

## CHAPTER 2010-174

### Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill Nos. 1196 and 1222

An act relating to community associations; amending s. 399.02, F.S.; exempting certain elevators from specific code update requirements; providing a phase-in period for such elevators; amending s. 617.0721, F.S.; revising the limitations on the right of members to vote on corporate matters for certain corporations not for profit that are regulated under ch. 718 or ch. 719, F.S.; amending s. 617.0808, F.S.; excepting certain corporations not for profit that are an association as defined in s. 720.301, F.S., or a corporation regulated under ch. 718 or ch. 719, F.S., from certain provisions relating to the removal of a director; creating s. 617.1606, F.S.; providing that certain statutory provisions providing for the inspection of corporate records do not apply to a corporation not for profit that is an association as defined in s. 720.301, or a corporation regulated under ch. 718 or ch. 719, F.S.; creating s. 627.714, F.S.; requiring that coverage under a unit owner's policy for certain assessments include at least a minimum amount of loss assessment coverage; specifying the maximum amount of any unit owner's loss assessment coverage that can be assessed for any loss; providing that certain changes to the limits of a unit owner's coverage for loss assessments made on or after a specified period before the date of loss do not apply to the loss; providing that certain insurers are not required to pay more than an amount equal to that unit owner's loss assessment coverage limit; requiring that every property insurance policy to an individual unit owner contain a specified provision; amending s. 633.0215, F.S.; exempting certain residential buildings from a requirement to install a manual fire alarm system; amending s. 718.103, F.S.; redefining the term "developer"; amending s. 718.110, F.S.; allowing the condominium association to have the authority to restrict through an amendment to a declaration of condominium, rather than prohibit, the rental of condominium units; authorizing the classification of certain portions of common elements as limited common elements upon receipt of the required vote to amend a declaration; providing that such reclassification is not an amendment pursuant to specified provisions of state law; amending s. 718.111, F.S.; deleting a requirement for the board of a condominium to hold a meeting open to unit owners to establish the amount of an insurance deductible; revising the property to which a property insurance policy for a condominium association applies; revising the requirements for a condominium unit owner's property insurance policy; limiting the circumstances under which a person who violates requirements to maintain association records may be personally liable for a civil penalty; providing that a condominium association is not responsible for the use of certain information provided to an association member under certain circumstances; specifying records of a condominium association which are exempt from a requirement that records be available for inspection by an association member; increasing the amount of time within

which a condominium association must provide unit owners with a copy of the association's annual financial report; revising the requirements for rules relating to the financial report that must be adopted by the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation; revising the requirements for a financial report based on the amount of a condominium's revenues; amending s. 718.112, F.S.; revising provisions relating to the terms or appointment or election of condominium members to a board of administration; creating exceptions to such provisions for condominiums that contain timeshares; specifying a certification that a person who is appointed or elected to a board of administration must make or educational requirements such board member must satisfy; conforming cross-references to changes made by the act; deleting a provision prohibiting an association from foregoing the retrofitting with a fire sprinkler system of common areas in a high-rise building; prohibiting local authorities having jurisdiction from requiring retrofitting with a sprinkler system or other engineered lifesafety system before a specified date; requiring that certain associations initiate, before a specified date, an application for a building permit for the required fire sprinkler installation with the local government having jurisdiction demonstrating that the association will be in compliance with certain firesafety requirements by a specified date; authorizing an association to forgo retrofitting under certain circumstances; providing requirements for a special meeting of unit owners which may be called every 3 years in order to vote to forgo retrofitting of the sprinkler system or other engineered lifesafety systems; providing meeting notice requirements; expanding the monetary obligations that a director or officer must satisfy to avoid abandoning his or her office; amending s. 718.115, F.S.; specifying certain services provided in a declaration of condominium which are obtained pursuant to a bulk contract to be deemed a common expense; specifying provisions that must be contained in a bulk contract; specifying cancellation procedures for bulk contracts; amending s. 718.116, F.S.; increasing the period of accrual of certain assessments used to determine the amount of limited liability of certain first mortgagees or their successors or assignees; requiring a tenant in a unit owned by a person who is delinquent in the payment of a monetary obligation to the condominium association to pay rent to the association under certain circumstances; authorizing the condominium association to sue such tenant who fails to pay rent for eviction under certain circumstances; providing that the tenant is immune from claims from the unit owner as the result of paying rent to the association under certain circumstances; amending s. 718.117, F.S.; revising the circumstances under which a condominium association may be terminated due to economic waste or impossibility; revising provisions specifying the effect of a termination of condominium; amending s. 718.202, F.S.; authorizing the deposit of certain funds into multiple escrow accounts; requiring that an escrow agent maintain separate accounting records for each purchaser under certain circumstances; amending s. 718.301, F.S.; revising conditions under which unit owners other than the developer may elect at least a majority of the members of the board of administration of an association;

amending s. 718.303, F.S.; authorizing an association to suspend for a reasonable time the right of a unit owner or the unit's occupant, licensee, or invitee to use certain common elements under certain circumstances; prohibiting a fine from being levied or a suspension from being imposed unless the association meets certain requirements for notice and provides an opportunity for a hearing; authorizing an association to suspend voting rights of a member due to nonpayment of assessments, fines, or other charges under certain circumstances; amending s. 718.501, F.S.; specifying that the jurisdiction of the Division of Florida Condominiums, Timeshares, and Mobile Homes includes bulk assignees and bulk buyers; creating part VII of ch. 718, F.S.; creating the "Distressed Condominium Relief Act"; providing legislative findings and intent; defining the terms "bulk assignee" and "bulk buyer"; providing for the assignment of developer rights by a bulk assignee; specifying liabilities of bulk assignees and bulk buyers; providing exceptions; providing additional responsibilities of bulk assignees and bulk buyers; authorizing certain entities to assign developer rights to a bulk assignee; limiting the number of bulk assignees at any given time; providing for the transfer of control of a board of administration to unit owners; providing effects of such transfer on parcels acquired by a bulk assignee; providing obligations of a bulk assignee upon the transfer of control of a board of administration; requiring that a bulk assignee certify certain information in writing; providing for the resolution of a conflict between specified provisions of state law; providing that the failure of a bulk assignee or bulk buyer to comply with specified provisions of state law results in the loss of certain protections and exemptions; requiring that a bulk assignee or bulk buyer file certain information with the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation before offering any units for sale or lease in excess of a specified term; requiring that a copy of such information be provided to a prospective purchaser or tenant; requiring that certain contracts and disclosure statements contain specified statements; requiring that a bulk assignee or bulk buyer comply with certain disclosure requirements; prohibiting a bulk assignee from authorizing certain actions on behalf of an association while the bulk assignee is in control of the board of administration of the association; requiring that a bulk assignee or bulk buyer comply with certain laws with respect to contracts entered into by the association while the bulk assignee or bulk buyer was in control of the board of administration; providing parcel owners with specified protections regarding certain contracts; requiring that a bulk buyer comply with certain requirements regarding the transfer of a parcel; prohibiting a person from being classified as a bulk assignee or bulk buyer unless condominium parcels were acquired before a specified date; providing that the assignment of developer rights to a bulk assignee does not release a developer from certain liabilities; amending s. 719.106, F.S.; providing for the filling of vacancies on the condominium board of administration; amending s. 719.1055, F.S.; providing an additional required provision in cooperative bylaws; deleting a provision prohibiting an association from foregoing the retrofitting with a fire sprinkler system of common areas in a high-rise building; prohibiting local authorities

having jurisdiction from requiring retrofitting with a sprinkler system or other engineered lifesafety system before a specified date; providing requirements for a special meeting of unit owners which may be called every 3 years in order to vote to require retrofitting of the sprinkler system or other engineered lifesafety system; providing meeting notice requirements; amending s. 719.108, F.S.; providing a prioritized list for disbursement of payments received by an association; providing for a lien by an association on a condominium unit for certain fees and costs; providing procedures and notice requirements for the filing of a lien by an association; requiring a tenant in a unit owned by a person who is delinquent in the payment of a monetary obligation to the condominium association to pay rent to the association under certain circumstances; amending s. 720.303, F.S.; revising provisions relating to homeowners' association board meetings, inspection and copying of records, and reserve accounts of budgets; expanding the list of association records that are not accessible to members and parcel owners; prohibiting certain association personnel from receiving a salary or compensation; providing exceptions; amending s. 720.304, F.S.; providing that a flagpole and any flagpole display are subject to certain codes and regulations; amending s. 720.305, F.S.; authorizing the association to suspend rights to use common areas and facilities if the member is delinquent on the payment of a monetary obligation due for a certain period of time; providing procedures and notice requirements for levying a fine or imposing a suspension; amending s. 720.306, F.S.; providing requirements for secret ballots; providing procedures for filling a vacancy on the board of directors; amending s. 720.3085, F.S.; requiring a tenant in a property owned by a person who is delinquent in the payment of a monetary obligation to the condominium association to pay rent to the association under certain circumstances; amending s. 720.31, F.S.; authorizing an association to enter into certain agreements to use lands or facilities; requiring that certain items be stated and fully described in the declaration; limiting an association's power to enter into such agreements after a specified period following the recording of a declaration; requiring that certain agreements be approved by a specified percentage of voting interests of an association when the declaration is silent as to the authority of an association to enter into such agreement; authorizing an association to join with other associations or a master association under certain circumstances and for specified purposes; creating s. 720.315, F.S.; prohibiting the board of directors of a homeowners' association from levying a special assessment before turnover of the association by the developer unless certain conditions are met; providing an effective date.

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

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

399.02 General requirements.—

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

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

617.0721 Voting by members.—

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

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

617.0808 Removal of directors.—

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

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

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

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

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

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

owner resulting from the same direct loss to the property, no deductible applies to the loss assessment coverage.

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

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

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

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

633.0215 Florida Fire Prevention Code.—

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

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

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

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

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

(b) A cooperative association that which creates a condominium by conversion of an existing residential cooperative after control of the association has been transferred to the unit owners if, following the conversion, the unit owners are will be the same persons who were unit owners of the cooperative and no units are offered for sale or lease to the public as part of the plan of conversion;~~-~~

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

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

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

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

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

(14) Except for those portions of the common elements designed and intended to be used by all unit owners, a portion of the common elements serving only one unit or a group of units may be reclassified as a limited common element upon the vote required to amend the declaration as provided therein or as required under paragraph (1)(a), and shall not be considered an amendment pursuant to subsection (4). This is a clarification of existing law.

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

718.111 The association.—

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

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

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

2. The association may also provide adequate property hazard insurance coverage for a group of at least ~~no fewer than~~ three communities created and operating under this chapter, chapter 719, chapter 720, or chapter 721 by obtaining and maintaining for such communities insurance coverage sufficient to cover an amount equal to the probable maximum loss for the communities for a 250-year windstorm event. Such probable maximum loss must be determined through the use of a competent model that has been accepted by the Florida Commission on Hurricane Loss Projection Methodology. A ~~No~~ policy or program providing such coverage may not ~~shall~~ be issued or renewed after July 1, 2008, unless it has been reviewed and approved by the Office of Insurance Regulation. The review and approval must ~~shall~~ include approval of the policy and related forms pursuant to ss. 627.410 and 627.411, approval of the rates pursuant to s. 627.062, a determination that the loss model approved by the commission was accurately and appropriately applied to the insured structures to determine the 250-year probable maximum loss, and a determination that complete and accurate disclosure of all material provisions is provided to condominium unit owners before ~~prior to~~ execution of the agreement by a condominium association.

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

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

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

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

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

3. The board shall establish the amount of deductibles based upon the level of available funds and predetermined assessment authority at a meeting of the board. ~~Such meeting shall be open to all unit owners in the manner set forth in s. 718.112(2)(e). The notice of such meeting must state the proposed deductible and the available funds and the assessment authority relied upon by the board and estimate any potential assessment amount against each unit, if any. The meeting described in this paragraph~~



may be held in conjunction with a meeting to consider the proposed budget or an amendment thereto.

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

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

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

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

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

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

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

2. ~~The association shall require each owner to provide evidence of a currently effective policy of hazard and liability insurance upon request, but not more than once per year. Upon the failure of an owner to provide a certificate of insurance issued by an insurer approved to write such insurance in this state within 30 days after the date on which a written request is~~

~~delivered, the association may purchase a policy of insurance on behalf of an owner. The cost of such a policy, together with reconstruction costs undertaken by the association but which are the responsibility of the unit owner, may be collected in the manner provided for the collection of assessments in s. 718.116.~~

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

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

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

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

1. A unit owner is responsible for the costs of repair or replacement of any portion of the condominium property not paid by insurance proceeds, if such damage is caused by intentional conduct, negligence, or failure to comply with the terms of the declaration or the rules of the association by a unit owner, the members of his or her family, unit occupants, tenants, guests, or

invitees, without compromise of the subrogation rights of the any insurer as set forth in ~~paragraph (g)~~.

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

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

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

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

(12) OFFICIAL RECORDS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The official records of the association are open to inspection by any association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the ~~association~~ member. The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying. The failure of an association to provide the records within 10 working days after receipt of a written request creates ~~shall create~~ a rebuttable presumption that the association willfully failed to comply with this paragraph. A unit owner who

is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply with this paragraph. The Minimum damages shall be \$50 per calendar day up to 10 days, the calculation to begin on the 11th working day after receipt of the written request. The failure to permit inspection of the association records as provided herein entitles any person prevailing in an enforcement action to recover reasonable attorney's fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records for inspection. Any person who knowingly or intentionally defaces or destroys accounting records that are required by this chapter to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained by this chapter, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s. 718.501(1)(d). The association shall maintain an adequate number of copies of the declaration, articles of incorporation, bylaws, and rules, and all amendments to each of the foregoing, as well as the question and answer sheet provided for in s. 718.504 and year-end financial information required in this section, on the condominium property to ensure their availability to unit owners and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the documents same. Notwithstanding the provisions of this paragraph, the following records are shall not be accessible to unit owners:

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

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

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

~~4.3.~~ Medical records of unit owners.

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

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

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

(13) FINANCIAL REPORTING.—Within 90 days after the end of the fiscal year, or annually on a date provided in the bylaws, the association shall prepare and complete, or contract for the preparation and completion of, a financial report for the preceding fiscal year. Within 21 days after the final financial report is completed by the association or received from the third party, but not later than 120 days after the end of the fiscal year or other date as provided in the bylaws, the association shall mail to each unit owner at the address last furnished to the association by the unit owner, or hand deliver to each unit owner, a copy of the financial report or a notice that a copy of the financial report will be mailed or hand delivered to the unit owner, without charge, upon receipt of a written request from the unit owner. The division shall adopt rules setting forth uniform accounting principles and standards to be used by all associations and ~~shall adopt rules addressing the~~ financial reporting requirements for multicondominium associations. The rules must shall include, but not be limited to, standards for presenting a summary of association reserves, including a good faith estimate disclosing the annual amount of reserve funds that would be necessary for the association to fully fund reserves for each reserve item based on the straight-line accounting method. This disclosure is not applicable to reserves funded via the pooling method. ~~uniform accounting principles and standards for stating the disclosure of at least a summary of the reserves, including information as to whether such reserves are being funded at a level sufficient to prevent the need for a special assessment and, if not, the amount of assessments necessary to bring the reserves up to the level necessary to avoid a special assessment. The person preparing the financial reports shall be entitled to rely on an inspection report prepared for or provided to the association to meet the fiscal and fiduciary standards of this chapter. In adopting such rules, the division shall consider the number of members and annual revenues of an association. Financial reports shall be prepared as follows:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Such meeting and approval must occur ~~before~~ prior to the end of the fiscal year and is effective only for the fiscal year in which the vote is taken, except that the approval may also ~~may~~ be effective for the following fiscal year. With



respect to an association to which the developer has not turned over control of the association, all unit owners, including the developer, may vote on issues related to the preparation of financial reports for the first 2 fiscal years of the association’s operation, beginning with the fiscal year in which the declaration is recorded. Thereafter, all unit owners except the developer may vote on such issues until control is turned over to the association by the developer. Any audit or review prepared under this section shall be paid for by the developer if done ~~before~~ before prior to turnover of control of the association. An association may not waive the financial reporting requirements of this section for more than 3 consecutive years.

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

718.112 Bylaws.—

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

(d) *Unit owner meetings.*—

1. ~~There shall be~~ An annual meeting of the unit owners shall be held at the location provided in the association bylaws and, if the bylaws are silent as to the location, the meeting shall be held within 45 miles of the condominium property. However, such distance requirement does not apply to an association governing a timeshare condominium. Unless the bylaws provide otherwise, a vacancy on the board caused by the expiration of a director’s term shall be filled by electing a new board member, and the election must ~~shall~~ be by secret ballot.; However, if the number of vacancies equals or exceeds the number of candidates, an ~~no~~ election is not required. Except in a timeshare condominium, the terms of all members of the board shall expire at the annual meeting and such board members may stand for reelection unless otherwise permitted by the bylaws. ~~If In the event that~~ the bylaws permit staggered terms of no more than 2 years and upon approval of a majority of the total voting interests, the association board members may serve 2-year staggered terms. If the number of board members whose terms have expired exceeds the number of eligible members showing interest in or demonstrating an intention to run for the vacant positions ~~no person is interested in or demonstrates an intention to run for the position of a board member whose term has expired according to the provisions of this subparagraph,~~ each such board member whose term has expired is eligible for reappointment shall be automatically reappointed to the board of administration and need not stand for reelection. In a condominium association of more than 10 units or in a condominium association that does not include timeshare units or timeshare interests, coowners of a unit may not serve as members of the board of directors at the same time unless they own more than one unit or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy. Any unit owner desiring to be a candidate for board membership must ~~shall~~ comply with sub-subparagraph ~~subparagraph~~ 3.a. A person who has been

suspended or removed by the division under this chapter, or who is delinquent in the payment of any fee, fine, or special or regular assessment as provided in paragraph (n), is not eligible for board membership. A person who has been convicted of any felony in this state or in a United States District or Territorial Court, or who has been convicted of any offense in another jurisdiction that would be considered a felony if committed in this state, is not eligible for board membership unless such felon's civil rights have been restored for at least a period of no less than 5 years as of the date on which such person seeks election to the board. The validity of an action by the board is not affected if it is later determined that a member of the board is ineligible for board membership due to having been convicted of a felony.

2. The bylaws must shall provide the method of calling meetings of unit owners, including annual meetings. Written notice, which ~~notice~~ must include an agenda, shall be mailed, hand delivered, or electronically transmitted to each unit owner at least 14 days before ~~prior to~~ the annual meeting and must shall be posted in a conspicuous place on the condominium property at least 14 continuous days preceding the annual meeting. Upon notice to the unit owners, the board shall, by duly adopted rule, designate a specific location on the condominium property or association property upon which all notices of unit owner meetings shall be posted. However, if there is no condominium property or association property upon which notices can be posted, this requirement does not apply. In lieu of or in addition to the physical posting of meeting notices ~~notice of any meeting of the unit owners on the condominium property~~, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the condominium association. However, if broadcast notice is used in lieu of a notice posted physically on the condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. If ~~When~~ broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. Unless a unit owner waives in writing the right to receive notice of the annual meeting, such notice must shall be hand delivered, mailed, or electronically transmitted to each unit owner. Notice for meetings and notice for all other purposes must shall be mailed to each unit owner at the address last furnished to the association by the unit owner, or hand delivered to each unit owner. However, if a unit is owned by more than one person, the association shall provide notice, for meetings and all other purposes, to that one address which the developer initially identifies for that purpose and thereafter as one or more of the owners of the unit shall ~~so~~ advise the association in writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the association, or the manager or other person providing notice of the association meeting, shall provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the

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

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

a. At least ~~Not less than~~ 60 days before a scheduled election, the association shall mail, deliver, or electronically transmit, whether by separate association mailing or included in another association mailing, delivery, or transmission, including regularly published newsletters, to each unit owner entitled to a vote, a first notice of the date of the election ~~along with a certification form provided by the division attesting that he or she has read and understands, to the best of his or her ability, the governing documents of the association and the provisions of this chapter and any applicable rules.~~ Any unit owner or other eligible person desiring to be a candidate for the board must give written notice of his or her intent to be a candidate to the association at least not less than 40 days before a scheduled election. Together with the written notice and agenda as set forth in subparagraph 2., the association shall mail, deliver, or electronically transmit a second notice of the election to all unit owners entitled to vote ~~therein, together with a ballot that lists which shall list all candidates.~~ Upon request of a candidate, ~~the association shall include an information sheet, no larger than 8½ inches by 11 inches, which must be furnished by the candidate at least not less than 35 days before the election, must along with the signed certification form provided for in this subparagraph, to be included with the mailing, delivery, or transmission of the ballot, with the costs of mailing, delivery, or electronic transmission and copying to be borne by the association.~~ The association is not liable for the contents of the information sheets prepared by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper. The division shall by rule establish voting procedures consistent with this sub-subparagraph ~~the provisions contained herein~~, including rules establishing procedures for giving notice by electronic transmission and rules providing for the secrecy of ballots. Elections shall be decided by a plurality of those ballots cast. There is ~~shall be~~ no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election of members of the board. A ~~No~~ unit owner may not ~~shall~~ permit any other person to vote his or her ballot, and any ~~such~~ ballots improperly cast are ~~shall be deemed~~ invalid, provided any unit owner who violates this provision may be fined by the association in accordance with s. 718.303. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain such ~~in casting the ballot.~~ The regular election must ~~shall~~ occur on the date of the annual meeting. This sub-subparagraph does ~~subparagraph shall~~ not apply to timeshare condominium associations. Notwithstanding ~~the provisions of this sub-subparagraph~~ subparagraph, an election is not required unless more

candidates file notices of intent to run or are nominated than board vacancies exist.

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

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

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

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

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

8. Unless otherwise provided in the bylaws, any vacancy occurring on the board before the expiration of a term may be filled by the affirmative vote of the majority of the remaining directors, even if the remaining directors

constitute less than a quorum, or by the sole remaining director. In the alternative, a board may hold an election to fill the vacancy, in which case the election procedures must conform to the requirements of sub-subparagraph 3.a. unless the association governs 10 units or fewer less and has opted out of the statutory election process, in which case the bylaws of the association control. Unless otherwise provided in the bylaws, a board member appointed or elected under this section shall fill the vacancy for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by paragraph (j) and rules adopted by the division.

Notwithstanding subparagraph 3.a. and sub-subparagraph (d)3.a., an association of 10 or fewer units may, by the affirmative vote of a majority of the total voting interests, provide for different voting and election procedures in its bylaws, which vote may be by a proxy specifically delineating the different voting and election procedures. The different voting and election procedures may provide for elections to be conducted by limited or general proxy.

(1) *Certificate of compliance.*—~~There shall be~~ A provision that a certificate of compliance from a licensed electrical contractor or electrician may be accepted by the association's board as evidence of compliance of the condominium units with the applicable fire and life safety code must be included. Notwithstanding ~~the provisions of chapter 633 or of any other code, statute, ordinance, administrative rule, or regulation, or any interpretation of the foregoing, an association, condominium, or unit owner is not obligated to retrofit the common elements, association property, or units of a residential condominium with a fire sprinkler system or other engineered lifesafety system in a building that has been certified for occupancy by the applicable governmental entity, if the unit owners have voted to forego such retrofitting and engineered lifesafety system by the affirmative vote of a majority two-thirds of all voting interests in the affected condominium. However, a condominium association may not vote to forego the retrofitting with a fire sprinkler system of common areas in a high-rise building. For purposes of this subsection, the term "high-rise building" means a building that is greater than 75 feet in height where the building height is measured from the lowest level of fire department access to the floor of the highest occupiable story. For purposes of this subsection, the term "common areas" means any enclosed hallway, corridor, lobby, stairwell, or entryway. In no event shall~~ The local authority having jurisdiction may not require completion of retrofitting of common areas with a fire sprinkler system before the end of ~~2019~~ 2014. By December 31, 2016, an association that is not in compliance with the requirements for a fire sprinkler system and has not voted to forego retrofitting of such a system must initiate an application for a building permit for the required installation with the local government having jurisdiction demonstrating that the association will become compliant by December 31, 2019.

1. A vote to forego retrofitting may be obtained by limited proxy or by a ballot personally cast at a duly called membership meeting, or by execution of a written consent by the member, and is ~~shall be~~ effective upon ~~the~~ recording

of a certificate attesting to such vote in the public records of the county where the condominium is located. The association shall mail ~~or~~; hand deliver, ~~or~~ electronically transmit to each unit owner written notice at least 14 days ~~before the~~ prior to such membership meeting in which the vote to forego retrofitting of the required fire sprinkler system is to take place. Within 30 days after the association's opt-out vote, notice of the results of the opt-out vote must ~~shall~~ be mailed ~~or~~; hand delivered, ~~or~~ electronically transmitted to all unit owners. Evidence of compliance with this ~~30-day~~ notice requirement must ~~shall~~ be made by an affidavit executed by the person providing the notice and filed among the official records of the association. After such notice is provided to each owner, a copy must ~~of such notice shall~~ be provided by the current owner to a new owner ~~before~~ prior to closing and ~~shall be provided by~~ a unit owner to a renter ~~before~~ prior to signing a lease.

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

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

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

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

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

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

718.115 Common expenses and common surplus.—

(1)

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

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

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

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

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

(1)

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

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

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

(3) Assessments and installments on assessments ~~them~~ which are not paid when due bear interest at the rate provided in the declaration, from the due date until paid. This rate may not exceed the rate allowed by law, and, if no rate is provided in the declaration, interest accrues ~~shall accrue~~ at the rate of 18 percent per year. Also, if provided by the declaration or bylaws ~~so provide~~, the association may, in addition to such interest, charge an administrative late fee of up to in addition to such interest, ~~in an amount not to exceed~~ the greater of \$25 or 5 percent of each installment of the assessment for each delinquent installment for which ~~that~~ the payment is late. Any payment received by an association must ~~shall~~ be applied first to any interest accrued by the association, then to any administrative late fee, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent assessment. The foregoing is ~~shall be~~ applicable notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment. A late fee is ~~shall~~ not be subject to the ~~provisions in chapter 687 or s. 718.303(3).~~

(5)

(b) To be valid, a claim of lien must state the description of the condominium parcel, the name of the record owner, the name and address of the association, the amount due, and the due dates. It must be executed and acknowledged by an officer or authorized agent of the association. The ~~No such~~ lien is ~~not~~ ~~shall be~~ effective longer than 1 year after the claim of lien was recorded unless, within that time, an action to enforce the lien is



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

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

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

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

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

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

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

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

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

718.117 Termination of condominium.—

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

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

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

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

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

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

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

718.202 Sales or reservation deposits prior to closing.—

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

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

718.301 Transfer of association control; claims of defect by association.

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

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

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

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

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

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

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

(g) Seven years after recordation of the declaration of condominium; or, in the case of an association ~~that~~ which may ultimately operate more than one condominium, 7 years after recordation of the declaration for the first condominium it operates; or, in the case of an association operating a phase

condominium created pursuant to s. 718.403, 7 years after recordation of the declaration creating the initial phase, whichever occurs first. The developer is entitled to elect at least one member of the board of administration of an association as long as the developer holds for sale in the ordinary course of business at least 5 percent, in condominiums with fewer than 500 units, and 2 percent, in condominiums with more than 500 units, of the units in a condominium operated by the association. ~~After Following the time~~ the developer relinquishes control of the association, the developer may exercise the right to vote any developer-owned units in the same manner as any other unit owner except for purposes of reacquiring control of the association or selecting the majority members of the board of administration.

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

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

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

- (a) The association.
- (b) A unit owner.
- (c) Directors designated by the developer, for actions taken by them ~~before prior to the time~~ control of the association is assumed by unit owners other than the developer.
- (d) Any director who willfully and knowingly fails to comply with these provisions.
- (e) Any tenant leasing a unit, and any other invitee occupying a unit.

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

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

~~(3) If a unit owner is delinquent for more than 90 days in paying a monetary obligation due to the association the declaration or bylaws so provide, the association may suspend the right of a unit owner or a unit's occupant, licensee, or invitee to use common elements, common facilities, or any other association property until the monetary obligation is paid. This subsection does not apply to limited common elements intended to be used only by that unit, common elements that must be used to access the unit, utility services provided to the unit, parking spaces, or elevators. The association may also levy reasonable fines against a unit for the failure of the owner of the unit, or its occupant, licensee, or invitee, to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association. A No fine does not will become a lien against a unit. A No fine may not exceed \$100 per violation. However, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing. However, the provided that no such fine may not shall in the aggregate exceed \$1,000. A No fine may not be levied and a suspension may not be imposed unless the association first provides at least 14 days' written except after giving reasonable notice and an opportunity for a hearing to the unit owner and, if applicable, its occupant, licensee, or invitee. The hearing must be held before a committee of other unit owners who are neither board members nor persons residing in a board member's household. If the committee does not agree with the fine or suspension, the fine or suspension may not be levied or imposed. The provisions of this subsection do not apply to unoccupied units.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and use of the property by the division and a court-appointed receiver or conservator.

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

6. The division may impose a civil penalty against a developer, bulk assignee, or bulk buyer, or association, or its assignee or agent, for any violation of this chapter or related a rule ~~adopted under this chapter~~. The division may impose a civil penalty individually against an ~~any~~ officer or board member who willfully and knowingly violates a provision of this chapter, adopted rule, or a final order of the division; may order the removal of such individual as an officer or from the board of administration or as an officer of the association; and may prohibit such individual from serving as an officer or on the board of a community association for a period of time. The term "willfully and knowingly" means that the division informed the officer or board member that his or her action or intended action violates this chapter, a rule adopted under this chapter, or a final order of the division and that the officer or board member refused to comply with the requirements of this chapter, a rule adopted under this chapter, or a final order of the division. The division, before ~~prior to~~ initiating formal agency action under chapter 120, must ~~shall~~ afford the officer or board member an opportunity to voluntarily comply and ~~with this chapter, a rule adopted under this chapter, or a final order of the division.~~ an officer or board member who complies within 10 days is not subject to a civil penalty. A penalty may be imposed on the basis of each day of continuing violation, but ~~in no event shall~~ the penalty for any offense may not exceed \$5,000. By January 1, 1998, the division shall adopt, by rule, penalty guidelines applicable to possible violations or to categories of violations of this chapter or rules adopted by the division. The guidelines must specify a meaningful range of civil penalties for each such violation of the statute and rules and must be based upon the harm caused by the violation, the repetition of the violation, and upon such other factors deemed relevant by the division. For example, the division may consider whether the violations were committed by a developer, bulk assignee, or bulk buyer, or owner-controlled association, the size of the association, and other factors. The guidelines must designate the possible mitigating or aggravating circumstances that justify a departure from the range of penalties provided by the rules. It is the legislative intent that minor violations be distinguished from those which endanger the health, safety, or welfare of the condominium residents or other persons and that such guidelines provide reasonable and meaningful notice to the public of likely penalties that may be imposed for proscribed conduct. This subsection does not limit the ability of the division to informally dispose of administrative actions or complaints by



stipulation, agreed settlement, or consent order. All amounts collected shall be deposited with the Chief Financial Officer to the credit of the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund. If a developer, bulk assignee, or bulk buyer fails to pay the civil penalty and the amount deemed to be owed to the association, the division shall issue an order directing that such developer, bulk assignee, or bulk buyer cease and desist from further operation until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. If an association fails to pay the civil penalty, the division shall pursue enforcement in a court of competent jurisdiction, and the order imposing the civil penalty or the cease and desist order ~~is~~ will not become effective until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division has its executive offices or in the county where the violation occurred.

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

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

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

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

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

(h) The division shall furnish each association ~~that~~ which pays the fees required by paragraph (2)(a) a copy of this chapter, as amended ~~aet,~~

~~subsequent changes to this act on an annual basis, an amended version of this act as it becomes available from the Secretary of State's office on a biennial basis, and the rules adopted thereto on an annual basis.~~

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

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

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

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

(m) ~~If~~ When a complaint is made, the division ~~must shall~~ conduct its inquiry with due regard ~~for~~ to the interests of the affected parties. Within 30 days after receipt of a complaint, the division shall acknowledge the complaint in writing and notify the complainant whether the complaint is within the jurisdiction of the division and whether additional information is needed by the division from the complainant. The division shall conduct its investigation and ~~shall~~, within 90 days after receipt of the original complaint or of timely requested additional information, take action upon the complaint. However, the failure to complete the investigation within 90 days does not prevent the division from continuing the investigation, accepting or considering evidence obtained or received after 90 days, or taking administrative action if reasonable cause exists to believe that a violation of this chapter or a rule ~~of the division~~ has occurred. If an

investigation is not completed within the time limits established in this paragraph, the division shall, on a monthly basis, notify the complainant in writing of the status of the investigation. When reporting its action to the complainant, the division shall inform the complainant of any right to a hearing pursuant to ss. 120.569 and 120.57.

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

(o) The division may:

1. Contract with agencies in this state or other jurisdictions to perform investigative functions; or

2. Accept grants-in-aid from any source.

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

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

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

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

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

718.701 Short title.—This part may be cited as the “Distressed Condominium Relief Act.”

718.702 Legislative intent.—

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

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

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

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

(1) “Bulk assignee” means a person who:

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

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

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

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

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

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

(b) The obligation to:

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

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

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

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

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

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

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

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

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

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

718.705 Board of administration; transfer of control.—

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

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

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

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

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

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

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

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

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

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

(d) The financial information required by s. 718.111(13). However, if a financial information report does not exist for the fiscal year before acquisition of title by the bulk assignee or bulk buyer, or accounting records

cannot be obtained in good faith by the bulk assignee or the bulk buyer which would permit preparation of the required financial information report, the bulk assignee or bulk buyer is excused from the requirement of this paragraph. However, the bulk assignee or bulk buyer must include in the purchase contract the following statement in conspicuous type:

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

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

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

(b) The following statement in conspicuous type:

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

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

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

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

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

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



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

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

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

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

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

719.106 Bylaws; cooperative ownership.—

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

(d) *Shareholder meetings*.—There shall be an annual meeting of the shareholders. All members of the board of administration shall be elected at the annual meeting unless the bylaws provide for staggered election terms or for their election at another meeting. Any unit owner desiring to be a candidate for board membership ~~must shall~~ comply with subparagraph 1. The bylaws ~~must shall~~ provide the method for calling meetings, including annual meetings. Written notice, which ~~must notice shall~~ incorporate an identification of agenda items, shall be given to each unit owner at least 14 days ~~before prior to~~ the annual meeting and ~~shall be~~ posted in a conspicuous

place on the cooperative property at least 14 continuous days preceding the annual meeting. Upon notice to the unit owners, the board ~~must~~ shall by duly adopted rule designate a specific location on the cooperative property upon which all notice of unit owner meetings ~~are~~ shall be posted. In lieu of or in addition to the physical posting of the ~~meeting notice of any meeting of the shareholders on the cooperative property~~, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the cooperative association. However, if broadcast notice is used in lieu of a ~~posted notice posted physically on the cooperative property~~, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. ~~If~~ ~~When~~ broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time ~~so as~~ to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. Unless a unit owner waives in writing the right to receive notice of the annual meeting, the notice of the annual meeting ~~must~~ shall be sent by mail, hand delivered, or electronically transmitted to each unit owner. An officer of the association ~~must~~ shall provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association, affirming that notices of the association meeting were mailed, hand delivered, or electronically transmitted, in accordance with this provision, to each unit owner at the address last furnished to the association.

1. ~~After January 1, 1992~~, The board of administration shall be elected by written ballot or voting machine. ~~A proxy may not~~ Proxies shall in no event be used in electing the board of administration, either in general elections or elections to fill vacancies caused by recall, resignation, or otherwise unless otherwise provided in this chapter. ~~At least~~ ~~Not less than~~ 60 days before a scheduled election, the association shall mail, deliver, or transmit, whether by separate association mailing, delivery, or electronic transmission or included in another association mailing, delivery, or electronic transmission, including regularly published newsletters, to each unit owner entitled to vote, a first notice of the date of the election. Any unit owner or other eligible person desiring to be a candidate for the board of administration ~~must~~ shall give written notice to the association ~~at least not less than~~ 40 days before a scheduled election. Together with the written notice and agenda as set forth in this section, the association shall mail, deliver, or electronically transmit a second notice of election to all unit owners entitled to vote ~~therein~~, together with a ballot which ~~lists~~ shall list all candidates. Upon request of a candidate, the association shall include an information sheet, no larger than 8½ inches by 11 inches, which must be furnished by the candidate ~~at least not less than~~ 35 days ~~before~~ prior to the election, to be included with the mailing, delivery, or electronic transmission of the ballot, with the costs of mailing, delivery, or transmission and copying to be borne by the association. The association ~~is not liable~~ has no liability for the contents of the information sheets provided by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper. The division shall

by rule establish voting procedures consistent with this subparagraph the ~~provisions contained herein~~, including rules establishing procedures for giving notice by electronic transmission and rules providing for the secrecy of ballots. Elections shall be decided by a plurality of those ballots cast. There ~~is~~ shall be no quorum requirement. However, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election of ~~members of the board of administration~~. ~~A~~ No unit owner ~~may not~~ shall permit any other person to vote his or her ballot, and any such ballots improperly cast ~~are~~ shall be deemed invalid. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain assistance in casting the ballot. Any unit owner violating this provision may be fined by the association in accordance with s. 719.303. The regular election ~~must~~ shall occur on the date of the annual meeting. ~~The provisions of~~ This subparagraph ~~does~~ shall not apply to timeshare cooperatives. Notwithstanding the ~~provisions of~~ this subparagraph, an election and balloting are not required unless more candidates file a notice of intent to run or are nominated than vacancies exist on the board.

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

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

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

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

6. Unless otherwise provided in the bylaws, a vacancy occurring on the board before the expiration of a term may be filled by the affirmative vote of the majority of the remaining directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative, a board may hold an election to fill the vacancy, in which case the election procedures must conform to the requirements of subparagraph 1. unless the association has opted out of the statutory election process, in

which case the bylaws of the association control. Unless otherwise provided in the bylaws, a board member appointed or elected under this subparagraph shall fill the vacancy for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by paragraph (f) and rules adopted by the division.

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

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

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

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

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

2. A vote to forego retrofitting may be obtained by limited proxy or by a ballot personally cast at a duly called membership meeting, or by execution of a written consent by the member, and is effective upon recording a certificate attesting to such vote in the public records of the county where the cooperative is located. The cooperative shall mail or hand deliver to each unit owner written notice at least 14 days before the membership meeting in which the vote to forego retrofitting of the required fire sprinkler system is to take place. Within 30 days after the cooperative's opt-out vote, notice of the results of the opt-out vote must be mailed or hand delivered to all unit owners. Evidence of compliance with this notice requirement must be made by affidavit executed by the person providing the notice and filed among the

~~official records of the cooperative. After notice is provided to each owner, a copy must be provided by the current owner to a new owner before closing and by a unit owner to a renter before signing a lease. Notwithstanding the provisions of chapter 633 or of any other code, statute, ordinance, administrative rule, or regulation, or any interpretation of the foregoing, a cooperative or unit owner is not obligated to retrofit the common elements or units of a residential cooperative with a fire sprinkler system or other engineered life safety system in a building that has been certified for occupancy by the applicable governmental entity, if the unit owners have voted to forego such retrofitting and engineered life safety system by the affirmative vote of two-thirds of all voting interests in the affected cooperative. However, a cooperative may not forego the retrofitting with a fire sprinkler system of common areas in a high-rise building. For purposes of this subsection, the term "high-rise building" means a building that is greater than 75 feet in height where the building height is measured from the lowest level of fire department access to the floor of the highest occupiable story. For purposes of this subsection, the term "common areas" means any enclosed hallway, corridor, lobby, stairwell, or entryway. In no event shall The local authority having jurisdiction require completion of retrofitting of common areas with a sprinkler system before the end of 2014.~~

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

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

~~(c)(b) As part of the information collected annually from cooperatives, the division shall require associations to report the membership vote and recording of a certificate under this subsection and, if retrofitting has been undertaken, the per-unit cost of such work. The division shall annually~~

report to the Division of State Fire Marshal of the Department of Financial Services the number of cooperatives that have elected to forego retrofitting.

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

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

(3) Rents and assessments, and installments on them, not paid when due bear interest at the rate provided in the cooperative documents from the date due until paid. This rate may not exceed the rate allowed by law, and, if a ~~no~~ rate is not provided in the cooperative documents, ~~then~~ interest accrues shall ~~accrue~~ at 18 percent per annum. ~~Also,~~ If the cooperative documents or bylaws so provide, the association may charge an administrative late fee in addition to such interest, in an amount not to exceed the greater of \$25 or 5 percent of each installment of the assessment for each delinquent installment that the payment is late. Any payment received by an association must ~~shall~~ be applied first to any interest accrued by the association, then to any administrative late fee, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent assessment. The foregoing applies ~~shall be applicable~~ notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment. A late fee is not subject to chapter 687 or s. 719.303(3).

(4) The association has ~~shall have~~ a lien on each cooperative parcel for any unpaid rents and assessments, plus interest, any authorized administrative late fees, and any reasonable costs for collection services for which the association has contracted against the unit owner of the cooperative parcel. If authorized by the cooperative documents, the said lien shall also secure ~~secure~~ reasonable attorney's fees incurred by the association incident to the collection of the rents and assessments or enforcement of such lien. The lien is effective from and after ~~the recording of a claim of lien in the public records in the county in which the cooperative parcel is located which states the description of the cooperative parcel, the name of the unit owner, the amount due, and the due dates.~~ The lien expires ~~shall expire~~ if a claim of lien is not filed within 1 year after the date the assessment was due, and ~~the no such~~ lien does not ~~shall~~ continue for a longer period than 1 year after the claim of lien has been recorded unless, within that time, an action to enforce the lien is commenced ~~in a court of competent jurisdiction.~~ Except as otherwise provided in this chapter, a lien may not be filed by the association against a cooperative parcel until 30 days after the date on which a notice of intent to file a lien has been delivered to the owner.

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

1. If the most recent address of the unit owner on the records of the association is the address of the unit, the notice must be sent by registered or

certified mail, return receipt requested, to the unit owner at the address of the unit.

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

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

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

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

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

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

(c) The association may issue notices under s. 83.56 and may sue for eviction under ss. 83.59-83.625 as if the association were a landlord under part II of chapter 83 if the tenant fails to pay a required payment. However,

the association is not otherwise considered a landlord under chapter 83 and specifically has no duties under s. 83.51.

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

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

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

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

(2) BOARD MEETINGS.—

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

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

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

(c) The association may adopt reasonable written rules governing the frequency, time, location, notice, records to be inspected, and manner of



inspections, but may not ~~require~~ impose a requirement that a parcel owner to demonstrate any proper purpose for the inspection, state any reason for the inspection, or limit a parcel owner's right to inspect records to less than one 8-hour business day per month. The association may impose fees to cover the costs of providing copies of the official records, including, without limitation, the costs of copying. The association may charge up to 50 cents per page for copies made on the association's photocopier. If the association does not have a photocopy machine available where the records are kept, or if the records requested to be copied exceed 25 pages in length, the association may have copies made by an outside vendor or association management company personnel and may charge the actual cost of copying, including any reasonable costs involving personnel fees and charges at an hourly rate for vendor or employee time to cover administrative costs to the vendor or association. The association shall maintain an adequate number of copies of the recorded governing documents, to ensure their availability to members and prospective members. Notwithstanding the provisions of this paragraph, the following records are shall not be accessible to members or parcel owners:

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

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

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

4. Medical records of parcel owners or community residents.

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

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

7. The software and operating system used by the association which allows the manipulation of data, even if the owner owns a copy of the same

software used by the association. The data is part of the official records of the association.

(6) BUDGETS.—

(b) In addition to annual operating expenses, the budget may include reserve accounts for capital expenditures and deferred maintenance for which the association is responsible. If reserve accounts are not established pursuant to paragraph (d), funding of such reserves is limited to the extent that the governing documents do not limit increases in assessments, including reserves. If the budget of the association includes reserve accounts established pursuant to paragraph (d), such reserves shall be determined, maintained, and waived in the manner provided in this subsection. Once an association provides for reserve accounts pursuant to paragraph (d) in the budget, the association shall thereafter determine, maintain, and waive reserves in compliance with this subsection. This section does not preclude the termination of a reserve account established pursuant to this paragraph upon approval of a majority of the total voting interests of the association. Upon such approval, the terminating reserve account shall be removed from the budget.

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

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

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

THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED VOLUNTARY DEFERRED EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED IN OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT

ELECTED TO PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6), FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR ARE RESERVES CALCULATED IN ACCORDANCE WITH THAT STATUTE.

(d) An association ~~is shall~~ be deemed to have provided for reserve accounts ~~if when~~ reserve accounts have been initially established by the developer or ~~if when~~ the membership of the association affirmatively elects to provide for reserves. If reserve accounts are not initially provided ~~for~~ by the developer, the membership of the association may elect to do so upon the affirmative approval of ~~not less than~~ a majority of the total voting interests of the association. Such approval may be obtained ~~attained~~ by vote of the members at a duly called meeting of the membership or ~~by the~~ ~~upon a~~ written consent ~~of executed by~~ ~~not less than~~ a majority of the total voting interests ~~of the association in the community~~. The approval action of the membership ~~must shall~~ state that reserve accounts shall be provided for in the budget and ~~must~~ designate the components for which the reserve accounts are to be established. Upon approval by the membership, the board of directors shall include ~~provide for~~ the required reserve accounts ~~for inclusion~~ in the budget in the next fiscal year following the approval and ~~in~~ each year thereafter. Once established as provided in this subsection, the reserve accounts must ~~shall~~ be funded or maintained or ~~shall~~ have their funding waived in the manner provided in paragraph (f).

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

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

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

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

b. The total estimated deferred maintenance expense or estimated replacement cost of the reserve component less the estimated balance of the reserve component as of the beginning of the period ~~for which~~ the budget

will be in effect. The remainder, if greater than zero, shall be divided by the estimated remaining useful life of the component.

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

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

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

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

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

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

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

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

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

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

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

(2)

(b) Any homeowner may erect a freestanding flagpole no more than 20 feet high on any portion of the homeowner's real property, regardless of any covenants, restrictions, bylaws, rules, or requirements of the association, if the flagpole does not obstruct sightlines at intersections and is not erected within or upon an easement. The homeowner may further display in a respectful manner from that flagpole, regardless of any covenants, restrictions, bylaws, rules, or requirements of the association, one official United States flag, not larger than 4½ feet by 6 feet, and may additionally display one official flag of the State of Florida or the United States Army, Navy, Air Force, Marines, or Coast Guard, or a POW-MIA flag. Such additional flag must be equal in size to or smaller than the United States flag. The flagpole and display are subject to all building codes, zoning setbacks, and other applicable governmental regulations, including, but not limited to, noise and lighting ordinances in the county or municipality in which the flagpole is erected and all setback and locational criteria contained in the governing documents.

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

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

(2) ~~If a member is delinquent for more than 90 days in paying a monetary obligation due the association the governing documents so provide, an association may suspend, until such monetary obligation is paid for a reasonable period of time, the rights of a member or a member's tenants, guests, or invitees, or both, to use common areas and facilities and may levy reasonable fines of up to, not to exceed \$100 per violation, against any member or any tenant, guest, or invitee. A fine may be levied for on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, except that a no such fine may not shall exceed \$1,000 in the aggregate unless otherwise provided in the governing documents. A fine of less than \$1,000 may shall not become a lien against a parcel. In any action to recover a fine, the prevailing party is entitled to collect its reasonable attorney's fees and costs from the nonprevailing party as determined by the court. The provisions regarding the suspension-of-use rights do not apply to the portion of common areas that must be used to provide access to the parcel or utility services provided to the parcel.~~

(a) A fine or suspension may not be imposed without notice of at least 14 days notice to the person sought to be fined or suspended and an opportunity

for a hearing before a committee of at least three members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed. If the association imposes a fine or suspension, the association must provide written notice of such fine or suspension by mail or hand delivery to the parcel owner and, if applicable, to any tenant, licensee, or invitee of the parcel owner.

~~(b)—The requirements of this subsection do not apply to the imposition of suspensions or fines upon any member because of the failure of the member to pay assessments or other charges when due if such action is authorized by the governing documents.~~

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

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

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

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

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

(a) To be valid, a proxy must be dated, must state the date, time, and place of the meeting for which it was given, and must be signed by the authorized person who executed the proxy. A proxy is effective only for the specific meeting for which it was originally given, as the meeting may lawfully be adjourned and reconvened from time to time, and automatically expires 90 days after the date of the meeting for which it was originally given. A proxy is revocable at any time at the pleasure of the person who executes it. If the proxy form expressly so provides, any proxy holder may appoint, in writing, a substitute to act in his or her place.

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

(9) ELECTIONS AND BOARD VACANCIES.—Elections of directors must be conducted in accordance with the procedures set forth in the governing documents of the association. All members of the association are shall be eligible to serve on the board of directors, and a member may nominate himself or herself as a candidate for the board at a meeting where the election is to be held or, if the election process allows voting by absentee ballot, in advance of the balloting. Except as otherwise provided in the governing documents, boards of directors must be elected by a plurality of the votes cast by eligible voters. Any election dispute between a member and an association must be submitted to mandatory binding arbitration with the division. Such proceedings must shall be conducted in the manner provided by s. 718.1255 and the procedural rules adopted by the division. Unless otherwise provided in the bylaws, any vacancy occurring on the board before the expiration of a term may be filled by an affirmative vote of the majority of the remaining directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative, a board may hold an election to fill the vacancy, in which case the election procedures must conform to the requirements of the governing documents. Unless otherwise provided in the bylaws, a board member appointed or elected under this section is appointed for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by s. 720.303(10) and rules adopted by the division.

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

720.3085 Payment for assessments; lien claims.—

(8) If the parcel is occupied by a tenant and the parcel owner is delinquent in paying any monetary obligation due to the association, the association may demand that the tenant pay to the association the future monetary obligations related to the parcel. The demand is continuing in nature, and upon demand, the tenant must continue to pay the monetary obligations until the association releases the tenant or the tenant discontinues tenancy

in the parcel. A tenant who acts in good faith in response to a written demand from an association is immune from any claim from the parcel owner.

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

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

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

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

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

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

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

(6) An association may enter into agreements to acquire leaseholds, memberships, and other possessory or use interests in lands or facilities, including, but not limited to, country clubs, golf courses, marinas, submerged land, parking areas, conservation areas, and other recreational facilities. An association may enter into such agreements regardless of whether the lands or facilities are contiguous to the lands of the community or whether such lands or facilities are intended to provide enjoyment, recreation, or other use or benefit to the owners. All leaseholds, memberships, and other possessory or use interests existing or created at the time of recording the declaration must be stated and fully described in the declaration. Subsequent to recording the declaration, agreements acquiring leaseholds, memberships, or other possessory or use interests not entered into within 12 months after



recording the declaration may be entered into only if authorized by the declaration as a material alteration or substantial addition to the common areas or association property. If the declaration is silent, any such transaction requires the approval of 75 percent of the total voting interests of the association. The declaration may provide that the rental, membership fees, operations, replacements, or other expenses are common expenses; impose covenants and restrictions concerning their use; and contain other provisions not inconsistent with this subsection. An association exercising its rights under this subsection may join with other associations that are part of the same development or with a master association responsible for the enforcement of shared covenants, conditions, and restrictions in carrying out the intent of this subsection. This subsection is intended to clarify law in existence before July 1, 2010.

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

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

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

Approved by the Governor June 1, 2010.

Filed in Office Secretary of State June 1, 2010.