~shall adopt rules~~ addressing
777 the financial reporting requirements for multicondominium
778 associations. The rules must ~~shall~~ include, but not be limited
779 to, standards for presenting a summary of association reserves,
780 including a good faith estimate disclosing the annual amount of
781 reserve funds that would be necessary for the association to
782 fully fund reserves for each reserve item based on the straight-
783 line accounting method. This disclosure is not applicable to

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784 reserves funded via the pooling method. ~~uniform accounting~~
785 ~~principles and standards for stating the disclosure of at least~~
786 ~~a summary of the reserves, including information as to whether~~
787 ~~such reserves are being funded at a level sufficient to prevent~~
788 ~~the need for a special assessment and, if not, the amount of~~
789 ~~assessments necessary to bring the reserves up to the level~~
790 ~~necessary to avoid a special assessment. The person preparing~~
791 ~~the financial reports shall be entitled to rely on an inspection~~
792 ~~report prepared for or provided to the association to meet the~~
793 ~~fiscal and fiduciary standards of this chapter.~~ In adopting such
794 rules, the division shall consider the number of members and
795 annual revenues of an association. Financial reports shall be
796 prepared as follows:

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

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

805 2. An association with total annual revenues of at least
806 \$200,000, but less than \$400,000, shall prepare reviewed
807 financial statements.

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

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

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

817 3. A report of cash receipts and disbursements must
818 disclose the amount of receipts by accounts and receipt
819 classifications and the amount of expenses by accounts and
820 expense classifications, including, but not limited to, the
821 following, as applicable: costs for security, professional and
822 management fees and expenses, taxes, costs for recreation
823 facilities, expenses for refuse collection and utility services,
824 expenses for lawn care, costs for building maintenance and
825 repair, insurance costs, administration and salary expenses, and
826 reserves accumulated and expended for capital expenditures,
827 deferred maintenance, and any other category for which the
828 association maintains reserves.

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

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

834 2. Reviewed or audited financial statements, if the
835 association is required to prepare compiled financial
836 statements; or

837 3. Audited financial statements if the association is
838 required to prepare reviewed financial statements.

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

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

844 2. A report of cash receipts and expenditures or a compiled
845 financial statement in lieu of a reviewed or audited financial
846 statement; or

847 3. A report of cash receipts and expenditures, a compiled
848 financial statement, or a reviewed financial statement in lieu
849 of an audited financial statement.

850

851 Such meeting and approval must occur before ~~prior to~~ the end of
852 the fiscal year and is effective only for the fiscal year in
853 which the vote is taken, except that the approval may also ~~may~~
854 be effective for the following fiscal year. With respect to an
855 association to which the developer has not turned over control
856 of the association, all unit owners, including the developer,
857 may vote on issues related to the preparation of financial
858 reports for the first 2 fiscal years of the association's
859 operation, beginning with the fiscal year in which the
860 declaration is recorded. Thereafter, all unit owners except the
861 developer may vote on such issues until control is turned over
862 to the association by the developer. Any audit or review
863 prepared under this section shall be paid for by the developer
864 if done before ~~prior to~~ turnover of control of the association.
865 An association may not waive the financial reporting
866 requirements of this section for more than 3 consecutive years.

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

869 718.112 Bylaws.—

870 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the

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871 following and, if they do not do so, shall be deemed to include
872 the following:

873 (d) *Unit owner meetings.*—

874 1. ~~There shall be~~ An annual meeting of the unit owners
875 shall be held at the location provided in the association bylaws
876 and, if the bylaws are silent as to the location, the meeting
877 shall be held within 45 miles of the condominium property.
878 However, such distance requirement does not apply to an
879 association governing a timeshare condominium. Unless the bylaws
880 provide otherwise, a vacancy on the board caused by the
881 expiration of a director's term shall be filled by electing a
882 new board member, and the election must ~~shall~~ be by secret
883 ballot. ~~However,~~ if the number of vacancies equals or exceeds
884 the number of candidates, an ~~no~~ election is not required. Except
885 in a timeshare condominium, the terms of all members of the
886 board ~~shall~~ expire at the annual meeting and such board members
887 may stand for reelection unless otherwise permitted by the
888 bylaws. If ~~In the event that~~ the bylaws permit staggered terms
889 of no more than 2 years and upon approval of a majority of the
890 total voting interests, the association board members may serve
891 2-year staggered terms. If the number of board members whose
892 terms have expired exceeds the number of eligible members
893 showing interest in or demonstrating an intention to run for the
894 vacant positions ~~no person is interested in or demonstrates an~~
895 ~~intention to run for the position of a board member whose term~~
896 ~~has expired according to the provisions of this subparagraph,~~
897 each ~~such~~ board member whose term has expired is eligible for
898 reappointment ~~shall be automatically reappointed~~ to the board of
899 administration and need not stand for reelection. In a

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900 condominium association of more than 10 units or in a
901 condominium association that does not include timeshare units or
902 timeshare interests, coowners of a unit may not serve as members
903 of the board of directors at the same time unless they own more
904 than one unit or unless there are not enough eligible candidates
905 to fill the vacancies on the board at the time of the vacancy.

906 Any unit owner desiring to be a candidate for board membership
907 must ~~shall~~ comply with sub-subparagraph ~~subparagraph~~ 3.a. A
908 person who has been suspended or removed by the division under
909 this chapter, or who is delinquent in the payment of any fee,
910 fine, or special or regular assessment as provided in paragraph
911 (n), is not eligible for board membership. A person who has been
912 convicted of any felony in this state or in a United States
913 District or Territorial Court, or who has been convicted of any
914 offense in another jurisdiction that would be considered a
915 felony if committed in this state, is not eligible for board
916 membership unless such felon's civil rights have been restored
917 for at least ~~a period of no less than~~ 5 years as of the date on
918 which such person seeks election to the board. The validity of
919 an action by the board is not affected if it is later determined
920 that a member of the board is ineligible for board membership
921 due to having been convicted of a felony.

922 2. The bylaws must ~~shall~~ provide the method of calling
923 meetings of unit owners, including annual meetings. Written
924 notice, which ~~notice~~ must include an agenda, shall be mailed,
925 hand delivered, or electronically transmitted to each unit owner
926 at least 14 days before ~~prior to~~ the annual meeting and must
927 ~~shall~~ be posted in a conspicuous place on the condominium
928 property at least 14 continuous days preceding the annual

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929 meeting. Upon notice to the unit owners, the board shall, by
930 duly adopted rule, designate a specific location on the
931 condominium property or association property upon which all
932 notices of unit owner meetings shall be posted. However, if
933 there is no condominium property or association property upon
934 which notices can be posted, this requirement does not apply. In
935 lieu of or in addition to the physical posting of meeting
936 notices ~~notice of any meeting of the unit owners on the~~
937 ~~condominium property~~, the association may, by reasonable rule,
938 adopt a procedure for conspicuously posting and repeatedly
939 broadcasting the notice and the agenda on a closed-circuit cable
940 television system serving the condominium association. However,
941 if broadcast notice is used in lieu of a notice posted
942 physically on the condominium property, the notice and agenda
943 must be broadcast at least four times every broadcast hour of
944 each day that a posted notice is otherwise required under this
945 section. If ~~When~~ broadcast notice is provided, the notice and
946 agenda must be broadcast in a manner and for a sufficient
947 continuous length of time so as to allow an average reader to
948 observe the notice and read and comprehend the entire content of
949 the notice and the agenda. Unless a unit owner waives in writing
950 the right to receive notice of the annual meeting, such notice
951 must ~~shall~~ be hand delivered, mailed, or electronically
952 transmitted to each unit owner. Notice for meetings and notice
953 for all other purposes must ~~shall~~ be mailed to each unit owner
954 at the address last furnished to the association by the unit
955 owner, or hand delivered to each unit owner. However, if a unit
956 is owned by more than one person, the association shall provide
957 notice, for meetings and all other purposes, to that one address

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958 which the developer initially identifies for that purpose and
959 thereafter as one or more of the owners of the unit shall ~~so~~
960 advise the association in writing, or if no address is given or
961 the owners of the unit do not agree, to the address provided on
962 the deed of record. An officer of the association, or the
963 manager or other person providing notice of the association
964 meeting, shall provide an affidavit or United States Postal
965 Service certificate of mailing, to be included in the official
966 records of the association affirming that the notice was mailed
967 or hand delivered, in accordance with this provision.

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

973 a. At least ~~Not less than~~ 60 days before a scheduled
974 election, the association shall mail, deliver, or electronically
975 transmit, whether by separate association mailing or included in
976 another association mailing, delivery, or transmission,
977 including regularly published newsletters, to each unit owner
978 entitled to a vote, a first notice of the date of the election
979 ~~along with a certification form provided by the division~~
980 ~~attesting that he or she has read and understands, to the best~~
981 ~~of his or her ability, the governing documents of the~~
982 ~~association and the provisions of this chapter and any~~
983 ~~applicable rules.~~ Any unit owner or other eligible person
984 desiring to be a candidate for the board must give written
985 notice of his or her intent to be a candidate to the association
986 at least ~~not less than~~ 40 days before a scheduled election.

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987 Together with the written notice and agenda as set forth in
988 subparagraph 2., the association shall mail, deliver, or
989 electronically transmit a second notice of the election to all
990 unit owners entitled to vote ~~therein~~, together with a ballot
991 that lists ~~which shall list~~ all candidates. Upon request of a
992 candidate, ~~the association shall include~~ an information sheet,
993 no larger than 8 1/2 inches by 11 inches, which must be
994 furnished by the candidate at least ~~not less than~~ 35 days before
995 the election, must ~~along with the signed certification form~~
996 ~~provided for in this subparagraph,~~ to be included with the
997 mailing, delivery, or transmission of the ballot, with the costs
998 of mailing, delivery, or electronic transmission and copying to
999 be borne by the association. The association is not liable for
1000 the contents of the information sheets prepared by the
1001 candidates. In order to reduce costs, the association may print
1002 or duplicate the information sheets on both sides of the paper.
1003 The division shall by rule establish voting procedures
1004 consistent with this sub-subparagraph ~~the provisions contained~~
1005 ~~herein~~, including rules establishing procedures for giving
1006 notice by electronic transmission and rules providing for the
1007 secrecy of ballots. Elections shall be decided by a plurality of
1008 those ballots cast. There is ~~shall be~~ no quorum requirement;
1009 however, at least 20 percent of the eligible voters must cast a
1010 ballot in order to have a valid election of members of the
1011 board. A ~~No~~ unit owner may not ~~shall~~ permit any other person to
1012 vote his or her ballot, and any ~~such~~ ballots improperly cast are
1013 ~~shall be deemed~~ invalid, provided any unit owner who violates
1014 this provision may be fined by the association in accordance
1015 with s. 718.303. A unit owner who needs assistance in casting

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1016 the ballot for the reasons stated in s. 101.051 may obtain such
1017 ~~assistance in casting the ballot~~. The regular election must
1018 ~~shall~~ occur on the date of the annual meeting. ~~The provisions of~~
1019 This sub-subparagraph does subparagraph shall not apply to
1020 timeshare condominium associations. Notwithstanding ~~the~~
1021 ~~provisions of this sub-subparagraph subparagraph~~, an election is
1022 not required unless more candidates file notices of intent to
1023 run or are nominated than board vacancies exist.

1024 b. Within 90 days after being elected or appointed to the
1025 board, each newly elected or appointed director shall certify in
1026 writing to the secretary of the association that he or she has
1027 read the association's declaration of condominium, articles of
1028 incorporation, bylaws, and current written policies; that he or
1029 she will work to uphold such documents and policies to the best
1030 of his or her ability; and that he or she will faithfully
1031 discharge his or her fiduciary responsibility to the
1032 association's members. In lieu of this written certification,
1033 the newly elected or appointed director may submit a certificate
1034 of satisfactory completion of the educational curriculum
1035 administered by a division-approved condominium education
1036 provider. A director who fails to timely file the written
1037 certification or educational certificate is suspended from
1038 service on the board until he or she complies with this sub-
1039 subparagraph. The board may temporarily fill the vacancy during
1040 the period of suspension. The secretary shall cause the
1041 association to retain a director's written certification or
1042 educational certificate for inspection by the members for 5
1043 years after a director's election. Failure to have such written
1044 certification or educational certificate on file does not affect

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1045 the validity of any action.

1046 4. Any approval by unit owners called for by this chapter
1047 or the applicable declaration or bylaws, including, but not
1048 limited to, the approval requirement in s. 718.111(8), shall be
1049 made at a duly noticed meeting of unit owners and is ~~shall be~~
1050 subject to all requirements of this chapter or the applicable
1051 condominium documents relating to unit owner decisionmaking,
1052 except that unit owners may take action by written agreement,
1053 without meetings, on matters for which action by written
1054 agreement without meetings is expressly allowed by the
1055 applicable bylaws or declaration or any statute that provides
1056 for such action.

1057 5. Unit owners may waive notice of specific meetings if
1058 allowed by the applicable bylaws or declaration or any statute.
1059 If authorized by the bylaws, notice of meetings of the board of
1060 administration, unit owner meetings, except unit owner meetings
1061 called to recall board members under paragraph (j), and
1062 committee meetings may be given by electronic transmission to
1063 unit owners who consent to receive notice by electronic
1064 transmission.

1065 6. Unit owners shall have the right to participate in
1066 meetings of unit owners with reference to all designated agenda
1067 items. However, the association may adopt reasonable rules
1068 governing the frequency, duration, and manner of unit owner
1069 participation.

1070 7. Any unit owner may tape record or videotape a meeting of
1071 the unit owners subject to reasonable rules adopted by the
1072 division.

1073 8. Unless otherwise provided in the bylaws, any vacancy

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1074 occurring on the board before the expiration of a term may be
1075 filled by the affirmative vote of the majority of the remaining
1076 directors, even if the remaining directors constitute less than
1077 a quorum, or by the sole remaining director. In the alternative,
1078 a board may hold an election to fill the vacancy, in which case
1079 the election procedures must conform to the requirements of sub-
1080 subparagraph ~~subparagraph~~ 3.a. unless the association governs 10
1081 units or fewer ~~less~~ and has opted out of the statutory election
1082 process, in which case the bylaws of the association control.
1083 Unless otherwise provided in the bylaws, a board member
1084 appointed or elected under this section shall fill the vacancy
1085 for the unexpired term of the seat being filled. Filling
1086 vacancies created by recall is governed by paragraph (j) and
1087 rules adopted by the division.

1088
1089 Notwithstanding subparagraph ~~subparagraphs~~ (b)2. and sub-
1090 subparagraph (d)3.a., an association of 10 or fewer units may,
1091 by ~~the~~ affirmative vote of a majority of the total voting
1092 interests, provide for different voting and election procedures
1093 in its bylaws, which vote may be by a proxy specifically
1094 delineating the different voting and election procedures. The
1095 different voting and election procedures may provide for
1096 elections to be conducted by limited or general proxy.

1097 (1) *Certificate of compliance.* ~~There shall be~~ A provision
1098 that a certificate of compliance from a licensed electrical
1099 contractor or electrician may be accepted by the association's
1100 board as evidence of compliance of the condominium units with
1101 the applicable fire and life safety code must be included.

1102 Notwithstanding ~~the provisions of~~ chapter 633 or of any other

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1103 code, statute, ordinance, administrative rule, or regulation, or
1104 any interpretation of the foregoing, an association,
1105 condominium, or unit owner is not obligated to retrofit the
1106 common elements, association property, or units of a residential
1107 condominium with a fire sprinkler system ~~or other engineered~~
1108 ~~lifesafety system~~ in a building that has been certified for
1109 occupancy by the applicable governmental entity, if the unit
1110 owners have voted to forego such retrofitting ~~and engineered~~
1111 ~~lifesafety system~~ by the affirmative vote of a majority two-
1112 ~~thirds~~ of all voting interests in the affected condominium.
1113 ~~However, a condominium association may not vote to forego the~~
1114 ~~retrofitting with a fire sprinkler system of common areas in a~~
1115 ~~high-rise building. For purposes of this subsection, the term~~
1116 ~~"high-rise building" means a building that is greater than 75~~
1117 ~~feet in height where the building height is measured from the~~
1118 ~~lowest level of fire department access to the floor of the~~
1119 ~~highest occupiable story. For purposes of this subsection, the~~
1120 ~~term "common areas" means any enclosed hallway, corridor, lobby,~~
1121 ~~stairwell, or entryway. In no event shall~~ The local authority
1122 having jurisdiction may not require completion of retrofitting
1123 ~~of common areas with a~~ fire sprinkler system before the end of
1124 2019 ~~2014~~. By December 31, 2016, an association that is not in
1125 compliance with the requirements for a fire sprinkler system and
1126 has not voted to forego retrofitting of such a system must
1127 initiate an application for a building permit for the required
1128 installation with the local government having jurisdiction
1129 demonstrating that the association will become compliant by
1130 December 31, 2019.

1131 1. A vote to forego retrofitting may be obtained by limited

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1132 proxy or by a ballot personally cast at a duly called membership
1133 meeting, or by execution of a written consent by the member, and
1134 ~~is shall be~~ effective upon ~~the~~ recording ~~of~~ a certificate
1135 attesting to such vote in the public records of the county where
1136 the condominium is located. The association shall mail or, hand
1137 deliver, ~~or electronically transmit~~ to each unit owner written
1138 notice at least 14 days before the ~~prior to such~~ membership
1139 meeting in which the vote to forego retrofitting of the required
1140 fire sprinkler system is to take place. Within 30 days after the
1141 association's opt-out vote, notice of the results of the opt-out
1142 vote must shall be mailed or, hand delivered, ~~or electronically~~
1143 ~~transmitted~~ to all unit owners. Evidence of compliance with this
1144 ~~30-day~~ notice requirement must shall be made by ~~an~~ affidavit
1145 executed by the person providing the notice and filed among the
1146 official records of the association. After ~~such~~ notice is
1147 provided to each owner, a copy must ~~of such notice shall~~ be
1148 provided by the current owner to a new owner before ~~prior to~~
1149 closing and ~~shall be provided~~ by a unit owner to a renter before
1150 ~~prior to~~ signing a lease.

1151 2. If there has been a previous vote to forego
1152 retrofitting, a vote to require retrofitting may be obtained at
1153 a special meeting of the unit owners called by a petition of at
1154 least 10 percent of the voting interests. Such a vote may only
1155 be called once every 3 years. Notice shall be provided as
1156 required for any regularly called meeting of the unit owners,
1157 and must state the purpose of the meeting. Electronic
1158 transmission may not be used to provide notice of a meeting
1159 called in whole or in part for this purpose.

1160 3.2. As part of the information collected annually from

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1161 condominiums, the division shall require condominium
1162 associations to report the membership vote and recording of a
1163 certificate under this subsection and, if retrofitting has been
1164 undertaken, the per-unit cost of such work. The division shall
1165 annually report to the Division of State Fire Marshal of the
1166 Department of Financial Services the number of condominiums that
1167 have elected to forego retrofitting.

1168 4. Notwithstanding s. 553.509, an association may not be
1169 obligated to, and may forego the retrofitting of, any
1170 improvements required by s. 553.509(2) upon an affirmative vote
1171 of a majority of the voting interests in the affected
1172 condominium.

1173 (n) *Director or officer delinquencies.*—A director or
1174 officer more than 90 days delinquent in the payment of any
1175 monetary obligation due the association ~~regular assessments~~
1176 shall be deemed to have abandoned the office, creating a vacancy
1177 in the office to be filled according to law.

1178 (o) *Director or officer offenses.*—A director or officer
1179 charged by information or indictment with a felony theft or
1180 embezzlement offense involving the association's funds or
1181 property must ~~shall~~ be removed from office, creating a vacancy
1182 in the office to be filled according to law until the end of the
1183 period of the suspension or the end of the director's term of
1184 office, whichever occurs first. While such director or officer
1185 has such criminal charge pending, he or she may not be appointed
1186 or elected to a position as a director or officer. However, if
1187 ~~should~~ the charges are ~~be~~ resolved without a finding of guilt,
1188 the director or officer shall be reinstated for the remainder of
1189 his or her term of office, if any.

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1190 Section 11. Paragraph (d) of subsection (1) of section
1191 718.115, Florida Statutes, is amended to read:

1192 718.115 Common expenses and common surplus.—

1193 (1)

1194 (d) If ~~se~~ provided in the declaration, the cost of
1195 communications services as defined in chapter 202, information
1196 services, or Internet services ~~a master antenna television~~
1197 ~~system or duly franchised cable television service~~ obtained
1198 pursuant to a bulk contract is ~~shall be deemed~~ a common expense.
1199 If the declaration does not provide for the cost of such
1200 services ~~a master antenna television system or duly franchised~~
1201 ~~cable television service obtained under a bulk contract~~ as a
1202 common expense, the board may enter into such a contract, and
1203 the cost of the service will be a common expense. The cost for
1204 the services under a bulk-rate contract may be ~~but~~ allocated on
1205 a per-unit basis rather than a percentage basis if the
1206 declaration provides for other than an equal sharing of common
1207 expenses, and any contract entered into before July 1, 1998, in
1208 which the cost of the service is not equally divided among all
1209 unit owners, may be changed by vote of a majority of the voting
1210 interests present at a regular or special meeting of the
1211 association, to allocate the cost equally among all units. The
1212 contract must be for at least ~~shall be for a term of not less~~
1213 ~~than~~ 2 years.

1214 1. Any contract made by the board on or after July 1, 1998,
1215 ~~the effective date hereof for a community antenna system or duly~~
1216 ~~franchised cable television service~~ may be canceled by a
1217 majority of the voting interests present at the next regular or
1218 special meeting of the association. Any member may make a motion

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1219 to cancel the ~~said~~ contract, but if no motion is made or if such
1220 motion fails to obtain the required majority at the next regular
1221 or special meeting, whichever occurs first ~~is sooner~~, following
1222 the making of the contract, ~~then~~ such contract shall be deemed
1223 ratified for the term therein expressed.

1224 2. ~~Any~~ Such contract must ~~shall~~ provide, and is ~~shall be~~
1225 deemed to provide if not expressly set forth, that any hearing-
1226 impaired or legally blind unit owner who does not occupy the
1227 unit with a non-hearing-impaired or sighted person, or any unit
1228 owner receiving supplemental security income under Title XVI of
1229 the Social Security Act or food stamps as administered by the
1230 Department of Children and Family Services pursuant to s.
1231 414.31, may discontinue the cable or video service without
1232 incurring disconnect fees, penalties, or subsequent service
1233 charges, and, as to such units, the owners are ~~shall not be~~
1234 required to pay any common expenses charge related to such
1235 service. If fewer ~~less~~ than all members of an association share
1236 the expenses of cable or video service ~~television~~, the expense
1237 shall be shared equally by all participating unit owners. The
1238 association may use the provisions of s. 718.116 to enforce
1239 payment of the shares of such costs by the unit owners receiving
1240 cable or video service ~~television~~.

1241 Section 12. Paragraph (b) of subsection (1), subsection
1242 (3), and paragraph (b) of subsection (5) of section 718.116,
1243 Florida Statutes, are amended, and subsection (11) is added to
1244 that section, to read:

1245 718.116 Assessments; liability; lien and priority;
1246 interest; collection.-

1247 (1)

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1248 (b) The liability of a first mortgagee or its successor or
1249 assignees who acquire title to a unit by foreclosure or by deed
1250 in lieu of foreclosure for the unpaid assessments that became
1251 due before ~~prior to~~ the mortgagee's acquisition of title is
1252 limited to the lesser of:

1253 1. The unit's unpaid common expenses and regular periodic
1254 assessments which accrued or came due during the 12 ~~6~~ months
1255 immediately preceding the acquisition of title and for which
1256 payment in full has not been received by the association; or

1257 2. One percent of the original mortgage debt. The
1258 provisions of this paragraph apply only if the first mortgagee
1259 joined the association as a defendant in the foreclosure action.
1260 Joinder of the association is not required if, on the date the
1261 complaint is filed, the association was dissolved or did not
1262 maintain an office or agent for service of process at a location
1263 which was known to or reasonably discoverable by the mortgagee.

1264 (3) Assessments and installments on assessments ~~them~~ which
1265 are not paid when due bear interest at the rate provided in the
1266 declaration, from the due date until paid. This rate may not
1267 exceed the rate allowed by law, and, if no rate is provided in
1268 the declaration, interest accrues ~~shall accrue~~ at the rate of 18
1269 percent per year. Also, if provided by the declaration or bylaws
1270 ~~so provide~~, the association may, in addition to such interest,
1271 charge an administrative late fee of up to ~~in addition to such~~
1272 ~~interest, in an amount not to exceed~~ the greater of \$25 or 5
1273 percent of each installment of the assessment for each
1274 delinquent installment for which ~~that~~ the payment is late. Any
1275 payment received by an association must ~~shall~~ be applied first
1276 to any interest accrued by the association, then to any

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1277 administrative late fee, then to any costs and reasonable
1278 attorney's fees incurred in collection, and then to the
1279 delinquent assessment. The foregoing is ~~shall be~~ applicable
1280 notwithstanding any restrictive endorsement, designation, or
1281 instruction placed on or accompanying a payment. A late fee is
1282 ~~shall not be~~ subject to ~~the provisions in~~ chapter 687 or s.
1283 718.303(3).

1284 (5)

1285 (b) To be valid, a claim of lien must state the description
1286 of the condominium parcel, the name of the record owner, the
1287 name and address of the association, the amount due, and the due
1288 dates. It must be executed and acknowledged by an officer or
1289 authorized agent of the association. The ~~No such~~ lien is not
1290 ~~shall be~~ effective longer than 1 year after the claim of lien
1291 was recorded unless, within that time, an action to enforce the
1292 lien is commenced. The 1-year period is ~~shall~~ automatically ~~be~~
1293 extended for any length of time during which the association is
1294 prevented from filing a foreclosure action by an automatic stay
1295 resulting from a bankruptcy petition filed by the parcel owner
1296 or any other person claiming an interest in the parcel. The
1297 claim of lien secures ~~shall secure~~ all unpaid assessments that
1298 ~~which~~ are due and that ~~which~~ may accrue after ~~subsequent to the~~
1299 ~~recording of~~ the claim of lien is recorded and through ~~prior to~~
1300 the entry of a final judgment ~~certificate of title~~, as well as
1301 interest and all reasonable costs and attorney's fees incurred
1302 by the association incident to the collection process. Upon
1303 payment in full, the person making the payment is entitled to a
1304 satisfaction of the lien.

1305

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1306 After notice of contest of lien has been recorded, the clerk of
1307 the circuit court shall mail a copy of the recorded notice to
1308 the association by certified mail, return receipt requested, at
1309 the address shown in the claim of lien or most recent amendment
1310 to it and shall certify to the service on the face of the
1311 notice. Service is complete upon mailing. After service, the
1312 association has 90 days in which to file an action to enforce
1313 the lien; and, if the action is not filed within the 90-day
1314 period, the lien is void. However, the 90-day period shall be
1315 extended for any length of time that the association is
1316 prevented from filing its action because of an automatic stay
1317 resulting from the filing of a bankruptcy petition by the unit
1318 owner or by any other person claiming an interest in the parcel.

1319 (11) If the unit is occupied by a tenant and the unit owner
1320 is delinquent in paying any monetary obligation due to the
1321 association, the association may make a written demand that the
1322 tenant pay the future monetary obligations related to the
1323 condominium unit to the association, and the tenant must make
1324 such payment. The demand is continuing in nature and, upon
1325 demand, the tenant must pay the monetary obligations to the
1326 association until the association releases the tenant or the
1327 tenant discontinues tenancy in the unit. The association must
1328 mail written notice to the unit owner of the association's
1329 demand that the tenant make payments to the association. The
1330 association shall, upon request, provide the tenant with written
1331 receipts for payments made. A tenant who acts in good faith in
1332 response to a written demand from an association is immune from
1333 any claim from the unit owner.

1334 (a) If the tenant prepaid rent to the unit owner before

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1335 receiving the demand from the association and provides written
1336 evidence of paying the rent to the association within 14 days
1337 after receiving the demand, the tenant shall receive credit for
1338 the prepaid rent for the applicable period and must make any
1339 subsequent rental payments to the association to be credited
1340 against the monetary obligations of the unit owner to the
1341 association.

1342 (b) The tenant is not liable for increases in the amount of
1343 the monetary obligations due unless the tenant was notified in
1344 writing of the increase at least 10 days before the date the
1345 rent is due. The liability of the tenant may not exceed the
1346 amount due from the tenant to the tenant's landlord. The
1347 tenant's landlord shall provide the tenant a credit against
1348 rents due to the unit owner in the amount of monies paid to the
1349 association under this section.

1350 (c) The association may issue notices under s. 83.56 and
1351 may sue for eviction under ss. 83.59-83.625 as if the
1352 association were a landlord under part II of chapter 83 if the
1353 tenant fails to pay a required payment to the association.
1354 However, the association is not otherwise considered a landlord
1355 under chapter 83 and specifically has no duties under s. 83.51.

1356 (d) The tenant does not, by virtue of payment of monetary
1357 obligations to the association, have any of the rights of a unit
1358 owner to vote in any election or to examine the books and
1359 records of the association.

1360 (e) A court may supersede the effect of this subsection by
1361 appointing a receiver.

1362 Section 13. Subsections (2) and (19) of section 718.117,
1363 Florida Statutes, are amended to read:

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1364 718.117 Termination of condominium.—

1365 (2) TERMINATION BECAUSE OF ECONOMIC WASTE OR
1366 IMPOSSIBILITY.—

1367 (a) Notwithstanding any provision ~~to the contrary~~ in the
1368 declaration, the condominium form of ownership of a property may
1369 be terminated by a plan of termination approved by the lesser of
1370 the lowest percentage of voting interests necessary to amend the
1371 declaration or as otherwise provided in the declaration for
1372 approval of termination if ~~when~~:

1373 1. The total estimated cost of construction or repairs
1374 necessary to construct the intended improvements or restore the
1375 improvements to their former condition or bring them into
1376 compliance with applicable laws or regulations exceeds the
1377 combined fair market value of the ~~all~~ units in the condominium
1378 after completion of the construction or repairs; or

1379 2. It becomes impossible to operate or reconstruct a
1380 condominium to ~~in~~ its prior physical configuration because of
1381 land use laws or regulations.

1382 (b) Notwithstanding paragraph (a), a condominium in which
1383 75 percent or more of the units are timeshare units may be
1384 terminated only pursuant to a plan of termination approved by 80
1385 percent of the total voting interests of the association and the
1386 holders of 80 percent of the original principal amount of
1387 outstanding recorded mortgage liens of timeshare estates in the
1388 condominium, unless the declaration provides for a lower voting
1389 percentage.

1390 (19) CREATION OF ANOTHER CONDOMINIUM.—The termination of a
1391 condominium does not bar the filing of a declaration of
1392 condominium or an amended and restated declaration of

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1393 ~~condominium creation~~ by the termination trustee ~~of another~~
1394 ~~condominium~~ affecting any portion of the same property.

1395 Section 14. Subsection (11) is added to section 718.202,
1396 Florida Statutes, to read:

1397 718.202 Sales or reservation deposits prior to closing.—

1398 (11) All funds deposited into escrow pursuant to subsection
1399 (1) or subsection (2) may be held in one or more escrow accounts
1400 by the escrow agent. If only one escrow account is used, the
1401 escrow agent must maintain separate accounting records for each
1402 purchaser and for amounts separately covered under subsections
1403 (1) and (2) and, if applicable, released to the developer
1404 pursuant to subsection (3). Separate accounting by the escrow
1405 agent of the escrow funds constitutes compliance with this
1406 section even if the funds are held by the escrow agent in a
1407 single escrow account. It is the intent of this subsection to
1408 clarify existing law.

1409 Section 15. Subsection (1) of section 718.301, Florida
1410 Statutes, is amended to read:

1411 718.301 Transfer of association control; claims of defect
1412 by association.—

1413 (1) ~~If~~ ~~When~~ unit owners other than the developer own 15
1414 percent or more of the units in a condominium that will be
1415 operated ultimately by an association, the unit owners other
1416 than the developer are ~~shall be~~ entitled to elect at least ~~no~~
1417 ~~less than~~ one-third of the members of the board of
1418 administration of the association. Unit owners other than the
1419 developer are entitled to elect at least ~~not less than~~ a
1420 majority of the members of the board of administration of an
1421 association:

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1422 (a) Three years after 50 percent of the units that will be
1423 operated ultimately by the association have been conveyed to
1424 purchasers;

1425 (b) Three months after 90 percent of the units that will be
1426 operated ultimately by the association have been conveyed to
1427 purchasers;

1428 (c) When all the units that will be operated ultimately by
1429 the association have been completed, some of them have been
1430 conveyed to purchasers, and none of the others are being offered
1431 for sale by the developer in the ordinary course of business;

1432 (d) When some of the units have been conveyed to purchasers
1433 and none of the others are being constructed or offered for sale
1434 by the developer in the ordinary course of business;

1435 (e) When the developer files a petition seeking protection
1436 in bankruptcy;

1437 (f) When a receiver for the developer is appointed by a
1438 circuit court and is not discharged within 30 days after such
1439 appointment, unless the court determines within 30 days after
1440 appointment of the receiver that transfer of control would be
1441 detrimental to the association or its members; or

1442 (g) Seven years after recordation of the declaration of
1443 condominium; or, in the case of an association that ~~which~~ may
1444 ultimately operate more than one condominium, 7 years after
1445 recordation of the declaration for the first condominium it
1446 operates; or, in the case of an association operating a phase
1447 condominium created pursuant to s. 718.403, 7 years after
1448 recordation of the declaration creating the initial phase,
1449 whichever occurs first. The developer is entitled to elect at
1450 least one member of the board of administration of an

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1451 association as long as the developer holds for sale in the
1452 ordinary course of business at least 5 percent, in condominiums
1453 with fewer than 500 units, and 2 percent, in condominiums with
1454 more than 500 units, of the units in a condominium operated by
1455 the association. After ~~Following the time~~ the developer
1456 relinquishes control of the association, the developer may
1457 exercise the right to vote any developer-owned units in the same
1458 manner as any other unit owner except for purposes of
1459 reacquiring control of the association or selecting the majority
1460 members of the board of administration.

1461 Section 16. Section 718.303, Florida Statutes, is amended
1462 to read:

1463 718.303 Obligations of owners and occupants; remedies
1464 ~~waiver; levy of fine against unit by association.~~

1465 (1) Each unit owner, each tenant and other invitee, and
1466 each association is ~~shall be~~ governed by, and must ~~shall~~ comply
1467 with the provisions of, this chapter, the declaration, the
1468 documents creating the association, and the association bylaws
1469 which ~~and the provisions thereof~~ shall be deemed expressly
1470 incorporated into any lease of a unit. Actions for damages or
1471 for injunctive relief, or both, for failure to comply with these
1472 provisions may be brought by the association or by a unit owner
1473 against:

1474 (a) The association.

1475 (b) A unit owner.

1476 (c) Directors designated by the developer, for actions
1477 taken by them before ~~prior to the time~~ control of the
1478 association is assumed by unit owners other than the developer.

1479 (d) Any director who willfully and knowingly fails to

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1480 comply with these provisions.

1481 (e) Any tenant leasing a unit, and any other invitee
1482 occupying a unit.

1483
1484 The prevailing party in any such action or in any action in
1485 which the purchaser claims a right of voidability based upon
1486 contractual provisions as required in s. 718.503(1)(a) is
1487 entitled to recover reasonable attorney's fees. A unit owner
1488 prevailing in an action between the association and the unit
1489 owner under this section, in addition to recovering his or her
1490 reasonable attorney's fees, may recover additional amounts as
1491 determined by the court to be necessary to reimburse the unit
1492 owner for his or her share of assessments levied by the
1493 association to fund its expenses of the litigation. This relief
1494 does not exclude other remedies provided by law. Actions arising
1495 under this subsection may ~~shall~~ not be deemed to be actions for
1496 specific performance.

1497 (2) A provision of this chapter may not be waived if the
1498 waiver would adversely affect the rights of a unit owner or the
1499 purpose of the provision, except that unit owners or members of
1500 a board of administration may waive notice of specific meetings
1501 in writing if provided by the bylaws. Any instruction given in
1502 writing by a unit owner or purchaser to an escrow agent may be
1503 relied upon by an escrow agent, whether or not such instruction
1504 and the payment of funds thereunder might constitute a waiver of
1505 any provision of this chapter.

1506 (3) If a unit owner is delinquent for more than 90 days in
1507 paying a monetary obligation due to the association ~~the~~
1508 ~~declaration or bylaws so provide~~, the association may suspend

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1509 the right of a unit owner or a unit's occupant, licensee, or
1510 invitee to use common elements, common facilities, or any other
1511 association property until the monetary obligation is paid. This
1512 subsection does not apply to limited common elements intended to
1513 be used only by that unit, common elements that must be used to
1514 access the unit, utility services provided to the unit, parking
1515 spaces, or elevators. The association may also levy reasonable
1516 fin~~es~~ against a unit for the failure of the owner of the unit,
1517 or its occupant, licensee, or invitee, to comply with any
1518 provision of the declaration, the association bylaws, or
1519 reasonable rules of the association. A ~~No~~ fine does not will
1520 become a lien against a unit. A ~~No~~ fine may not exceed \$100 per
1521 violation. However, a fine may be levied on the basis of each
1522 day of a continuing violation, with a single notice and
1523 opportunity for hearing. However, the ~~provided that no such fine~~
1524 may not ~~shall~~ in the aggregate exceed \$1,000. A ~~No~~ fine may not
1525 be levied and a suspension may not be imposed unless the
1526 association first provides at least 14 days' written ~~except~~
1527 ~~after giving reasonable~~ notice and an opportunity for a hearing
1528 to the unit owner and, if applicable, its occupant, licensee, or
1529 invitee. The hearing must be held before a committee of other
1530 unit owners who are neither board members nor persons residing
1531 in a board member's household. If the committee does not agree
1532 with the fine or suspension, the fine or suspension may not be
1533 levied or imposed. ~~The provisions of this subsection do not~~
1534 apply to unoccupied units.

1535 (4) The notice and hearing requirements of subsection (3)
1536 do not apply to the imposition of suspensions or fines against a
1537 unit owner or a unit's occupant, licensee, or invitee because of

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1538 failing to pay any amounts due the association. If such a fine
1539 or suspension is imposed, the association must levy the fine or
1540 impose a reasonable suspension at a properly noticed board
1541 meeting, and after the imposition of such fine or suspension,
1542 the association must notify the unit owner and, if applicable,
1543 the unit's occupant, licensee, or invitee by mail or hand
1544 delivery.

1545 (5) An association may also suspend the voting rights of a
1546 member due to nonpayment of any monetary obligation due to the
1547 association which is more than 90 days delinquent. The
1548 suspension ends upon full payment of all obligations currently
1549 due or overdue the association.

1550 Section 17. Subsection (1) of section 718.501, Florida
1551 Statutes, is amended to read:

1552 718.501 Authority, responsibility, and duties of Division
1553 of Florida Condominiums, Timeshares, and Mobile Homes.—

1554 (1) The division may ~~of Florida Condominiums, Timeshares,~~
1555 ~~and Mobile Homes of the Department of Business and Professional~~
1556 ~~Regulation, referred to as the "division" in this part, has the~~
1557 ~~power to~~ enforce and ensure compliance with the provisions of
1558 this chapter and rules relating to the development,
1559 construction, sale, lease, ownership, operation, and management
1560 of residential condominium units. In performing its duties, the
1561 division has complete jurisdiction to investigate complaints and
1562 enforce compliance ~~with the provisions of this chapter~~ with
1563 respect to associations that are still under developer control
1564 or the control of a bulk assignee or bulk buyer pursuant to part
1565 VII of this chapter and complaints against developers, bulk
1566 assignees, or bulk buyers involving improper turnover or failure

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1567 to turnover, pursuant to s. 718.301. However, after turnover has
1568 occurred, the division has ~~shall only have~~ jurisdiction to
1569 investigate complaints related only to financial issues,
1570 elections, and unit owner access to association records pursuant
1571 to s. 718.111(12).

1572 (a)1. The division may make necessary public or private
1573 investigations within or outside this state to determine whether
1574 any person has violated this chapter or any rule or order
1575 hereunder, to aid in the enforcement of this chapter, or to aid
1576 in the adoption of rules or forms ~~hereunder~~.

1577 2. The division may submit any official written report,
1578 worksheet, or other related paper, or a duly certified copy
1579 thereof, compiled, prepared, drafted, or otherwise made by and
1580 duly authenticated by a financial examiner or analyst to be
1581 admitted as competent evidence in any hearing in which the
1582 financial examiner or analyst is available for cross-examination
1583 and attests under oath that such documents were prepared as a
1584 result of an examination or inspection conducted pursuant to
1585 this chapter.

1586 (b) The division may require or permit any person to file a
1587 statement in writing, under oath or otherwise, as the division
1588 determines, as to the facts and circumstances concerning a
1589 matter to be investigated.

1590 (c) For the purpose of any investigation under this
1591 chapter, the division director or any officer or employee
1592 designated by the division director may administer oaths or
1593 affirmations, subpoena witnesses and compel their attendance,
1594 take evidence, and require the production of any matter which is
1595 relevant to the investigation, including the existence,

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1596 description, nature, custody, condition, and location of any
1597 books, documents, or other tangible things and the identity and
1598 location of persons having knowledge of relevant facts or any
1599 other matter reasonably calculated to lead to the discovery of
1600 material evidence. Upon the failure by a person to obey a
1601 subpoena or to answer questions propounded by the investigating
1602 officer and upon reasonable notice to all ~~persons~~ affected
1603 persons ~~thereby~~, the division may apply to the circuit court for
1604 an order compelling compliance.

1605 (d) Notwithstanding any remedies available to unit owners
1606 and associations, if the division has reasonable cause to
1607 believe that a violation of any provision of this chapter or
1608 related rule has occurred, the division may institute
1609 enforcement proceedings in its own name against any developer,
1610 bulk assignee, bulk buyer, association, officer, or member of
1611 the board of administration, or its assignees or agents, as
1612 follows:

1613 1. The division may permit a person whose conduct or
1614 actions may be under investigation to waive formal proceedings
1615 and enter into a consent proceeding whereby orders, rules, or
1616 letters of censure or warning, whether formal or informal, may
1617 be entered against the person.

1618 2. The division may issue an order requiring the developer,
1619 bulk assignee, bulk buyer, association, developer-designated
1620 officer, or developer-designated member of the board of
1621 administration, developer-designated assignees or agents, bulk
1622 assignee-designated assignees or agents, bulk buyer-designated
1623 assignees or agents, community association manager, or community
1624 association management firm to cease and desist from the

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1625 unlawful practice and take such affirmative action as in the
1626 judgment of the division ~~will~~ carry out the purposes of this
1627 chapter. If the division finds that a developer, bulk assignee,
1628 bulk buyer, association, officer, or member of the board of
1629 administration, or its assignees or agents, is violating or is
1630 about to violate any provision of this chapter, any rule adopted
1631 or order issued by the division, or any written agreement
1632 entered into with the division, and presents an immediate danger
1633 to the public requiring an immediate final order, it may issue
1634 an emergency cease and desist order reciting with particularity
1635 the facts underlying such findings. The emergency cease and
1636 desist order is effective for 90 days. If the division begins
1637 nonemergency cease and desist proceedings, the emergency cease
1638 and desist order remains effective until the conclusion of the
1639 proceedings under ss. 120.569 and 120.57.

1640 3. If a developer, bulk assignee, or bulk buyer, fails to
1641 pay any restitution determined by the division to be owed, plus
1642 any accrued interest at the highest rate permitted by law,
1643 within 30 days after expiration of any appellate time period of
1644 a final order requiring payment of restitution or the conclusion
1645 of any appeal thereof, whichever is later, the division must
1646 ~~shall~~ bring an action in circuit or county court on behalf of
1647 any association, class of unit owners, lessees, or purchasers
1648 for restitution, declaratory relief, injunctive relief, or any
1649 other available remedy. The division may also temporarily revoke
1650 its acceptance of the filing for the developer to which the
1651 restitution relates until payment of restitution is made.

1652 4. The division may petition the court for ~~the~~ appointment
1653 of a receiver or conservator. If appointed, the receiver or

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1654 conservator may take action to implement the court order to
1655 ensure the performance of the order and to remedy any breach
1656 thereof. In addition to all other means provided by law for the
1657 enforcement of an injunction or temporary restraining order, the
1658 circuit court may impound or sequester the property of a party
1659 defendant, including books, papers, documents, and related
1660 records, and allow the examination and use of the property by
1661 the division and a court-appointed receiver or conservator.

1662 5. The division may apply to the circuit court for an order
1663 of restitution whereby the defendant in an action brought
1664 pursuant to subparagraph 4. is ~~shall be~~ ordered to make
1665 restitution of those sums shown by the division to have been
1666 obtained by the defendant in violation of this chapter. ~~Such~~
1667 ~~restitution shall,~~ At the option of the court, such restitution
1668 is ~~be~~ payable to the conservator or receiver appointed pursuant
1669 to subparagraph 4. or directly to the persons whose funds or
1670 assets were obtained in violation of this chapter.

1671 6. The division may impose a civil penalty against a
1672 developer, bulk assignee, or bulk buyer, or association, or its
1673 assignee or agent, for any violation of this chapter or related
1674 ~~a rule adopted under this chapter.~~ The division may impose a
1675 civil penalty individually against an ~~any~~ officer or board
1676 member who willfully and knowingly violates a provision of this
1677 chapter, adopted rule, or a final order of the division; may
1678 order the removal of such individual as an officer or from the
1679 board of administration or as an officer of the association; and
1680 may prohibit such individual from serving as an officer or on
1681 the board of a community association for a period of time. The
1682 term "willfully and knowingly" means that the division informed

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1683 the officer or board member that his or her action or intended
1684 action violates this chapter, a rule adopted under this chapter,
1685 or a final order of the division and that the officer or board
1686 member refused to comply with the requirements of this chapter,
1687 a rule adopted under this chapter, or a final order of the
1688 division. The division, before ~~prior to~~ initiating formal agency
1689 action under chapter 120, must ~~shall~~ afford the officer or board
1690 member an opportunity to voluntarily comply and ~~with this~~
1691 ~~chapter, a rule adopted under this chapter, or a final order of~~
1692 ~~the division.~~ an officer or board member who complies within 10
1693 days is not subject to a civil penalty. A penalty may be imposed
1694 on the basis of each day of continuing violation, but ~~in no~~
1695 ~~event shall~~ the penalty for any offense may not exceed \$5,000.
1696 By January 1, 1998, the division shall adopt, by rule, penalty
1697 guidelines applicable to possible violations or to categories of
1698 violations of this chapter or rules adopted by the division. The
1699 guidelines must specify a meaningful range of civil penalties
1700 for each such violation of the statute and rules and must be
1701 based upon the harm caused by the violation, the repetition of
1702 the violation, and upon such other factors deemed relevant by
1703 the division. For example, the division may consider whether the
1704 violations were committed by a developer, bulk assignee, or bulk
1705 buyer, or owner-controlled association, the size of the
1706 association, and other factors. The guidelines must designate
1707 the possible mitigating or aggravating circumstances that
1708 justify a departure from the range of penalties provided by the
1709 rules. It is the legislative intent that minor violations be
1710 distinguished from those which endanger the health, safety, or
1711 welfare of the condominium residents or other persons and that

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1712 such guidelines provide reasonable and meaningful notice to the
1713 public of likely penalties that may be imposed for proscribed
1714 conduct. This subsection does not limit the ability of the
1715 division to informally dispose of administrative actions or
1716 complaints by stipulation, agreed settlement, or consent order.
1717 All amounts collected shall be deposited with the Chief
1718 Financial Officer to the credit of the Division of Florida
1719 Condominiums, Timeshares, and Mobile Homes Trust Fund. If a
1720 developer, bulk assignee, or bulk buyer fails to pay the civil
1721 penalty and the amount deemed to be owed to the association, the
1722 division shall issue an order directing that such developer,
1723 bulk assignee, or bulk buyer cease and desist from further
1724 operation until such time as the civil penalty is paid or may
1725 pursue enforcement of the penalty in a court of competent
1726 jurisdiction. If an association fails to pay the civil penalty,
1727 the division shall pursue enforcement in a court of competent
1728 jurisdiction, and the order imposing the civil penalty or the
1729 cease and desist order is ~~will~~ ~~become~~ effective until 20
1730 days after the date of such order. Any action commenced by the
1731 division shall be brought in the county in which the division
1732 has its executive offices or in the county where the violation
1733 occurred.

1734 7. If a unit owner presents the division with proof that
1735 the unit owner has requested access to official records in
1736 writing by certified mail, and that after 10 days the unit owner
1737 again made the same request for access to official records in
1738 writing by certified mail, and that more than 10 days has
1739 elapsed since the second request and the association has still
1740 failed or refused to provide access to official records as

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1741 required by this chapter, the division shall issue a subpoena
1742 requiring production of the requested records where the records
1743 are kept pursuant to s. 718.112.

1744 8. In addition to subparagraph 6., the division may seek
1745 the imposition of a civil penalty through the circuit court for
1746 any violation for which the division may issue a notice to show
1747 cause under paragraph (r). The civil penalty shall be at least
1748 \$500 but no more than \$5,000 for each violation. The court may
1749 also award to the prevailing party court costs and reasonable
1750 attorney's fees and, if the division prevails, may also award
1751 reasonable costs of investigation.

1752 (e) The division may prepare and disseminate a prospectus
1753 and other information to assist prospective owners, purchasers,
1754 lessees, and developers of residential condominiums in assessing
1755 the rights, privileges, and duties pertaining thereto.

1756 (f) The division may ~~has authority to~~ adopt rules pursuant
1757 ~~to ss. 120.536(1) and 120.54~~ to administer ~~implement~~ and enforce
1758 the provisions of this chapter.

1759 (g) The division shall establish procedures for providing
1760 notice to an association and the developer, bulk assignee, or
1761 bulk buyer during the period in which ~~where~~ the developer, bulk
1762 assignee, or bulk buyer controls the association if ~~when~~ the
1763 division is considering the issuance of a declaratory statement
1764 with respect to the declaration of condominium or any related
1765 document governing ~~in~~ such condominium community.

1766 (h) The division shall furnish each association that ~~which~~
1767 pays the fees required by paragraph (2) (a) a copy of this
1768 chapter, as amended ~~act, subsequent changes to this act on an~~
1769 ~~annual basis, an amended version of this act as it becomes~~

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1770 ~~available from the Secretary of State's office on a biennial~~
1771 ~~basis,~~ and the rules adopted thereto on an annual basis.

1772 (i) The division shall annually provide each association
1773 with a summary of declaratory statements and formal legal
1774 opinions relating to the operations of condominiums which were
1775 rendered by the division during the previous year.

1776 (j) The division shall provide training and educational
1777 programs for condominium association board members and unit
1778 owners. The training may, in the division's discretion, include
1779 web-based electronic media, and live training and seminars in
1780 various locations throughout the state. The division may ~~shall~~
1781 ~~have the authority to~~ review and approve education and training
1782 programs for board members and unit owners offered by providers
1783 and shall maintain a current list of approved programs and
1784 providers and ~~shall~~ make such list available to board members
1785 and unit owners in a reasonable and cost-effective manner.

1786 (k) The division shall maintain a toll-free telephone
1787 number accessible to condominium unit owners.

1788 (l) The division shall develop a program to certify both
1789 volunteer and paid mediators to provide mediation of condominium
1790 disputes. The division shall provide, upon request, a list of
1791 such mediators to any association, unit owner, or other
1792 participant in arbitration proceedings under s. 718.1255
1793 requesting a copy of the list. The division shall include on the
1794 list of volunteer mediators only the names of persons who have
1795 received at least 20 hours of training in mediation techniques
1796 or who have mediated at least 20 disputes. In order to become
1797 initially certified by the division, paid mediators must be
1798 certified by the Supreme Court to mediate court cases in county

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1799 or circuit courts. However, the division may adopt, by rule,
1800 additional factors for the certification of paid mediators,
1801 which ~~factors~~ must be related to experience, education, or
1802 background. Any person initially certified as a paid mediator by
1803 the division must, in order to continue to be certified, comply
1804 with the factors or requirements adopted by rule ~~imposed by~~
1805 ~~rules adopted by the division.~~

1806 (m) If ~~When~~ a complaint is made, the division must ~~shall~~
1807 conduct its inquiry with due regard for ~~to~~ the interests of the
1808 affected parties. Within 30 days after receipt of a complaint,
1809 the division shall acknowledge the complaint in writing and
1810 notify the complainant whether the complaint is within the
1811 jurisdiction of the division and whether additional information
1812 is needed by the division from the complainant. The division
1813 shall conduct its investigation and ~~shall~~, within 90 days after
1814 receipt of the original complaint or of timely requested
1815 additional information, take action upon the complaint. However,
1816 the failure to complete the investigation within 90 days does
1817 not prevent the division from continuing the investigation,
1818 accepting or considering evidence obtained or received after 90
1819 days, or taking administrative action if reasonable cause exists
1820 to believe that a violation of this chapter or a rule ~~of the~~
1821 ~~division~~ has occurred. If an investigation is not completed
1822 within the time limits established in this paragraph, the
1823 division shall, on a monthly basis, notify the complainant in
1824 writing of the status of the investigation. When reporting its
1825 action to the complainant, the division shall inform the
1826 complainant of any right to a hearing pursuant to ss. 120.569
1827 and 120.57.

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1828 (n) Condominium association directors, officers, and
1829 employees; condominium developers; bulk assignees, bulk buyers,
1830 and community association managers; and community association
1831 management firms have an ongoing duty to reasonably cooperate
1832 with the division in any investigation pursuant to this section.
1833 The division shall refer to local law enforcement authorities
1834 any person whom the division believes has altered, destroyed,
1835 concealed, or removed any record, document, or thing required to
1836 be kept or maintained by this chapter with the purpose to impair
1837 its verity or availability in the department's investigation.

1838 (o) The division may:

- 1839 1. Contract with agencies in this state or other
- 1840 jurisdictions to perform investigative functions; or
- 1841 2. Accept grants-in-aid from any source.

1842 (p) The division shall cooperate with similar agencies in
1843 other jurisdictions to establish uniform filing procedures and
1844 forms, public offering statements, advertising standards, and
1845 rules and common administrative practices.

1846 (q) The division shall consider notice to a developer, bulk
1847 assignee, or bulk buyer to be complete when it is delivered to
1848 the ~~developer's~~ address of the developer, bulk assignee, or bulk
1849 buyer currently on file with the division.

1850 (r) In addition to its enforcement authority, the division
1851 may issue a notice to show cause, which must ~~shall~~ provide for a
1852 hearing, upon written request, in accordance with chapter 120.

1853 (s) The division shall submit to the Governor, the
1854 President of the Senate, the Speaker of the House of
1855 Representatives, and the chairs of the legislative
1856 appropriations committees an annual report that includes, but

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1857 need not be limited to, the number of training programs provided
1858 for condominium association board members and unit owners, the
1859 number of complaints received by type, the number and percent of
1860 complaints acknowledged in writing within 30 days and the number
1861 and percent of investigations acted upon within 90 days in
1862 accordance with paragraph (m), and the number of investigations
1863 exceeding the 90-day requirement. The annual report must ~~shall~~
1864 also include an evaluation of the division's core business
1865 processes and make recommendations for improvements, including
1866 statutory changes. The report shall be submitted by September 30
1867 following the end of the fiscal year.

1868 Section 18. Part VII of chapter 718, Florida Statutes,
1869 consisting of sections 718.701, 718.702, 718.703, 718.704,
1870 718.705, 718.706, 718.707, and 718.708, is created to read:

1871 718.701 Short title.—This part may be cited as the
1872 "Distressed Condominium Relief Act."

1873 718.702 Legislative intent.—

1874 (1) The Legislature acknowledges the massive downturn in
1875 the condominium market which has occurred throughout the state
1876 and the impact of such downturn on developers, lenders, unit
1877 owners, and condominium associations. Numerous condominium
1878 projects have failed or are in the process of failing such that
1879 the condominium has a small percentage of third-party unit
1880 owners as compared to the unsold inventory of units. As a result
1881 of the inability to find purchasers for this inventory of units,
1882 which results in part from the devaluing of real estate in this
1883 state, developers are unable to satisfy the requirements of
1884 their lenders, leading to defaults on mortgages. Consequently,
1885 lenders are faced with the task of finding a solution to the

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1886 problem in order to receive payment for their investments.

1887 (2) The Legislature recognizes that all of the factors
1888 listed in this section lead to condominiums becoming distressed,
1889 resulting in detriment to the unit owners and the condominium
1890 association due to the resulting shortage of assessment moneys
1891 available for proper maintenance of the condominium. Such
1892 shortage and the resulting lack of proper maintenance further
1893 erodes property values. The Legislature finds that individuals
1894 and entities within this state and in other states have
1895 expressed interest in purchasing unsold inventory in one or more
1896 condominium projects, but are reticent to do so because of
1897 accompanying liabilities inherited from the original developer,
1898 which are by definition imputed to the successor purchaser,
1899 including a foreclosing mortgagee. This results in the potential
1900 successor purchaser having unknown and unquantifiable risks that
1901 the potential purchaser is unwilling to accept. As a result,
1902 condominium projects stagnate, leaving all parties involved at
1903 an impasse and without the ability to find a solution.

1904 (3) The Legislature declares that it is the public policy
1905 of this state to protect the interests of developers, lenders,
1906 unit owners, and condominium associations with regard to
1907 distressed condominiums, and that there is a need for relief
1908 from certain provisions of the Florida Condominium Act geared
1909 toward enabling economic opportunities for successor purchasers,
1910 including foreclosing mortgagees. Such relief would benefit
1911 existing unit owners and condominium associations. The
1912 Legislature further finds and declares that this situation
1913 cannot be open-ended without potentially prejudicing the rights
1914 of unit owners and condominium associations, and thereby

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1915 declares that the provisions of this part may be used by
1916 purchasers of condominium inventory for only a specific and
1917 defined period.

1918 718.703 Definitions.—As used in this part, the term:

1919 (1) "Bulk assignee" means a person who:

1920 (a) Acquires more than seven condominium parcels as set
1921 forth in s. 718.707; and

1922 (b) Receives an assignment of some or all of the rights of
1923 the developer as set forth in the declaration of condominium or
1924 this chapter by a written instrument recorded as an exhibit to
1925 the deed or as a separate instrument in the public records of
1926 the county in which the condominium is located.

1927 (2) "Bulk buyer" means a person who acquires more than
1928 seven condominium parcels as set forth in s. 718.707, but who
1929 does not receive an assignment of developer rights other than
1930 the right to conduct sales, leasing, and marketing activities
1931 within the condominium; the right to be exempt from the payment
1932 of working capital contributions to the condominium association
1933 arising out of, or in connection with, the bulk buyer's
1934 acquisition of a bulk number of units; and the right to be
1935 exempt from any rights of first refusal which may be held by the
1936 condominium association and would otherwise be applicable to
1937 subsequent transfers of title from the bulk buyer to a third
1938 party purchaser concerning one or more units.

1939 718.704 Assignment and assumption of developer rights by
1940 bulk assignee; bulk buyer.—

1941 (1) A bulk assignee assumes and is liable for all duties
1942 and responsibilities of the developer under the declaration and
1943 this chapter, except:

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1944 (a) Warranties of the developer under s. 718.203(1) or s.
1945 718.618, except for design, construction, development, or repair
1946 work performed by or on behalf of such bulk assignee;

1947 (b) The obligation to:

1948 1. Fund converter reserves under s. 718.618 for a unit that
1949 was not acquired by the bulk assignee; or

1950 2. Provide converter warranties on any portion of the
1951 condominium property except as expressly provided by the bulk
1952 assignee in the contract for purchase and sale executed with a
1953 purchaser and pertaining to any design, construction,
1954 development, or repair work performed by or on behalf of the
1955 bulk assignee;

1956 (c) The requirement to provide the association with a
1957 cumulative audit of the association's finances from the date of
1958 formation of the condominium association as required by s.
1959 718.301(4)(c). However, the bulk assignee must provide an audit
1960 for the period during which the bulk assignee elects a majority
1961 of the members of the board of administration;

1962 (d) Any liability arising out of or in connection with
1963 actions taken by the board of administration or the developer-
1964 appointed directors before the bulk assignee elects a majority
1965 of the members of the board of administration; and

1966 (e) Any liability for or arising out of the developer's
1967 failure to fund previous assessments or to resolve budgetary
1968 deficits in relation to a developer's right to guarantee
1969 assessments, except as otherwise provided in subsection (2).

1970
1971 The bulk assignee is also responsible for delivering documents
1972 and materials in accordance with s. 718.705(3). A bulk assignee

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1973 may expressly assume some or all of the obligations of the
1974 developer described in paragraphs (a)-(e).

1975 (2) A bulk assignee receiving the assignment of the rights
1976 of the developer to guarantee the level of assessments and fund
1977 budgetary deficits pursuant to s. 718.116 assumes and is liable
1978 for all obligations of the developer with respect to such
1979 guarantee, including any applicable funding of reserves to the
1980 extent required by law, for as long as the guarantee remains in
1981 effect. A bulk assignee not receiving such assignment or a bulk
1982 buyer does not assume and is not liable for the obligations of
1983 the developer with respect to such guarantee, but is responsible
1984 for payment of assessments in the same manner as all other
1985 owners of condominium parcels.

1986 (3) A bulk buyer is liable for the duties and
1987 responsibilities of the developer under the declaration and this
1988 chapter only to the extent provided in this part, together with
1989 any other duties or responsibilities of the developer expressly
1990 assumed in writing by the bulk buyer.

1991 (4) An acquirer of condominium parcels is not a bulk
1992 assignee or a bulk buyer if the transfer to such acquirer was
1993 made before the effective date of this part with the intent to
1994 hinder, delay, or defraud any purchaser, unit owner, or the
1995 association, or if the acquirer is a person who would be
1996 considered an insider under s. 726.102(7).

1997 (5) An assignment of developer rights to a bulk assignee
1998 may be made by the developer, a previous bulk assignee, or a
1999 court acting on behalf of the developer or the previous bulk
2000 assignee. At any particular time, there may be no more than one
2001 bulk assignee within a condominium, but there may be more than

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2002 one bulk buyer. If more than one acquirer of condominium parcels
2003 in the same condominium receives an assignment of developer
2004 rights from the same person, the bulk assignee is the acquirer
2005 whose instrument of assignment is recorded first.

2006 718.705 Board of administration; transfer of control.—

2007 (1) For purposes of determining the timing for transfer of
2008 control of the board of administration of the association to
2009 unit owners other than the developer under s. 718.301(1)(a) and
2010 (b), if a bulk assignee is entitled to elect a majority of the
2011 members of the board, a condominium parcel acquired by the bulk
2012 assignee is conveyed to a purchaser, or owned by an owner other
2013 than the developer, until the condominium parcel is conveyed to
2014 an owner who is not a bulk assignee.

2015 (2) Unless control of the board of administration of the
2016 association has already been relinquished pursuant to s.
2017 718.301(1), the bulk assignee must relinquish control of the
2018 association pursuant to s. 718.301 and this part, as if the bulk
2019 assignee were the developer.

2020 (3) If a bulk assignee relinquishes control of the board of
2021 administration as set forth in s. 718.301, the bulk assignee
2022 must deliver all of those items required by s. 718.301(4).

2023 However, the bulk assignee is not required to deliver items and
2024 documents not in the possession of the bulk assignee during the
2025 period during which the bulk assignee was entitled to elect at
2026 least a majority of the members of the board of administration.
2027 In conjunction with acquisition of condominium parcels, a bulk
2028 assignee shall undertake a good faith effort to obtain the
2029 documents and materials that must be provided to the association
2030 pursuant to s. 718.301(4). If the bulk assignee is not able to

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2031 obtain all of such documents and materials, the bulk assignee
2032 must certify in writing to the association the names or
2033 descriptions of the documents and materials that were not
2034 obtainable by the bulk assignee. Delivery of the certificate
2035 relieves the bulk assignee of responsibility for delivering the
2036 documents and materials referenced in the certificate as
2037 otherwise required under ss. 718.112 and 718.301 and this part.
2038 The responsibility of the bulk assignee for the audit required
2039 by s. 718.301(4) commences as of the date on which the bulk
2040 assignee elected a majority of the members of the board of
2041 administration.

2042 (4) If a conflict arises between the provisions or
2043 application of this section and s. 718.301, this section
2044 prevails.

2045 (5) Failure of a bulk assignee or bulk buyer to
2046 substantially comply with all the requirements in this part
2047 results in the loss of any and all protections or exemptions
2048 provided under this part.

2049 718.706 Specific provisions pertaining to offering of units
2050 by a bulk assignee or bulk buyer.—

2051 (1) Before offering any units for sale or for lease for a
2052 term exceeding 5 years, a bulk assignee or a bulk buyer must
2053 file the following documents with the division and provide such
2054 documents to a prospective purchaser or tenant:

2055 (a) An updated prospectus or offering circular, or a
2056 supplement to the prospectus or offering circular, filed by the
2057 original developer prepared in accordance with s. 718.504, which
2058 must include the form of contract for sale and for lease in
2059 compliance with s. 718.503(2);

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2060 (b) An updated Frequently Asked Questions and Answers
2061 sheet;

2062 (c) The executed escrow agreement if required under s.
2063 718.202; and

2064 (d) The financial information required by s. 718.111(13).
2065 However, if a financial information report does not exist for
2066 the fiscal year before acquisition of title by the bulk assignee
2067 or bulk buyer, or accounting records cannot be obtained in good
2068 faith by the bulk assignee or the bulk buyer which would permit
2069 preparation of the required financial information report, the
2070 bulk assignee or bulk buyer is excused from the requirement of
2071 this paragraph. However, the bulk assignee or bulk buyer must
2072 include in the purchase contract the following statement in
2073 conspicuous type:

2074
2075 THE FINANCIAL INFORMATION REPORT REQUIRED UNDER S.
2076 718.111(13) FOR THE IMMEDIATELY PRECEDING FISCAL YEAR
2077 OF THE ASSOCIATION IS NOT AVAILABLE OR CANNOT BE
2078 CREATED BY THE SELLER DUE TO THE INSUFFICIENT
2079 ACCOUNTING RECORDS OF THE ASSOCIATION.

2080
2081 (2) Before offering any units for sale or for lease for a
2082 term exceeding 5 years, a bulk assignee must file with the
2083 division and provide to a prospective purchaser a disclosure
2084 statement that includes, but is not limited to:

2085 (a) A description of any rights of the developer which have
2086 been assigned to the bulk assignee or bulk buyer;

2087 (b) The following statement in conspicuous type:
2088

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2089 THE SELLER IS NOT OBLIGATED FOR ANY WARRANTIES OF THE
2090 DEVELOPER UNDER S. 718.203(1) OR S. 718.618, AS
2091 APPLICABLE, EXCEPT FOR DESIGN, CONSTRUCTION,
2092 DEVELOPMENT, OR REPAIR WORK PERFORMED BY OR ON BEHALF
2093 OF SELLER; and

2094 (c) If the condominium is a conversion subject to part VI,
2095 the following statement in conspicuous type:

2096
2097 THE SELLER HAS NO OBLIGATION TO FUND CONVERTER
2098 RESERVES OR TO PROVIDE CONVERTER WARRANTIES UNDER S.
2099 718.618 ON ANY PORTION OF THE CONDOMINIUM PROPERTY
2100 EXCEPT AS MAY BE EXPRESSLY REQUIRED OF THE SELLER IN
2101 THE CONTRACT FOR PURCHASE AND SALE EXECUTED BY THE
2102 SELLER AND THE PREVIOUS DEVELOPER AND PERTAINING TO
2103 ANY DESIGN, CONSTRUCTION, DEVELOPMENT, OR REPAIR WORK
2104 PERFORMED BY OR ON BEHALF OF THE SELLER.

2105 (3) A bulk assignee, while it is in control of the board of
2106 administration of the association, may not authorize, on behalf
2107 of the association:

2108 (a) The waiver of reserves or the reduction of funding of
2109 the reserves pursuant to s. 718.112(2)(f)2., unless approved by
2110 a majority of the voting interests not controlled by the
2111 developer, bulk assignee, and bulk buyer; or

2112 (b) The use of reserve expenditures for other purposes
2113 pursuant to s. 718.112(2)(f)3., unless approved by a majority of
2114 the voting interests not controlled by the developer, bulk
2115 assignee, and bulk buyer.

2116 (4) A bulk assignee or a bulk buyer must comply with all
2117 the requirements of s. 718.302 regarding any contracts entered

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2118 into by the association during the period the bulk assignee or
2119 bulk buyer maintains control of the board of administration.
2120 Unit owners shall be afforded all the protections contained in
2121 s. 718.302 regarding agreements entered into by the association
2122 before unit owners other than the developer, bulk assignee, or
2123 bulk buyer elected a majority of the board of administration.

2124 (5) A bulk buyer must comply with the requirements
2125 contained in the declaration regarding any transfer of a unit,
2126 including sales, leases, and subleases. A bulk buyer is not
2127 entitled to any exemptions afforded a developer or successor
2128 developer under this chapter regarding the transfer of a unit,
2129 including sales, leases, or subleases.

2130 718.707 Time limitation for classification as bulk assignee
2131 or bulk buyer.—A person acquiring condominium parcels may not be
2132 classified as a bulk assignee or bulk buyer unless the
2133 condominium parcels were acquired before July 1, 2012. The date
2134 of such acquisition shall be determined by the date of recording
2135 of a deed or other instrument of conveyance for such parcels in
2136 the public records of the county in which the condominium is
2137 located, or by the date of issuance of a certificate of title in
2138 a foreclosure proceeding with respect to such condominium
2139 parcels.

2140 718.708 Liability of developers and others.—An assignment
2141 of developer rights to a bulk assignee or bulk buyer does not
2142 release the original developer from liabilities under the
2143 declaration or this chapter. This part does not limit the
2144 liability of the original developer for claims brought by unit
2145 owners, bulk assignees, or bulk buyers for violations of this
2146 chapter by the original developer, unless specifically excluded

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2147 in this part. This part does not waive, release, compromise, or
2148 limit liability established under chapter 718 except as
2149 specifically excluded under this part.

2150 Section 19. Paragraph (d) of subsection (1) of section
2151 719.106, Florida Statutes, is amended to read:

2152 719.106 Bylaws; cooperative ownership.—

2153 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
2154 documents shall provide for the following, and if they do not,
2155 they shall be deemed to include the following:

2156 (d) *Shareholder meetings*.—There shall be an annual meeting
2157 of the shareholders. All members of the board of administration
2158 shall be elected at the annual meeting unless the bylaws provide
2159 for staggered election terms or for their election at another
2160 meeting. Any unit owner desiring to be a candidate for board
2161 membership must ~~shall~~ comply with subparagraph 1. The bylaws
2162 must ~~shall~~ provide the method for calling meetings, including
2163 annual meetings. Written notice, which must ~~notice shall~~
2164 incorporate an identification of agenda items, shall be given to
2165 each unit owner at least 14 days before ~~prior to~~ the annual
2166 meeting and ~~shall be~~ posted in a conspicuous place on the
2167 cooperative property at least 14 continuous days preceding the
2168 annual meeting. Upon notice to the unit owners, the board must
2169 ~~shall~~ by duly adopted rule designate a specific location on the
2170 cooperative property upon which all notice of unit owner
2171 meetings are ~~shall be~~ posted. In lieu of or in addition to the
2172 physical posting of the meeting ~~notice of any meeting of the~~
2173 ~~shareholders on the cooperative property~~, the association may,
2174 by reasonable rule, adopt a procedure for conspicuously posting
2175 and repeatedly broadcasting the notice and the agenda on a

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2176 closed-circuit cable television system serving the cooperative
2177 association. However, if broadcast notice is used in lieu of a
2178 posted notice ~~posted physically on the cooperative property~~, the
2179 notice and agenda must be broadcast at least four times every
2180 broadcast hour of each day that a posted notice is otherwise
2181 required under this section. If ~~When~~ broadcast notice is
2182 provided, the notice and agenda must be broadcast in a manner
2183 and for a sufficient continuous length of time ~~so as~~ to allow an
2184 average reader to observe the notice and read and comprehend the
2185 entire content of the notice and the agenda. Unless a unit owner
2186 waives in writing the right to receive notice of the annual
2187 meeting, the notice of the annual meeting must ~~shall~~ be sent by
2188 mail, hand delivered, or electronically transmitted to each unit
2189 owner. An officer of the association must ~~shall~~ provide an
2190 affidavit or United States Postal Service certificate of
2191 mailing, to be included in the official records of the
2192 association, affirming that notices of the association meeting
2193 were mailed, hand delivered, or electronically transmitted, in
2194 accordance with this provision, to each unit owner at the
2195 address last furnished to the association.

2196 1. ~~After January 1, 1992,~~ The board of administration shall
2197 be elected by written ballot or voting machine. A proxy may not
2198 ~~Proxies shall in no event~~ be used in electing the board of
2199 administration, ~~either~~ in general elections or elections to fill
2200 vacancies caused by recall, resignation, or otherwise unless
2201 otherwise provided in this chapter. At least ~~Not less than~~ 60
2202 days before a scheduled election, the association shall mail,
2203 deliver, or transmit, whether by separate association mailing,
2204 delivery, or electronic transmission or included in another

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2205 association mailing, delivery, or electronic transmission,
2206 including regularly published newsletters, to each unit owner
2207 entitled to vote, a first notice of the date of the election.
2208 Any unit owner or other eligible person desiring to be a
2209 candidate for the board of administration must ~~shall~~ give
2210 written notice to the association at least ~~not less than~~ 40 days
2211 before a scheduled election. Together with the written notice
2212 and agenda as set forth in this section, the association shall
2213 mail, deliver, or electronically transmit a second notice of
2214 election to all unit owners entitled to vote ~~therein~~, together
2215 with a ballot which lists ~~shall list~~ all candidates. Upon
2216 request of a candidate, the association shall include an
2217 information sheet, no larger than 8 1/2 inches by 11 inches,
2218 which must be furnished by the candidate at least ~~not less than~~
2219 35 days before ~~prior to~~ the election, to be included with the
2220 mailing, delivery, or electronic transmission of the ballot,
2221 with the costs of mailing, delivery, or transmission and copying
2222 to be borne by the association. The association is not liable
2223 ~~has no liability~~ for the contents of the information sheets
2224 provided by the candidates. In order to reduce costs, the
2225 association may print or duplicate the information sheets on
2226 both sides of the paper. The division shall by rule establish
2227 voting procedures consistent with this subparagraph ~~the~~
2228 ~~provisions contained herein~~, including rules establishing
2229 procedures for giving notice by electronic transmission and
2230 rules providing for the secrecy of ballots. Elections shall be
2231 decided by a plurality of those ballots cast. There is ~~shall be~~
2232 no quorum requirement. However, at least 20 percent of the
2233 eligible voters must cast a ballot in order to have a valid

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2234 election ~~of members of the board of administration.~~ A No unit
2235 owner may not ~~shall~~ permit any other person to vote his or her
2236 ballot, and any such ballots improperly cast are ~~shall be deemed~~
2237 invalid. A unit owner who needs assistance in casting the ballot
2238 for the reasons stated in s. 101.051 may obtain assistance in
2239 casting the ballot. Any unit owner violating this provision may
2240 be fined by the association in accordance with s. 719.303. The
2241 regular election must ~~shall~~ occur on the date of the annual
2242 meeting. ~~The provisions of~~ This subparagraph does ~~shall~~ not
2243 apply to timeshare cooperatives. Notwithstanding ~~the provisions~~
2244 ~~of~~ this subparagraph, an election and balloting are not required
2245 unless more candidates file a notice of intent to run or are
2246 nominated than vacancies exist on the board.

2247 2. Any approval by unit owners called for by this chapter,
2248 or the applicable cooperative documents, must ~~shall~~ be made at a
2249 duly noticed meeting of unit owners and is ~~shall be~~ subject to
2250 ~~all requirements of~~ this chapter or the applicable cooperative
2251 documents relating to unit owner decisionmaking, except that
2252 unit owners may take action by written agreement, without
2253 meetings, on matters for which action by written agreement
2254 without meetings is expressly allowed by the applicable
2255 cooperative documents or law ~~any Florida statute~~ which provides
2256 for the unit owner action.

2257 3. Unit owners may waive notice of specific meetings if
2258 allowed by the applicable cooperative documents or law ~~any~~
2259 ~~Florida statute~~. If authorized by the bylaws, notice of meetings
2260 of the board of administration, shareholder meetings, except
2261 shareholder meetings called to recall board members under
2262 paragraph (f), and committee meetings may be given by electronic

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2263 transmission to unit owners who consent to receive notice by
2264 electronic transmission.

2265 4. Unit owners ~~shall~~ have the right to participate in
2266 meetings of unit owners with reference to all designated agenda
2267 items. However, the association may adopt reasonable rules
2268 governing the frequency, duration, and manner of unit owner
2269 participation.

2270 5. Any unit owner may tape record or videotape meetings of
2271 the unit owners subject to reasonable rules adopted by the
2272 division.

2273 6. Unless otherwise provided in the bylaws, a vacancy
2274 occurring on the board before the expiration of a term may be
2275 filled by the affirmative vote of the majority of the remaining
2276 directors, even if the remaining directors constitute less than
2277 a quorum, or by the sole remaining director. In the alternative,
2278 a board may hold an election to fill the vacancy, in which case
2279 the election procedures must conform to the requirements of
2280 subparagraph 1. unless the association has opted out of the
2281 statutory election process, in which case the bylaws of the
2282 association control. Unless otherwise provided in the bylaws, a
2283 board member appointed or elected under this subparagraph shall
2284 fill the vacancy for the unexpired term of the seat being
2285 filled. Filling vacancies created by recall is governed by
2286 paragraph (f) and rules adopted by the division.

2287
2288 Notwithstanding subparagraphs (b)2. and (d)1., an association
2289 may, by the affirmative vote of a majority of the total voting
2290 interests, provide for a different voting and election procedure
2291 in its bylaws, which vote may be by a proxy specifically

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2292 delineating the different voting and election procedures. The
2293 different voting and election procedures may provide for
2294 elections to be conducted by limited or general proxy.

2295 Section 20. Subsection (5) of section 719.1055, Florida
2296 Statutes, is amended to read:

2297 719.1055 Amendment of cooperative documents; alteration and
2298 acquisition of property.—

2299 (5) The bylaws must include a provision whereby a
2300 certificate of compliance from a licensed electrical contractor
2301 or electrician may be accepted by the association's board as
2302 evidence of compliance of the cooperative units with the
2303 applicable fire and life safety code.

2304 1. Notwithstanding chapter 633 or any other code, statute,
2305 ordinance, administrative rule, or regulation, or any
2306 interpretation of the foregoing, a cooperative or unit owner is
2307 not obligated to retrofit the common elements or units of a
2308 residential cooperative with a fire sprinkler system in a
2309 building that has been certified for occupancy by the applicable
2310 governmental entity if the unit owners have voted to forego such
2311 retrofitting by the affirmative vote of a majority of all voting
2312 interests in the affected cooperative. The local authority
2313 having jurisdiction may not require completion of retrofitting
2314 with a fire sprinkler system before the end of 2019. By December
2315 31, 2016, a cooperative that is not in compliance with the
2316 requirements for a fire sprinkler system and has not voted to
2317 forego retrofitting of such a system must initiate an
2318 application for a building permit for the required installation
2319 with the local government having jurisdiction demonstrating that
2320 the cooperative will become compliant by December 31, 2019.

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2321 2. A vote to forego retrofitting may be obtained by limited
2322 proxy or by a ballot personally cast at a duly called membership
2323 meeting, or by execution of a written consent by the member, and
2324 is effective upon recording a certificate attesting to such vote
2325 in the public records of the county where the cooperative is
2326 located. The cooperative shall mail or hand deliver to each unit
2327 owner written notice at least 14 days before the membership
2328 meeting in which the vote to forego retrofitting of the required
2329 fire sprinkler system is to take place. Within 30 days after the
2330 cooperative's opt-out vote, notice of the results of the opt-out
2331 vote must be mailed or hand delivered to all unit owners.
2332 Evidence of compliance with this notice requirement must be made
2333 by affidavit executed by the person providing the notice and
2334 filed among the official records of the cooperative. After
2335 notice is provided to each owner, a copy must be provided by the
2336 current owner to a new owner before closing and by a unit owner
2337 to a renter before signing a lease. Notwithstanding the
2338 ~~provisions of chapter 633 or of any other code, statute,~~
2339 ~~ordinance, administrative rule, or regulation, or any~~
2340 ~~interpretation of the foregoing, a cooperative or unit owner is~~
2341 ~~not obligated to retrofit the common elements or units of a~~
2342 ~~residential cooperative with a fire sprinkler system or other~~
2343 ~~engineered life safety system in a building that has been~~
2344 ~~certified for occupancy by the applicable governmental entity,~~
2345 ~~if the unit owners have voted to forego such retrofitting and~~
2346 ~~engineered life safety system by the affirmative vote of two-~~
2347 ~~thirds of all voting interests in the affected cooperative.~~
2348 ~~However, a cooperative may not forego the retrofitting with a~~
2349 ~~fire sprinkler system of common areas in a high-rise building.~~

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2350 ~~For purposes of this subsection, the term "high-rise building"~~
2351 ~~means a building that is greater than 75 feet in height where~~
2352 ~~the building height is measured from the lowest level of fire~~
2353 ~~department access to the floor of the highest occupiable story.~~
2354 ~~For purposes of this subsection, the term "common areas" means~~
2355 ~~any enclosed hallway, corridor, lobby, stairwell, or entryway.~~
2356 ~~In no event shall The local authority having jurisdiction~~
2357 ~~require completion of retrofitting of common areas with a~~
2358 ~~sprinkler system before the end of 2014.~~

2359 ~~(a) A vote to forego retrofitting may be obtained by~~
2360 ~~limited proxy or by a ballot personally cast at a duly called~~
2361 ~~membership meeting, or by execution of a written consent by the~~
2362 ~~member, and shall be effective upon the recording of a~~
2363 ~~certificate attesting to such vote in the public records of the~~
2364 ~~county where the cooperative is located. The association shall~~
2365 ~~mail, hand deliver, or electronically transmit to each unit~~
2366 ~~owner written notice at least 14 days prior to such membership~~
2367 ~~meeting in which the vote to forego retrofitting of the required~~
2368 ~~fire sprinkler system is to take place. Within 30 days after the~~
2369 ~~association's opt-out vote, notice of the results of the opt-out~~
2370 ~~vote shall be mailed, hand delivered, or electronically~~
2371 ~~transmitted to all unit owners. Evidence of compliance with this~~
2372 ~~30-day notice shall be made by an affidavit executed by the~~
2373 ~~person providing the notice and filed among the official records~~
2374 ~~of the association. After such notice is provided to each owner,~~
2375 ~~a copy of such notice shall be provided by the current owner to~~
2376 ~~a new owner prior to closing and shall be provided by a unit~~
2377 ~~owner to a renter prior to signing a lease.~~

2378 (b) If there has been a previous vote to forego

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2379 retrofitting, a vote to require retrofitting may be obtained at
2380 a special meeting of the unit owners called by a petition of
2381 least 10 percent of the voting interests. Such vote may only be
2382 called once every 3 years. Notice must be provided as required
2383 for any regularly called meeting of the unit owners, and the
2384 notice must state the purpose of the meeting. Electronic
2385 transmission may not be used to provide notice of a meeting
2386 called in whole or in part for this purpose.

2387 (c) ~~(b)~~ As part of the information collected annually from
2388 cooperatives, the division shall require associations to report
2389 the membership vote and recording of a certificate under this
2390 subsection and, if retrofitting has been undertaken, the per-
2391 unit cost of such work. The division shall annually report to
2392 the Division of State Fire Marshal of the Department of
2393 Financial Services the number of cooperatives that have elected
2394 to forego retrofitting.

2395 Section 21. Subsections (3) and (4) of section 719.108,
2396 Florida Statutes, are amended, and subsection (10) is added to
2397 that section, to read:

2398 719.108 Rents and assessments; liability; lien and
2399 priority; interest; collection; cooperative ownership.—

2400 (3) Rents and assessments, and installments on them, not
2401 paid when due bear interest at the rate provided in the
2402 cooperative documents from the date due until paid. This rate
2403 may not exceed the rate allowed by law, and, if a ~~no~~ rate is not
2404 provided in the cooperative documents, ~~then~~ interest accrues
2405 ~~shall accrue~~ at 18 percent per annum. ~~Also,~~ If the cooperative
2406 documents or bylaws so provide, the association may charge an
2407 administrative late fee in addition to such interest, in an

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2408 amount not to exceed the greater of \$25 or 5 percent of each
2409 installment of the assessment for each delinquent installment
2410 that the payment is late. Any payment received by an association
2411 must ~~shall~~ be applied first to any interest accrued by the
2412 association, then to any administrative late fee, then to any
2413 costs and reasonable attorney's fees incurred in collection, and
2414 then to the delinquent assessment. The foregoing applies ~~shall~~
2415 ~~be applicable~~ notwithstanding any restrictive endorsement,
2416 designation, or instruction placed on or accompanying a payment.
2417 A late fee is not subject to chapter 687 or s. 719.303(3).

2418 (4) The association has ~~shall have~~ a lien on each
2419 cooperative parcel for any unpaid rents and assessments, plus
2420 interest, any authorized administrative late fees, and any
2421 reasonable costs for collection services for which the
2422 association has contracted against the unit owner of the
2423 cooperative parcel. If authorized by the cooperative documents,
2424 the said lien shall also secures ~~secure~~ reasonable attorney's
2425 fees incurred by the association incident to the collection of
2426 the rents and assessments or enforcement of such lien. The lien
2427 is effective from and after ~~the~~ recording ~~of~~ a claim of lien in
2428 the public records in the county in which the cooperative parcel
2429 is located which states the description of the cooperative
2430 parcel, the name of the unit owner, the amount due, and the due
2431 dates. The lien expires ~~shall expire~~ if a claim of lien is not
2432 filed within 1 year after the date the assessment was due, and
2433 the no-such lien does not ~~shall~~ continue for a longer ~~period~~
2434 than 1 year after the claim of lien has been recorded unless,
2435 within that time, an action to enforce the lien is commenced ~~in~~
2436 ~~a court of competent jurisdiction~~. Except as otherwise provided

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2437 in this chapter, a lien may not be filed by the association
2438 against a cooperative parcel until 30 days after the date on
2439 which a notice of intent to file a lien has been delivered to
2440 the owner.

2441 (a) The notice must be sent to the unit owner at the
2442 address of the unit by first-class United States mail and:

2443 1. If the most recent address of the unit owner on the
2444 records of the association is the address of the unit, the
2445 notice must be sent by registered or certified mail, return
2446 receipt requested, to the unit owner at the address of the unit.

2447 2. If the most recent address of the unit owner on the
2448 records of the association is in the United States, but is not
2449 the address of the unit, the notice must be sent by registered
2450 or certified mail, return receipt requested, to the unit owner
2451 at his or her most recent address.

2452 3. If the most recent address of the unit owner on the
2453 records of the association is not in the United States, the
2454 notice must be sent by first-class United States mail to the
2455 unit owner at his or her most recent address.

2456 (b) A notice that is sent pursuant to this subsection is
2457 deemed delivered upon mailing. ~~No lien may be filed by the~~
2458 association against a cooperative parcel until 30 days after the
2459 date on which a notice of intent to file a lien has been served
2460 on the unit owner of the cooperative parcel by certified mail or
2461 by personal service in the manner authorized by chapter 48 and
2462 the Florida Rules of Civil Procedure.

2463 (10) If the unit is occupied by a tenant and the unit owner
2464 is delinquent in paying any monetary obligation due to the
2465 association, the association may make a written demand that the

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2466 tenant pay the future monetary obligations related to the
2467 cooperative share to the association and the tenant must make
2468 such payment. The demand is continuing in nature, and upon
2469 demand, the tenant must pay the monetary obligations to the
2470 association until the association releases the tenant or the
2471 tenant discontinues tenancy in the unit. The association must
2472 mail written notice to the unit owner of the association's
2473 demand that the tenant make payments to the association. The
2474 association shall, upon request, provide the tenant with written
2475 receipts for payments made. A tenant who acts in good faith in
2476 response to a written demand from an association is immune from
2477 any claim from the unit owner.

2478 (a) If the tenant prepaid rent to the unit owner before
2479 receiving the demand from the association and provides written
2480 evidence of paying the rent to the association within 14 days
2481 after receiving the demand, the tenant shall receive credit for
2482 the prepaid rent for the applicable period and must make any
2483 subsequent rental payments to the association to be credited
2484 against the monetary obligations of the unit owner to the
2485 association.

2486 (b) The tenant is not liable for increases in the amount of
2487 the regular monetary obligations due unless the tenant was
2488 notified in writing of the increase at least 10 days before the
2489 date on which the rent is due. The liability of the tenant may
2490 not exceed the amount due from the tenant to the tenants'
2491 landlord. The tenant's landlord shall provide the tenant a
2492 credit against rents due to the unit owner in the amount of
2493 monies paid to the association under this section.

2494 (c) The association may issue notices under s. 83.56 and

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2495 may sue for eviction under ss. 83.59-83.625 as if the
2496 association were a landlord under part II of chapter 83 if the
2497 tenant fails to pay a required payment. However, the association
2498 is not otherwise considered a landlord under chapter 83 and
2499 specifically has no duties under s. 83.51.

2500 (d) The tenant does not, by virtue of payment of monetary
2501 obligations, have any of the rights of a unit owner to vote in
2502 any election or to examine the books and records of the
2503 association.

2504 (e) A court may supersede the effect of this subsection by
2505 appointing a receiver.

2506 Section 22. Paragraph (b) of subsection (2), paragraphs (a)
2507 and (c) of subsection (5), and paragraphs (b), (c), (d), (f),
2508 and (g) of subsection (6) of section 720.303, Florida Statutes,
2509 are amended, and subsection (12) is added to that section, to
2510 read:

2511 720.303 Association powers and duties; meetings of board;
2512 official records; budgets; financial reporting; association
2513 funds; recalls.—

2514 (2) BOARD MEETINGS.—

2515 (b) Members have the right to attend all meetings of the
2516 board and to speak on any matter placed on the agenda by
2517 petition of the voting interests for at least 3 minutes. The
2518 association may adopt written reasonable rules expanding the
2519 right of members to speak and governing the frequency, duration,
2520 and other manner of member statements, which rules must be
2521 consistent with this paragraph and may include a sign-up sheet
2522 for members wishing to speak. Notwithstanding any other law, ~~the~~
2523 ~~requirement that board meetings and committee meetings be open~~

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2524 ~~to the members is inapplicable to~~ meetings between the board or
2525 a committee and the association's attorney to discuss proposed
2526 or pending litigation, or with respect to meetings of the board
2527 held for the purpose of discussing personnel matters are not
2528 required to be open to the members other than directors.

2529 (5) INSPECTION AND COPYING OF RECORDS.—The official records
2530 shall be maintained within the state and must be open to
2531 inspection and available for photocopying by members or their
2532 authorized agents at reasonable times and places within 10
2533 business days after receipt of a written request for access.
2534 This subsection may be complied with by having a copy of the
2535 official records available for inspection or copying in the
2536 community. If the association has a photocopy machine available
2537 where the records are maintained, it must provide parcel owners
2538 with copies on request during the inspection if the entire
2539 request is limited to no more than 25 pages.

2540 (a) The failure of an association to provide access to the
2541 records within 10 business days after receipt of a written
2542 request submitted by certified mail, return receipt requested,
2543 creates a rebuttable presumption that the association willfully
2544 failed to comply with this subsection.

2545 (c) The association may adopt reasonable written rules
2546 governing the frequency, time, location, notice, records to be
2547 inspected, and manner of inspections, but may not require ~~impose~~
2548 ~~a requirement that~~ a parcel owner to demonstrate any proper
2549 purpose for the inspection, state any reason for the inspection,
2550 or limit a parcel owner's right to inspect records to less than
2551 one 8-hour business day per month. The association may impose
2552 fees to cover the costs of providing copies of the official

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2553 records, including, without limitation, the costs of copying.
2554 The association may charge up to 50 cents per page for copies
2555 made on the association's photocopier. If the association does
2556 not have a photocopy machine available where the records are
2557 kept, or if the records requested to be copied exceed 25 pages
2558 in length, the association may have copies made by an outside
2559 vendor or association management company personnel and may
2560 charge the actual cost of copying, including any reasonable
2561 costs involving personnel fees and charges at an hourly rate for
2562 vendor or employee time to cover administrative costs to the
2563 vendor or association. The association shall maintain an
2564 adequate number of copies of the recorded governing documents,
2565 to ensure their availability to members and prospective members.
2566 Notwithstanding ~~the provisions of~~ this paragraph, the following
2567 records are ~~shall~~ not be accessible to members or parcel owners:

2568 1. Any record protected by the lawyer-client privilege as
2569 described in s. 90.502 and any record protected by the work-
2570 product privilege, including, but not limited to, any record
2571 prepared by an association attorney or prepared at the
2572 attorney's express direction which reflects a mental impression,
2573 conclusion, litigation strategy, or legal theory of the attorney
2574 or the association and which was prepared exclusively for civil
2575 or criminal litigation or for adversarial administrative
2576 proceedings or which was prepared in anticipation of imminent
2577 civil or criminal litigation or imminent adversarial
2578 administrative proceedings until the conclusion of the
2579 litigation or ~~adversarial~~ administrative proceedings.

2580 2. Information obtained by an association in connection
2581 with the approval of the lease, sale, or other transfer of a

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2582 parcel.

2583 3. ~~Disciplinary, health, insurance, and Personnel records~~
2584 of the association's employees, including, but not limited to,
2585 disciplinary, payroll, health, and insurance records.

2586 4. Medical records of parcel owners or community residents.

2587 5. Social security numbers, driver's license numbers,
2588 credit card numbers, electronic mailing addresses, telephone
2589 numbers, emergency contact information, any addresses for a
2590 parcel owner other than as provided for association notice
2591 requirements, and other personal identifying information of any
2592 person, excluding the person's name, parcel designation, mailing
2593 address, and property address.

2594 6. Any electronic security measure that is used by the
2595 association to safeguard data, including passwords.

2596 7. The software and operating system used by the
2597 association which allows the manipulation of data, even if the
2598 owner owns a copy of the same software used by the association.
2599 The data is part of the official records of the association.

2600 (6) BUDGETS.—

2601 (b) In addition to annual operating expenses, the budget
2602 may include reserve accounts for capital expenditures and
2603 deferred maintenance for which the association is responsible.
2604 If reserve accounts are not established pursuant to paragraph
2605 (d), funding of such reserves is limited to the extent that the
2606 governing documents do not limit increases in assessments,
2607 including reserves. If the budget of the association includes
2608 reserve accounts established pursuant to paragraph (d), such
2609 reserves shall be determined, maintained, and waived in the
2610 manner provided in this subsection. Once an association provides

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2611 for reserve accounts pursuant to paragraph (d) ~~in the budget,~~
2612 the association shall thereafter determine, maintain, and waive
2613 reserves in compliance with this subsection. This section does
2614 not preclude the termination of a reserve account established
2615 pursuant to this paragraph upon approval of a majority of the
2616 total voting interests of the association. Upon such approval,
2617 the terminating reserve account shall be removed from the
2618 budget.

2619 (c) 1. If the budget of the association does not provide for
2620 reserve accounts pursuant to paragraph (d) ~~governed by this~~
2621 ~~subsection~~ and the association is responsible for the repair and
2622 maintenance of capital improvements that may result in a special
2623 assessment if reserves are not provided, each financial report
2624 for the preceding fiscal year required by subsection (7) must
2625 ~~shall~~ contain the following statement in conspicuous type:

2626
2627 THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR
2628 RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED
2629 MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS.
2630 OWNERS MAY ELECT TO PROVIDE FOR RESERVE ACCOUNTS
2631 PURSUANT TO ~~THE PROVISIONS OF~~ SECTION 720.303(6),
2632 FLORIDA STATUTES, UPON OBTAINING THE APPROVAL OF ~~NOT~~
2633 ~~LESS THAN~~ A MAJORITY OF THE TOTAL VOTING INTERESTS OF
2634 THE ASSOCIATION BY VOTE OF THE MEMBERS AT A MEETING OR
2635 BY WRITTEN CONSENT.

2636 2. If the budget of the association does provide for
2637 funding accounts for deferred expenditures, including, but not
2638 limited to, funds for capital expenditures and deferred
2639 maintenance, but such accounts are not created or established

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2640 pursuant to paragraph (d), each financial report for the
2641 preceding fiscal year required under subsection (7) must also
2642 contain the following statement in conspicuous type:

2643
2644 THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED
2645 VOLUNTARY DEFERRED EXPENDITURE ACCOUNTS, INCLUDING
2646 CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE, SUBJECT
2647 TO LIMITS ON FUNDING CONTAINED IN OUR GOVERNING
2648 DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED TO
2649 PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION
2650 720.303 (6), FLORIDA STATUTES, THESE FUNDS ARE NOT
2651 SUBJECT TO THE RESTRICTIONS ON USE OF SUCH FUNDS SET
2652 FORTH IN THAT STATUTE, NOR ARE RESERVES CALCULATED IN
2653 ACCORDANCE WITH THAT STATUTE.

2654 (d) An association is ~~shall be~~ deemed to have provided for
2655 reserve accounts if ~~when~~ reserve accounts have been initially
2656 established by the developer or if ~~when~~ the membership of the
2657 association affirmatively elects to provide for reserves. If
2658 reserve accounts are not initially provided ~~for~~ by the
2659 developer, the membership of the association may elect to do so
2660 upon the affirmative approval of ~~not less than~~ a majority of the
2661 total voting interests of the association. Such approval may be
2662 obtained ~~attained~~ by vote of the members at a duly called
2663 meeting of the membership or by the ~~upon a~~ written consent of
2664 ~~executed by not less than~~ a majority of the total voting
2665 interests of the association ~~in the community~~. The approval
2666 action of the membership must ~~shall~~ state that reserve accounts
2667 shall be provided for in the budget and must designate the
2668 components for which the reserve accounts are to be established.

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2669 Upon approval by the membership, the board of directors shall
2670 include ~~provide for~~ the required reserve accounts ~~for inclusion~~
2671 in the budget in the next fiscal year following the approval and
2672 ~~in~~ each year thereafter. Once established as provided in this
2673 subsection, the reserve accounts must ~~shall~~ be funded or
2674 maintained or ~~shall~~ have their funding waived in the manner
2675 provided in paragraph (f).

2676 (f) After one or more ~~Once a reserve account or~~ reserve
2677 accounts are established, the membership of the association,
2678 upon a majority vote at a meeting at which a quorum is present,
2679 may provide for no reserves or less reserves than required by
2680 this section. If a meeting of the unit owners has been called to
2681 determine whether to waive or reduce the funding of reserves and
2682 ~~no~~ such result is not achieved or a quorum is not present, the
2683 reserves as included in the budget ~~shall~~ go into effect. After
2684 the turnover, the developer may vote its voting interest to
2685 waive or reduce the funding of reserves. Any vote taken pursuant
2686 to this subsection to waive or reduce reserves is ~~shall be~~
2687 applicable only to one budget year.

2688 (g) Funding formulas for reserves authorized by this
2689 section must ~~shall~~ be based on ~~either~~ a separate analysis of
2690 each of the required assets or a pooled analysis of two or more
2691 of the required assets.

2692 1. If the association maintains separate reserve accounts
2693 for each of the required assets, the amount of the contribution
2694 to each reserve account is ~~shall be~~ the sum of the following two
2695 calculations:

2696 a. The total amount necessary, if any, to bring a negative
2697 component balance to zero.

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2698 b. The total estimated deferred maintenance expense or
2699 estimated replacement cost of the reserve component less the
2700 estimated balance of the reserve component as of the beginning
2701 of the period ~~for which~~ the budget will be in effect. The
2702 remainder, if greater than zero, shall be divided by the
2703 estimated remaining useful life of the component.

2704
2705 The formula may be adjusted each year for changes in estimates
2706 and deferred maintenance performed during the year and may
2707 include factors such as inflation and earnings on invested
2708 funds.

2709 2. If the association maintains a pooled account of two or
2710 more of the required reserve assets, the amount of the
2711 contribution to the pooled reserve account as disclosed on the
2712 proposed budget may ~~shall~~ not be less than that required to
2713 ensure that the balance on hand at the beginning of the period
2714 ~~for which~~ the budget will go into effect plus the projected
2715 annual cash inflows over the remaining estimated useful life of
2716 all of the assets that make up the reserve pool are equal to or
2717 greater than the projected annual cash outflows over the
2718 remaining estimated useful lives of all ~~of~~ the assets that make
2719 up the reserve pool, based on the current reserve analysis. The
2720 projected annual cash inflows may include estimated earnings
2721 from investment of principal and accounts receivable minus the
2722 allowance for doubtful accounts. The reserve funding formula may
2723 ~~shall~~ not include any type of balloon payments.

2724 (12) COMPENSATION PROHIBITED.—A director, officer, or
2725 committee member of the association may not directly receive any
2726 salary or compensation from the association for the performance

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2727 of duties as a director, officer, or committee member and may
2728 not in any other way benefit financially from service to the
2729 association. This subsection does not preclude:

2730 (a) Participation by such person in a financial benefit
2731 accruing to all or a significant number of members as a result
2732 of actions lawfully taken by the board or a committee of which
2733 he or she is a member, including, but not limited to, routine
2734 maintenance, repair, or replacement of community assets.

2735 (b) Reimbursement for out-of-pocket expenses incurred by
2736 such person on behalf of the association, subject to approval in
2737 accordance with procedures established by the association's
2738 governing documents or, in the absence of such procedures, in
2739 accordance with an approval process established by the board.

2740 (c) Any recovery of insurance proceeds derived from a
2741 policy of insurance maintained by the association for the
2742 benefit of its members.

2743 (d) Any fee or compensation authorized in the governing
2744 documents.

2745 (e) Any fee or compensation authorized in advance by a vote
2746 of a majority of the voting interests voting in person or by
2747 proxy at a meeting of the members.

2748 (f) A developer or its representative from serving as a
2749 director, officer, or committee member of the association and
2750 benefitting financially from service to the association.

2751 Section 23. Paragraph (b) of subsection (2) of section
2752 720.304, Florida Statutes, is amended to read:

2753 720.304 Right of owners to peaceably assemble; display of
2754 flag; SLAPP suits prohibited.—

2755 (2)

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2756 (b) Any homeowner may erect a freestanding flagpole no more
2757 than 20 feet high on any portion of the homeowner's real
2758 property, regardless of any covenants, restrictions, bylaws,
2759 rules, or requirements of the association, if the flagpole does
2760 not obstruct sightlines at intersections and is not erected
2761 within or upon an easement. The homeowner may further display in
2762 a respectful manner from that flagpole, regardless of any
2763 covenants, restrictions, bylaws, rules, or requirements of the
2764 association, one official United States flag, not larger than 4
2765 1/2 feet by 6 feet, and may additionally display one official
2766 flag of the State of Florida or the United States Army, Navy,
2767 Air Force, Marines, or Coast Guard, or a POW-MIA flag. Such
2768 additional flag must be equal in size to or smaller than the
2769 United States flag. The flagpole and display are subject to all
2770 building codes, zoning setbacks, and other applicable
2771 governmental regulations, including, but not limited to, noise
2772 and lighting ordinances in the county or municipality in which
2773 the flagpole is erected and all setback and locational criteria
2774 contained in the governing documents.

2775 Section 24. Subsection (2) of section 720.305, Florida
2776 Statutes, is amended to read:

2777 720.305 Obligations of members; remedies at law or in
2778 equity; levy of fines and suspension of use rights.-

2779 (2) If a member is delinquent for more than 90 days in
2780 paying a monetary obligation due the association ~~the governing~~
2781 ~~documents so provide~~, an association may suspend, until such
2782 monetary obligation is paid ~~for a reasonable period of time~~, the
2783 rights of a member or a member's tenants, guests, or invitees,
2784 or both, to use common areas and facilities and may levy

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2785 reasonable fines of up to, ~~not to exceed~~ \$100 per violation,
2786 against any member or any tenant, guest, or invitee. A fine may
2787 be levied for ~~on the basis of~~ each day of a continuing
2788 violation, with a single notice and opportunity for hearing,
2789 except that a ~~no such~~ fine may not ~~shall~~ exceed \$1,000 in the
2790 aggregate unless otherwise provided in the governing documents.
2791 A fine of less than \$1,000 ~~may~~ ~~shall~~ not become a lien against a
2792 parcel. In any action to recover a fine, the prevailing party is
2793 entitled to collect its reasonable attorney's fees and costs
2794 from the nonprevailing party as determined by the court. The
2795 provisions regarding the suspension-of-use rights do not apply
2796 to the portion of common areas that must be used to provide
2797 access to the parcel or utility services provided to the parcel.

2798 (a) A fine or suspension may not be imposed without ~~notice~~
2799 ~~of~~ at least 14 days notice to the person sought to be fined or
2800 suspended and an opportunity for a hearing before a committee of
2801 at least three members appointed by the board who are not
2802 officers, directors, or employees of the association, or the
2803 spouse, parent, child, brother, or sister of an officer,
2804 director, or employee. If the committee, by majority vote, does
2805 not approve a proposed fine or suspension, it may not be
2806 imposed. If the association imposes a fine or suspension, the
2807 association must provide written notice of such fine or
2808 suspension by mail or hand delivery to the parcel owner and, if
2809 applicable, to any tenant, licensee, or invitee of the parcel
2810 owner.

2811 ~~(b) The requirements of this subsection do not apply to the~~
2812 ~~imposition of suspensions or fines upon any member because of~~
2813 ~~the failure of the member to pay assessments or other charges~~

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2814 ~~when due if such action is authorized by the governing~~
2815 ~~documents.~~

2816 (b) ~~(e)~~ Suspension of common-area-use rights do ~~shall~~ not
2817 impair the right of an owner or tenant of a parcel to have
2818 vehicular and pedestrian ingress to and egress from the parcel,
2819 including, but not limited to, the right to park.

2820 Section 25. Subsections (7), (8), and (9) of section
2821 720.306, Florida Statutes, are amended to read:

2822 720.306 Meetings of members; voting and election
2823 procedures; amendments.—

2824 (7) ADJOURNMENT.—Unless the bylaws require otherwise,
2825 adjournment of an annual or special meeting to a different date,
2826 time, or place must be announced at that meeting before an
2827 adjournment is taken, or notice must be given of the new date,
2828 time, or place pursuant to s. 720.303(2). Any business that
2829 might have been transacted on the original date of the meeting
2830 may be transacted at the adjourned meeting. If a new record date
2831 for the adjourned meeting is or must be fixed under s. 607.0707
2832 ~~s. 617.0707~~, notice of the adjourned meeting must be given to
2833 persons who are entitled to vote and are members as of the new
2834 record date but were not members as of the previous record date.

2835 (8) PROXY VOTING.—The members have the right, unless
2836 otherwise provided in this subsection or in the governing
2837 documents, to vote in person or by proxy.

2838 (a) To be valid, a proxy must be dated, must state the
2839 date, time, and place of the meeting for which it was given, and
2840 must be signed by the authorized person who executed the proxy.
2841 A proxy is effective only for the specific meeting for which it
2842 was originally given, as the meeting may lawfully be adjourned

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

2849 (b) If the governing documents permit voting by secret
2850 ballot by members who are not in attendance at a meeting of the
2851 members for the election of directors, such ballots must be
2852 placed in an inner envelope with no identifying markings and
2853 mailed or delivered to the association in an outer envelope
2854 bearing identifying information reflecting the name of the
2855 member, the lot or parcel for which the vote is being cast, and
2856 the signature of the lot or parcel owner casting that ballot. If
2857 the eligibility of the member to vote is confirmed and no other
2858 ballot has been submitted for that lot or parcel, the inner
2859 envelope shall be removed from the outer envelope bearing the
2860 identification information, placed with the ballots which were
2861 personally cast, and opened when the ballots are counted. If
2862 more than one ballot is submitted for a lot or parcel, the
2863 ballots for that lot or parcel shall be disqualified. Any vote
2864 by ballot received after the closing of the balloting may not be
2865 considered.

2866 (9) ELECTIONS AND BOARD VACANCIES.—Elections of directors
2867 must be conducted in accordance with the procedures set forth in
2868 the governing documents of the association. All members of the
2869 association are ~~shall be~~ eligible to serve on the board of
2870 directors, and a member may nominate himself or herself as a
2871 candidate for the board at a meeting where the election is to be

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2872 held or, if the election process allows voting by absentee
2873 ballot, in advance of the balloting. Except as otherwise
2874 provided in the governing documents, boards of directors must be
2875 elected by a plurality of the votes cast by eligible voters. Any
2876 election dispute between a member and an association must be
2877 submitted to mandatory binding arbitration with the division.
2878 Such proceedings must ~~shall~~ be conducted in the manner provided
2879 by s. 718.1255 and the procedural rules adopted by the division.
2880 Unless otherwise provided in the bylaws, any vacancy occurring
2881 on the board before the expiration of a term may be filled by an
2882 affirmative vote of the majority of the remaining directors,
2883 even if the remaining directors constitute less than a quorum,
2884 or by the sole remaining director. In the alternative, a board
2885 may hold an election to fill the vacancy, in which case the
2886 election procedures must conform to the requirements of the
2887 governing documents. Unless otherwise provided in the bylaws, a
2888 board member appointed or elected under this section is
2889 appointed for the unexpired term of the seat being filled.
2890 Filling vacancies created by recall is governed by s.
2891 720.303(10) and rules adopted by the division.

2892 Section 26. Subsection (8) is added to section 720.3085,
2893 Florida Statutes, to read:

2894 720.3085 Payment for assessments; lien claims.-

2895 (8) If the parcel is occupied by a tenant and the parcel
2896 owner is delinquent in paying any monetary obligation due to the
2897 association, the association may demand that the tenant pay to
2898 the association the future monetary obligations related to the
2899 parcel. The demand is continuing in nature, and upon demand, the
2900 tenant must continue to pay the monetary obligations until the

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2901 association releases the tenant or the tenant discontinues
2902 tenancy in the parcel. A tenant who acts in good faith in
2903 response to a written demand from an association is immune from
2904 any claim from the parcel owner.

2905 (a) If the tenant prepaid rent to the parcel owner before
2906 receiving the demand from the association and provides written
2907 evidence of paying the rent to the association within 14 days
2908 after receiving the demand, the tenant shall receive credit for
2909 the prepaid rent for the applicable period and must make any
2910 subsequent rental payments to the association to be credited
2911 against the monetary obligations of the parcel owner to the
2912 association. The association shall, upon request, provide the
2913 tenant with written receipts for payments made. The association
2914 shall mail written notice to the parcel owner of the
2915 association's demand that the tenant pay monetary obligations to
2916 the association.

2917 (b) The tenant is not liable for increases in the amount of
2918 the monetary obligations due unless the tenant was notified in
2919 writing of the increase at least 10 days before the date on
2920 which the rent is due. The tenant shall be given a credit
2921 against rents due to the parcel owner in the amount of
2922 assessments paid to the association.

2923 (c) The association may issue notices under s. 83.56 and
2924 may sue for eviction under ss. 83.59-83.625 as if the
2925 association were a landlord under part II of chapter 83 if the
2926 tenant fails to pay a monetary obligation. However, the
2927 association is not otherwise considered a landlord under chapter
2928 83 and specifically has no duties under s. 83.51.

2929 (d) The tenant does not, by virtue of payment of monetary

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2930 obligations, have any of the rights of a parcel owner to vote in
2931 any election or to examine the books and records of the
2932 association.

2933 (e) A court may supersede the effect of this subsection by
2934 appointing a receiver.

2935 Section 27. Subsection (6) is added to section 720.31,
2936 Florida Statutes, to read:

2937 720.31 Recreational leaseholds; right to acquire;
2938 escalation clauses.—

2939 (6) An association may enter into agreements to acquire
2940 leaseholds, memberships, and other possessory or use interests
2941 in lands or facilities, including, but not limited to, country
2942 clubs, golf courses, marinas, submerged land, parking areas,
2943 conservation areas, and other recreational facilities. An
2944 association may enter into such agreements regardless of whether
2945 the lands or facilities are contiguous to the lands of the
2946 community or whether such lands or facilities are intended to
2947 provide enjoyment, recreation, or other use or benefit to the
2948 owners. All leaseholds, memberships, and other possessory or use
2949 interests existing or created at the time of recording the
2950 declaration must be stated and fully described in the
2951 declaration. Subsequent to recording the declaration, agreements
2952 acquiring leaseholds, memberships, or other possessory or use
2953 interests not entered into within 12 months after recording the
2954 declaration may be entered into only if authorized by the
2955 declaration as a material alteration or substantial addition to
2956 the common areas or association property. If the declaration is
2957 silent, any such transaction requires the approval of 75 percent
2958 of the total voting interests of the association. The

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2959 declaration may provide that the rental, membership fees,
2960 operations, replacements, or other expenses are common expenses;
2961 impose covenants and restrictions concerning their use; and
2962 contain other provisions not inconsistent with this subsection.
2963 An association exercising its rights under this subsection may
2964 join with other associations that are part of the same
2965 development or with a master association responsible for the
2966 enforcement of shared covenants, conditions, and restrictions in
2967 carrying out the intent of this subsection. This subsection is
2968 intended to clarify law in existence before July 1, 2010.

2969 Section 28. Section 720.315, Florida Statutes, is created
2970 to read:

2971 720.315 Passage of special assessments.—Before turnover,
2972 the board of directors controlled by the developer may not levy
2973 a special assessment unless a majority of the parcel owners
2974 other than the developer have approved the special assessment by
2975 a majority vote at a duly called special meeting of the
2976 membership at which a quorum is present.

2977 Section 29. This act shall take effect July 1, 2010.