

CHAPTER 2011-196

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 1195

An act relating to condominium, cooperative, and homeowners' associations; amending s. 633.0215, F.S.; exempting certain residential buildings from a requirement to install a manual fire alarm system; providing intent; amending s. 718.111, F.S.; revising provisions relating to the official records of condominium associations; providing for disclosure of certain employment agreements with and compensation paid to association employees; amending s. 718.112, F.S.; revising provisions relating to bylaws; providing that board of administration meetings discussing personnel matters are not open to unit owners; revising requirements for electing the board of directors; providing a definition; providing for continued office and for filling vacancies under certain circumstances; specifying unit owner eligibility for board membership; requiring that certain educational curriculum be completed within a specified time before or after the election or appointment of a board director; providing application; amending s. 718.113, F.S.; authorizing the board of a condominium association to install impact glass or other code-compliant windows under certain circumstances; amending s. 718.114, F.S.; requiring the vote or written consent of a majority of the total voting interests before a condominium association may enter into certain agreements to acquire leaseholds, memberships, or other possessory or use interests; amending s. 718.116, F.S.; revising liability of an association, or its successor or assignee, that acquires title to a unit through the foreclosure of its lien for assessments; revising provisions relating to condominium assessments; providing association notice requirements regarding tenants delinquent in paying any monetary obligation due to the association; conforming a cross-reference; amending s. 718.117, F.S.; providing procedures and requirements for termination of a condominium property that has been totally destroyed or demolished; providing procedures and requirements for partial termination of a condominium property; requiring that a lien against a condominium unit being terminated be transferred to the proceeds of sale for certain portions of that property; amending s. 718.303, F.S.; revising provisions relating to imposing remedies against a delinquent unit owner or a unit owner's tenant, guest, or invitee; providing for the suspension of certain rights of use; revising provisions relating to the suspension of a member's voting rights; requiring that the suspension of certain rights of use and voting rights be approved at a noticed board meeting; amending s. 718.703, F.S.; redefining the term "bulk assignee" and revising the definition of the term "bulk buyer" for purposes of the Distressed Condominium Relief Act; amending s. 718.704, F.S.; revising provisions relating to the assignment and assumption of developer rights by a bulk assignee; amending s. 718.705, F.S.; revising provisions relating to the transfer of control of a condominium board of administration to unit owners; amending s. 718.706, F.S.; revising provisions relating to the

offering of units by a bulk assignee or bulk buyer; amending s. 718.707, F.S.; revising the time limitation for classification as a bulk assignee or bulk buyer; amending s. 719.108, F.S.; providing association notice requirements regarding tenants delinquent in paying any monetary obligation due to the association; amending s. 719.303, F.S.; revising provisions relating to imposing remedies against a delinquent unit owner or a unit owner's tenant, guest, or invitee; providing for the suspension of certain rights of use and voting rights; requiring that the suspension of certain rights of use and voting rights be approved at a noticed board meeting; amending s. 720.301, F.S.; revising the definition of the term "declaration of covenants"; amending s. 720.303, F.S.; revising provisions relating to the rights of a member of a homeowners' association to speak at meetings of the board; revising provisions relating to records that are not accessible to members of a homeowners' association; providing for disclosure of employment agreements with and compensation paid to association employees; amending s. 720.305, F.S.; revising provisions relating to imposing remedies against a delinquent member of a homeowners' association or any member's tenant, guest, or invitee; providing for the suspension of certain rights of use; revising provisions relating to the suspension of a member's voting rights; requiring that the suspension of certain rights of use and voting rights be approved at a noticed board meeting; amending s. 720.306, F.S.; specifying additional requirements for candidates to be a member of the board of a homeowners' association; amending s. 720.3085, F.S.; revising liability of an association, or its successor or assignee, that acquires title to a unit through the foreclosure of its lien for assessments; providing association notice requirements regarding tenants delinquent in paying any monetary obligation due to the association; amending s. 720.309, F.S.; providing for the allocation of communications services by a homeowners' association; providing for the cancellation of communication contracts; providing that hearing-impaired or legally blind parcel owners and parcel owners receiving certain supplemental security income or food assistance may discontinue the service without incurring certain costs; providing that parcel residents may not be denied access to available franchised, licensed, or certificated cable or video service providers under certain circumstances; providing an effective date.

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

Section 1. Subsection (14) of section 633.0215, Florida Statutes, is amended to read:

633.0215 Florida Fire Prevention Code.—

(14) A condominium, cooperative, or multifamily residential building that is less than four ~~one or two~~ stories in height and has an exterior corridor providing a means of egress is exempt from installing a manual fire alarm system as required in s. 9.6 of the most recent edition of the Life Safety Code

adopted in the Florida Fire Prevention Code. This is intended to clarify existing law.

Section 2. Paragraphs (a) and (c) of subsection (12) of section 718.111, Florida Statutes, are amended to read:

718.111 The association.—

(12) OFFICIAL RECORDS.—

(a) From the inception of the association, the association shall maintain each of the following items, if applicable, which constitutes ~~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 that ~~which~~ contain the minutes of all meetings of the association, of the board of administration, and the of unit owners, which minutes must be retained for at least 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 facsimile 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 facsimile telephone numbers ~~are not accessible to unit owners must be removed from association records~~ if consent to receive notice by electronic transmission is not provided in accordance with subparagraph (c)5 ~~revoked~~. However, the association is not liable for an inadvertent erroneous disclosure of the electronic mail address or facsimile 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 ~~that~~ ~~which~~ the association operates. All accounting records must ~~shall~~ be maintained for at least 7 years. Any person who knowingly or intentionally defaces or destroys such ~~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 records, 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 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 on ~~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 also considered official records and must be maintained by the association.

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

13. All rental records if 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 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 described ~~provided~~ in s. 718.301(4)(p).

(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 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 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. Minimum damages are shall be \$50 per calendar day for up to 10 days, beginning 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. 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, 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 as described ~~provided for~~ in s. 718.504 and year-end financial information required under ~~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. Notwithstanding ~~the provisions of~~ this paragraph, the following records are not 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 a ~~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 such ~~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 or management company employees, including, but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this subparagraph, the term "personnel records" does not include written employment agreements with an association

employee or management company, or budgetary or financial records that indicate the compensation paid to an association employee.

4. Medical records of unit owners.

5. Social security numbers, driver's license numbers, credit card numbers, e-mail addresses, telephone numbers, facsimile 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, and any address, e-mail address, or facsimile number provided to the association to fulfill the association's notice requirements.~~ However, an owner may consent in writing to the disclosure of protected information described in this subparagraph. The association is not liable for the inadvertent disclosure of information that is protected under this subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association.

6. ~~Any~~ Electronic security measures ~~measure~~ that are ~~is~~ used by the association to safeguard data, including passwords.

7. The software and operating system used by the association which allow the ~~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.

Section 3. Paragraphs (b), (c), and (d) 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:

(b) Quorum; voting requirements; proxies.—

1. Unless a lower number is provided in the bylaws, the percentage of voting interests required to constitute a quorum at a meeting of the members is ~~shall be~~ a majority of the voting interests. Unless otherwise provided in this chapter or in the declaration, articles of incorporation, or bylaws, and except as provided in subparagraph (d)4. ~~(d)3.~~, decisions shall be made by ~~owners~~ of a majority of the voting interests represented at a meeting at which a quorum is present.

2. Except as specifically otherwise provided herein, ~~after January 1, 1992,~~ unit owners may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the division. A ~~No~~ voting interest or consent right allocated to a unit owned by the association may not ~~shall~~ be exercised or considered for any purpose, whether for a quorum, an election, or otherwise. Limited proxies and general

proxies may be used to establish a quorum. Limited proxies shall be used for votes taken to waive or reduce reserves in accordance with subparagraph (f) 2.; for votes taken to waive the financial reporting requirements of s. 718.111(13); for votes taken to amend the declaration pursuant to s. 718.110; for votes taken to amend the articles of incorporation or bylaws pursuant to this section; and for any other matter for which this chapter requires or permits a vote of the unit owners. Except as provided in paragraph (d), a after January 1, 1992, ~~no~~ proxy, limited or general, may not ~~shall~~ be used in the election of board members. General proxies may be used for other matters for which limited proxies are not required, and may ~~also~~ be used in voting for nonsubstantive changes to items for which a limited proxy is required and given. Notwithstanding ~~the provisions of~~ this subparagraph, unit owners may vote in person at unit owner meetings. This subparagraph does not ~~Nothing contained herein shall~~ limit the use of general proxies or require the use of limited proxies for any agenda item or election at any meeting of a timeshare condominium association.

3. Any proxy given ~~is shall~~ be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. A ~~In no~~ event shall any proxy is not ~~be~~ valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy is revocable at any time at the pleasure of the unit owner executing it.

4. A member of the board of administration or a committee may submit in writing his or her agreement or disagreement with any action taken at a meeting that the member did not attend. This agreement or disagreement may not be used as a vote for or against the action taken or to create and may ~~not be used for the purposes of creating~~ a quorum.

5. If ~~When~~ any of the board or committee members meet by telephone conference, those board or committee members ~~attending by telephone conference~~ may be counted toward obtaining a quorum and may vote by telephone. A telephone speaker must be used so that the conversation of those ~~board or committee members attending by telephone~~ may be heard by the board or committee members attending in person as well as by any unit owners present at a meeting.

(c) Board of administration meetings.—Meetings of the board of administration at which a quorum of the members is present are shall be open to all unit owners. A Any unit owner may tape record or videotape the ~~the~~ meetings of the board of administration. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. The division shall adopt reasonable rules governing the tape recording and videotaping of the meeting. The association may adopt written reasonable rules governing the frequency, duration, and manner of unit owner statements.

1. Adequate notice of all board meetings, which must ~~notice shall~~ specifically identify all ~~incorporate an identification of~~ agenda items, must ~~shall~~ be posted conspicuously on the condominium property at least 48

continuous hours ~~before~~ preceding the meeting except in an emergency. If 20 percent of the voting interests petition the board to address an item of business, the board ~~shall~~ at its next regular board meeting or at a special meeting of the board, but not later than 60 days after the receipt of the petition, shall place the item on the agenda. Any item not included on the notice may be taken up on an emergency basis by at least a majority plus one of the board members ~~of the board~~. Such emergency action must ~~shall~~ be noticed and ratified at the next regular board meeting ~~of the board~~. However, written notice of any meeting at which nonemergency special assessments, or at which amendment to rules regarding unit use, will be considered must ~~shall~~ be mailed, delivered, or electronically transmitted to the unit owners and posted conspicuously on the condominium property at least not less than 14 days ~~before~~ prior to the meeting. Evidence of compliance with this 14-day notice requirement must ~~shall~~ be made by an affidavit executed by the person providing the notice and filed with ~~among~~ the official records of the association. Upon notice to the unit owners, the board shall, by duly adopted rule, designate a specific location on the condominium ~~property~~ or association property where ~~upon~~ which all notices of board meetings are to ~~shall~~ be posted. If there is no condominium property or association property where ~~upon~~ which notices can be posted, notices of board meetings shall be mailed, delivered, or electronically transmitted at least 14 days before the meeting to the owner of each unit. In lieu of or in addition to the physical posting of the notice of any meeting ~~of the board of administration~~ 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 posted 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. Notice of any meeting in which regular or special assessments against unit owners are to be considered for any reason must ~~shall~~ specifically state that assessments will be considered and provide the nature, estimated cost, and description of the purposes for such assessments.

2. Meetings of a committee to take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to ~~the provisions of~~ this paragraph. Meetings of a committee that does not take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to ~~the provisions of~~ this section, unless those meetings are exempted from this section by the bylaws of the association.

3. Notwithstanding any other law, the requirement that board meetings and committee meetings be open to the unit owners does not apply is ~~inapplicable to~~:

a. Meetings between the board or a committee and the association's attorney, with respect to proposed or pending litigation, ~~if when~~ the meeting is held for the purpose of seeking or rendering legal advice; or

b. Board meetings held for the purpose of discussing personnel matters.

(d) Unit owner meetings.—

1. 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.

2. 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 be by secret ballot. An election is not required ~~However,~~ if the number of vacancies equals or exceeds the number of candidates, ~~an election is not required.~~ For purposes of this paragraph, the term "candidate" means an eligible person who has timely submitted the written notice, as described in sub-subparagraph 4.a., of his or her intention to become a candidate. Except in a timeshare condominium, or if the staggered term of a board member does not expire until a later annual meeting, or if all members terms would otherwise expire but there are no candidates, the terms of all board members of the board expire at the annual meeting, and such board members may stand for reelection unless prohibited otherwise permitted by the bylaws. If 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 expire at the annual meeting equals or have expired exceeds the number of candidates, the candidates become members of the board effective upon the adjournment of the annual meeting. Unless the bylaws provide otherwise, any remaining vacancies shall be filled by the affirmative vote of the majority of the directors making up the newly constituted board even if the directors constitute less than a quorum or there is only one director eligible members showing interest in or demonstrating an intention to run for the vacant positions, each board member whose term has expired is eligible for reappointment 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 comply with sub-subparagraph 4.a. and must be eligible to serve on the board of directors at the time of the deadline for submitting a notice of intent to run in order to have his or her name listed as a proper candidate on the ballot or to serve on the board ~~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 which ~~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 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 board ~~member of the board~~ is ineligible for board membership due to having been convicted of a felony.

3.2. The bylaws must provide the method of calling meetings of unit owners, including annual meetings. Written notice, ~~which~~ must include an agenda, must ~~shall~~ be mailed, hand delivered, or electronically transmitted to each unit owner at least 14 days before the annual meeting, and must be posted in a conspicuous place on the condominium property at least 14 continuous days before ~~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 where ~~upon~~ which all notices of unit owner meetings shall be posted. This requirement does not apply ~~However, if there is no condominium property or association property for posting upon which notices can be posted, this requirement does not apply.~~ In lieu of, or in addition to, the physical posting of meeting notices, 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 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 be hand delivered, mailed, or electronically transmitted to each unit owner. Notice for meetings and notice for all other purposes must 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 must ~~shall~~ provide notice, ~~for meetings and all other purposes,~~ to the ~~that one~~ address that ~~which~~ the developer initially identifies for that purpose and thereafter as one or more of the owners of the unit ~~shall~~ 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, 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 the notice was mailed or hand delivered; in accordance with this provision.

~~4.3.~~ The members of the board shall be elected by written ballot or voting machine. Proxies may not be used in electing the board in general elections or elections to fill vacancies caused by recall, resignation, or otherwise, unless otherwise provided in this chapter.

a. At least 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. 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 40 days before a scheduled election. Together with the written notice and agenda as set forth in subparagraph ~~3. 2.~~, the association shall mail, deliver, or electronically transmit a second notice of the election to all unit owners entitled to vote, together with a ballot that lists all candidates. Upon request of a candidate, an information sheet, no larger than 8 1/2 inches by 11 inches, which must be furnished by the candidate at least 35 days before the election, must 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, 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 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 unit owner may not permit any other person to vote his or her ballot, and any ballots improperly cast are invalid. A, ~~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 assistance. The regular election must occur on the date of the annual meeting. ~~This sub-subparagraph does not apply to timeshare condominium associations.~~ Notwithstanding this sub-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, within 90 days after being elected or appointed to the board, the newly elected or appointed director may submit a certificate of having satisfactorily completed ~~satisfactory completion~~ of the educational

curriculum administered by a division-approved condominium education provider within 1 year before or 90 days after the date of election or appointment. The written certification or educational certificate is valid and does not have to be resubmitted as long as the director serves on the board without interruption. 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 board action.

5.4. 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), ~~must~~ shall be made at a duly noticed meeting of unit owners and is 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 law statute that provides for such action.

6.5. Unit owners may waive notice of specific meetings if allowed by the applicable bylaws or declaration or any law 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.

7.6. 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.

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

9.8. 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 4.a. 3.a. unless the association governs 10 units or fewer 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.

10. This chapter does not limit the use of general or limited proxies, require the use of general or limited proxies, or require the use of a written ballot or voting machine for any agenda item or election at any meeting of a timeshare condominium association.

Notwithstanding subparagraph (b)2. and sub-subparagraph ~~4.a. (d)3.a.~~, an association of 10 or fewer units may, by 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.

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

718.113 Maintenance; limitation upon improvement; display of flag; hurricane shutters; display of religious decorations.—

(5) Each board of administration shall adopt hurricane shutter specifications for each building within each condominium operated by the association which shall include color, style, and other factors deemed relevant by the board. All specifications adopted by the board must ~~shall~~ comply with the applicable building code.

(a) The board may, subject to the provisions of s. 718.3026, and the approval of a majority of voting interests of the condominium, install hurricane shutters, impact glass or other code-compliant windows, or hurricane protection that complies with or exceeds the applicable building code. ~~However, or both, except that~~ a vote of the owners is not required if the maintenance, repair, and replacement of hurricane shutters, impact glass, or other code-compliant windows ~~or other forms of hurricane protection~~ are the responsibility of the association pursuant to the declaration of condominium. ~~If However, where~~ hurricane protection or laminated glass or window film architecturally designed to function as hurricane protection which complies with or exceeds the current applicable building code has been previously installed, the board may not install hurricane shutters, ~~or other hurricane protection, or impact glass or other code-compliant windows~~ except upon approval by a majority vote of the voting interests.

(b) The association ~~is shall be~~ responsible for the maintenance, repair, and replacement of the hurricane shutters or other hurricane protection authorized by this subsection if such hurricane shutters or other hurricane protection is the responsibility of the association pursuant to the declaration of condominium. If the hurricane shutters or other hurricane protection authorized by this subsection are the responsibility of the unit owners pursuant to the declaration of condominium, the ~~responsibility for the~~ maintenance, repair, and replacement of such items are ~~shall be~~ the responsibility of the unit owner.

(c) The board may operate shutters installed pursuant to this subsection without permission of the unit owners only ~~if~~ where such operation is necessary to preserve and protect the condominium property and association property. The installation, replacement, operation, repair, and maintenance of such shutters in accordance with the procedures set forth in this paragraph ~~are herein~~ shall not be deemed a material alteration to the common elements or association property within the meaning of this section.

(d) Notwithstanding any other ~~provision to the contrary~~ in the condominium documents, if approval is required by the documents, a board may ~~shall~~ not refuse to approve the installation or replacement of hurricane shutters by a unit owner conforming to the specifications adopted by the board.

Section 5. Section 718.114, Florida Statutes, is amended to read:

718.114 Association powers.—An association may ~~has the power to~~ enter into agreements; to acquire leaseholds, memberships, and other possessory or use interests in lands or facilities such as country clubs, golf courses, marinas, and other recreational facilities. ~~It has this power~~ whether or not the lands or facilities are contiguous to the lands of the condominium, if such lands and facilities they are intended to provide enjoyment, recreation, or other use or benefit to the unit owners. All of these 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 the recording of the declaration, agreements acquiring these leaseholds, memberships, or other possessory or use interests which are ~~are~~ not entered into within 12 months following the recording of the declaration ~~are shall be considered~~ a material alteration or substantial addition to the real property that is association property, and the association may not acquire or enter into such ~~agreements acquiring these leaseholds, memberships, or other possessory or use interests except upon a vote of, or written consent by, a majority of the total voting interests or as authorized by the declaration as provided in s. 718.113.~~ The declaration may provide that the rental, membership fees, operations, replacements, and other expenses are common expenses and may impose covenants and restrictions concerning their use and may contain other provisions not inconsistent with this chapter. A condominium association may conduct bingo games as provided in s. 849.0931.

Section 6. Paragraph (b) of subsection (1), subsection (3), paragraph (b) of subsection (5), and subsection (11) of section 718.116, Florida Statutes, are amended to read:

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

(1)

(b)1. 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 the mortgagee's acquisition of title is limited to the lesser of:

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

b.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.

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

(3) Assessments and installments on assessments which are not paid when due bear interest at the rate provided in the declaration, from the due date until paid. ~~The~~ This rate may not exceed the rate allowed by law, and, if no rate is provided in the declaration, interest accrues at the rate of 18 percent per year. Also, If provided by the declaration or bylaws, the association may, in addition to such interest, charge an administrative late fee of up to the greater of \$25 or 5 percent of each installment of the assessment for each delinquent installment for which the payment is late. Any payment received by an association must 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 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. 718.303(4)(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 lien is not 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 automatically extended for any length of time during which the association is prevented from filing a foreclosure action by an automatic stay resulting from a bankruptcy petition filed by the parcel owner or any other person claiming an interest in the parcel. The claim of lien secures all unpaid

assessments that are due and that may accrue after the claim of lien is recorded and through the entry of a final judgment, as well as interest and all reasonable costs and attorney's fees incurred by the association incident to the collection process. Upon payment in full, the person making the payment is entitled to a satisfaction of the lien.

After notice of contest of lien has been recorded, the clerk of the circuit court shall mail a copy of the recorded notice to the association by certified mail, return receipt requested, at the address shown in the claim of lien or most recent amendment to it and shall certify to the service on the face of the notice. Service is complete upon mailing. After service, the association has 90 days in which to file an action to enforce the lien; and, if the action is not filed within the 90-day period, the lien is void. However, the 90-day period shall be extended for any length of time during which ~~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)(a) 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 to the association the ~~subsequent rental payments~~ future monetary obligations related to the condominium unit to the association, and ~~continue to the tenant must~~ make such payments until all monetary obligations of the unit owner related to the unit have been paid in full to the association 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.

1. The association must provide the tenant a notice, by hand delivery or United States mail, in substantially the following form:

Pursuant to section 718.116(11), Florida Statutes, the association demands that you pay your rent directly to the condominium association and continue doing so until the association notifies you otherwise.

Payment due the condominium association may be in the same form as you paid your landlord and must be sent by United States mail or hand delivery to ...(full address)..., payable to ...(name)....

Your obligation to pay your rent to the association begins immediately, unless you have already paid rent to your landlord for the current period before receiving this notice. In that case, you must provide the association written proof of your payment within 14 days after receiving this notice and your obligation to pay rent to the association would then begin with the next rental period.

Pursuant to section 718.116(11), Florida Statutes, your payment of rent to the association gives you complete immunity from any claim for the rent by your landlord for all amounts timely paid to the association.

2. The association must mail written notice to the unit owner of the association's demand that the tenant make payments to the association.

3. The association shall, upon request, provide the tenant with written receipts for payments made.

4. A tenant who acts in good faith in response to a written demand from an association is immune from any claim ~~by~~ ~~from~~ the landlord or unit owner related to the rent timely paid to the association after the association has made written demand.

~~(b)(a)~~ If the tenant ~~paid~~ prepaid rent to the landlord or unit owner for a given rental period before receiving the demand from the association and provides written evidence to the association of having paid ~~paying~~ the rent to the association within 14 days after receiving the demand, the tenant shall begin making rental payments to the association for the following rental period and shall continue making ~~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 until the association releases the tenant or the tenant discontinues tenancy in the unit to the association.~~

~~(c)(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 landlord ~~unit owner~~ in the amount of moneys paid to the association ~~under this section.~~

~~(d)(e)~~ The association may issue notice ~~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 after written demand has been made to the tenant. However, the association is not otherwise considered a landlord under chapter 83 and specifically has no obligations ~~duties~~ under s. 83.51.

~~(e)(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.

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

Section 7. Subsections (2), (3), (4), and (11), paragraphs (a) and (d) of subsection (12), subsection (14), paragraph (a) of subsection (17), and subsections (18) 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 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:

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 units in the condominium after completion of the construction or repairs; or

2. It becomes impossible to operate or reconstruct a condominium to 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.

(c) Notwithstanding paragraph (a), a condominium that includes units and timeshare estates where the improvements have been totally destroyed or demolished may be terminated pursuant to a plan of termination proposed by a unit owner upon the filing of a petition in court seeking equitable relief. Within 10 days after the filing of a petition as provided in this paragraph and in lieu of the requirements of paragraph (15)(a), the petitioner shall record the proposed plan of termination and mail a copy of the proposed plan and a copy of the petition to:

1. If the association has not been dissolved as a matter of law, each member of the board of directors of the association identified in the most recent annual report filed with the Department of State and the registered agent of the association;

2. The managing entity as defined in s. 721.05(22);

3. Each unit owner and each timeshare estate owner at the address reflected in the official records of the association, or, if the association records cannot be obtained by the petitioner, each unit owner and each timeshare estate owner at the address listed in the office of the tax collector for tax notices; and

4. Each holder of a recorded mortgage lien affecting a unit or timeshare estate at the address appearing on the recorded mortgage or any recorded assignment thereof.

The association, if it has not been dissolved as a matter of law, acting as class representative, or the managing entity as defined in s. 721.05(22), any unit owner, any timeshare estate owner, or any holder of a recorded mortgage lien affecting a unit or timeshare estate may intervene in the proceedings to contest the proposed plan of termination brought pursuant to this paragraph. The provisions of subsection (9), to the extent inconsistent with this paragraph, and subsection (16) are not applicable to a party contesting a plan of termination under this paragraph. If no party intervenes to contest the proposed plan within 45 days after the filing of the petition, the petitioner may move the court to enter a final judgment to authorize implementation of the plan of termination. If a party timely intervenes to contest the proposed plan, the plan may not be implemented until a final judgment has been entered by the court finding that the proposed plan of termination is fair and reasonable and authorizing implementation of the plan.

(3) OPTIONAL TERMINATION.—Except as provided in subsection (2) or unless the declaration provides for a lower percentage, the condominium form of ownership ~~of the property~~ may be terminated ~~for all or a portion of the condominium property~~ pursuant to a plan of termination approved by at least 80 percent of the total voting interests of the condominium if ~~no not~~ more than 10 percent of the total voting interests of the condominium have rejected the plan of termination by negative vote or by providing written objections ~~thereto~~. This subsection does not apply to condominiums in which 75 percent or more of the units are timeshare units.

(4) EXEMPTION.—A plan of termination is not an amendment subject to s. 718.110(4). In a partial termination, a plan of termination is not an amendment subject to s. 718.110(4) if the ownership share of the common elements of a surviving unit in the condominium remains in the same proportion to the surviving units as it was before the partial termination.

(11) PLAN OF TERMINATION; OPTIONAL PROVISIONS; CONDITIONAL TERMINATION.—

(a) The plan of termination may provide that each unit owner retains the exclusive right of possession to the portion of the real estate ~~which that~~ formerly constituted the unit ~~if, in which case~~ the plan specifies must specify the conditions of possession. In a partial termination, the plan of termination as specified in subsection (10) must also identify the units that survive the partial termination and provide that such units remain in the condominium form of ownership pursuant to an amendment to the declaration of condominium or an amended and restated declaration. In a partial termination, title to the surviving units and common elements that remain part of the condominium property specified in the plan of termination remain vested in the ownership shown in the public records and do not vest in the termination trustee.

(b) In a conditional termination, the plan must specify the conditions for termination. A conditional plan does not vest title in the termination trustee until the plan and a certificate executed by the association with the

formalities of a deed, confirming that the conditions in the conditional plan have been satisfied or waived by the requisite percentage of the voting interests, have been recorded. In a partial termination, the plan does not vest title to the surviving units or common elements that remain part of the condominium property in the termination trustee.

(12) ALLOCATION OF PROCEEDS OF SALE OF CONDOMINIUM PROPERTY.—

(a) Unless the declaration expressly provides for the allocation of the proceeds of sale of condominium property, the plan of termination must first apportion the proceeds between the aggregate value of all units and the value of the common elements, based on their respective fair market values immediately before the termination, as determined by one or more independent appraisers selected by the association or termination trustee. In a partial termination, the aggregate values of the units and common elements that are being terminated must be separately determined, and the plan of termination must specify the allocation of the proceeds of sale for the units and common elements.

(d) Liens that encumber a unit shall be transferred to the proceeds of sale of the condominium property and the proceeds of sale or other distribution of association property, common surplus, or other association assets attributable to such unit in their same priority. In a partial termination, liens that encumber a unit being terminated must be transferred to the proceeds of sale of that portion of the condominium property being terminated which are attributable to such unit. The proceeds of any sale of condominium property pursuant to a plan of termination may not be deemed to be common surplus or association property.

(14) TITLE VESTED IN TERMINATION TRUSTEE.—If termination is pursuant to a plan of termination under subsection (2) or subsection (3), ~~the unit owners' rights and title to as tenants in common in undivided interests in the condominium property being terminated vests~~ vest in the termination trustee when the plan is recorded or at a later date specified in the plan. The unit owners thereafter become the beneficiaries of the proceeds realized from the plan of termination as set forth in the plan. The termination trustee may deal with the condominium property being terminated or any interest therein if the plan confers on the trustee the authority to protect, conserve, manage, sell, or dispose of the condominium property. The trustee, on behalf of the unit owners, may contract for the sale of real property being terminated, but the contract is not binding on the unit owners until the plan is approved pursuant to subsection (2) or subsection (3).

(17) DISTRIBUTION.—

(a) Following termination of the condominium, the condominium property, association property, common surplus, and other assets of the association shall be held by the termination trustee pursuant to the plan

of termination, as trustee for unit owners and holders of liens on the units, in their order of priority unless otherwise set forth in the plan of termination.

(18) ASSOCIATION STATUS.—The termination of a condominium does not change the corporate status of the association that operated the condominium property. The association continues to exist to conclude its affairs, prosecute and defend actions by or against it, collect and discharge obligations, dispose of and convey its property, and collect and divide its assets, but not to act except as necessary to conclude its affairs. In a partial termination, the association may continue as the condominium association for the property that remains subject to the declaration of condominium.

(19) CREATION OF ANOTHER CONDOMINIUM.—~~The termination or partial termination of a condominium does not bar the filing of a new declaration of condominium or an amended and restated declaration of condominium by the termination trustee, or the trustee's successor in interest, for the terminated property or affecting any portion thereof of the same property. The partial termination of a condominium may provide for the simultaneous filing of an amendment to the declaration of condominium or an amended and restated declaration of condominium by the condominium association for any portion of the property not terminated from the condominium form of ownership.~~

Section 8. Subsections (3), (4), and (5) of section 718.303, Florida Statutes, are amended, and subsection (6) is added to that section, to read:

718.303 Obligations of owners and occupants; remedies.—

~~(3) If a unit owner is delinquent for more than 90 days in paying a monetary obligation due to the association, 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 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 fine may does not become a lien against a unit. A 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 fine may not exceed \$100 per violation, or \$1,000 in the aggregate exceed \$1,000.~~

(a) An association may suspend, for a reasonable period of time, the right of a unit owner, or a unit owner's tenant, guest, or invitee, to use the common elements, common facilities, or any other association property for failure to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association.

~~(b) A fine or suspension may not be imposed levied and a suspension may not be imposed unless the association first provides at least 14 days' written 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.~~

(4) If a unit owner is more than 90 days delinquent in paying a monetary obligation due to the association, the association may suspend the right of the unit owner or the unit's occupant, licensee, or invitee to use common elements, common facilities, or any other association property until the monetary obligation is paid in full. This subsection does not apply to limited common elements intended to be used only by that unit, common elements needed to access the unit, utility services provided to the unit, parking spaces, or elevators. The notice and hearing requirements under subsection (3) do not apply to suspensions imposed under this subsection.

~~(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 unit or member due to nonpayment of any monetary obligation due to the association which is more than 90 days delinquent. A voting interest or consent right allocated to a unit or member which has been suspended by the association may not be counted towards the total number of voting interests necessary to constitute a quorum, the number of voting interests required to conduct an election, or the number of voting interests required to approve an action under this chapter or pursuant to the declaration, articles of incorporation, or bylaws. The suspension ends upon full payment of all obligations currently due or overdue the association. The notice and hearing requirements under subsection (3) do not apply to a suspension imposed under this subsection.

(6) All suspensions imposed pursuant to subsection (4) or subsection (5) must be approved at a properly noticed board meeting. Upon approval, the association must notify the unit owner and, if applicable, the unit's occupant, licensee, or invitee by mail or hand delivery.

Section 9. Section 718.703, Florida Statutes, is amended to read:

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

(1) "Bulk assignee" means a person who is not a bulk buyer and who:

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

(b) Receives an assignment of any of the developer rights, other than or in addition to those rights described in subsection (2), some or all of the rights of the developer as set forth in the declaration of condominium or this chapter; ~~by~~

1. By a written instrument recorded as part of or as an exhibit to the deed; ~~or as~~

2. By a separate instrument recorded in the public records of the county in which the condominium is located; or

3. Pursuant to a final judgment or certificate of title issued in favor of a purchaser at a foreclosure sale.

A mortgagee or its assignee may not be deemed a bulk assignee or a developer by reason of the acquisition of condominium units and receipt of an assignment of some or all of a developer rights unless the mortgagee or its assignee exercises any of the developer rights other than those described in subsection (2).

(2) “Bulk buyer” means a person who acquires more than seven condominium parcels in a single condominium as set forth in s. 718.707, but who does not receive an assignment of any developer rights, or receives only some or all of the following rights: ~~other than~~

(a) The right to conduct sales, leasing, and marketing activities within the condominium;

(b) 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 the a bulk number of units; and

(c) 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.

Section 10. Section 718.704, Florida Statutes, is amended to read:

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

(1) A bulk assignee is deemed to have assumed ~~assumes~~ and is liable for all duties and responsibilities of the developer under the declaration and this chapter upon its acquisition of title to units and continuously thereafter, except that it is not liable for:

(a) Warranties of the developer under s. 718.203(1) or s. 718.618, except as expressly provided by the bulk assignee in a prospectus or offering circular, or the contract for purchase and sale executed with a purchaser, or for design, construction, development, or repair work performed by or on behalf of ~~the 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 implied ~~converter~~ warranties on any portion of the condominium property except as expressly provided by the bulk assignee in a prospectus or offering circular, or the contract for purchase and sale executed with a purchaser, or for 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 or appoints 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 or appoints a majority of the members of the board of administration.;

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

(2) A bulk assignee assigned the developer right 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 upon its acquisition of title to the units and continuously thereafter, 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 due on or after acquisition of the units in the same manner as all other owners of condominium parcels or as otherwise provided in s. 718.116.

(3) A bulk buyer is liable for the duties and responsibilities of a the developer under the declaration and this chapter only to the extent that such provided in this part, together with any other duties or responsibilities are 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:

(a) Before the effective date of this part;

(b) With the intent to hinder, delay, or defraud any purchaser, unit owner, or the association;~~;~~ or if ~~the acquirer is~~

(c) By 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 a the developer, a previous bulk assignee, a mortgagee or assignee who has acquired title to the units and received an assignment of rights, or a court acting on behalf of the developer or the previous bulk assignee if such developer rights are held by the predecessor in title to the bulk assignee. At any particular time, there may not be ~~no~~ more than one bulk assignee within a condominium; however, 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 in addition to those rights described in s. 718.703(2) from the same person, the bulk assignee is the acquirer whose instrument of assignment is recorded first in the public records of the county in which the condominium is located, and any subsequent purported bulk assignee may still qualify as a bulk buyer.

Section 11. Subsections (1) and (3) of section 718.705, Florida Statutes, are amended to read:

718.705 Board of administration; transfer of control.—

(1) If, at the time the bulk assignee acquires title to the units and receives an assignment of developer rights, the developer has not relinquished control of the board of administration, 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 not deemed to be 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.

(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 if some items were or should have been in existence before the bulk assignee's acquisition of the units 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 the acquisition of units 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 or appointed a majority of the members of the board of administration.

Section 12. Section 718.706, Florida Statutes, is amended to read:

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

(1) Before offering more than seven any units in a single condominium 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 did does not exist ~~for the fiscal year~~ before the acquisition of title by the bulk assignee or bulk buyer, and if ~~or~~ accounting records that cannot be obtained in good faith by the bulk assignee or the bulk buyer which would permit preparation of the required financial information report for that period cannot be obtained despite good faith efforts by the bulk assignee or the bulk buyer, 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:

ALL OR A PORTION OF THE FINANCIAL INFORMATION REPORT REQUIRED UNDER S. 718.111(13) FOR THE TIME PERIOD BEFORE THE SELLER'S ACQUISITION OF THE UNIT IMMEDIATELY PRECEDING FISCAL YEAR OF THE ASSOCIATION IS NOT AVAILABLE OR CANNOT BE OBTAINED DESPITE THE GOOD FAITH

~~EFFORTS OF CREATED BY THE SELLER DUE TO THE INSUFFICIENT ACCOUNTING RECORDS OF THE ASSOCIATION.~~

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

(a) A description of any ~~rights~~ of the developer rights that 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 THE 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 provided ~~afforded~~ all of the rights and the protections contained in s. 718.302 regarding agreements

entered into by the association which are under the control of ~~before-unit owners other than the developer, bulk assignee, or bulk buyer elected a majority of the board of administration.~~

(5) Notwithstanding any other provision of this part, a bulk assignee or a bulk buyer is not required to comply with the filing or disclosure requirements of subsections (1) and (2) if all of the units owned by the bulk assignee or bulk buyer are offered and conveyed to a single purchaser in a single transaction. 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.

Section 13. Section 718.707, Florida Statutes, is amended to read:

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 on or after July 1, 2010, but 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 issuing ~~issuance of~~ a certificate of title in a foreclosure proceeding with respect to such condominium parcels.

Section 14. Subsections (3), (4), and (10) of section 719.108, Florida Statutes, are amended 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 rate is not provided in the cooperative documents, ~~interest~~ accrues at 18 percent per annum. 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 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 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~~(4)(3)~~.

(4) The association has a lien on each cooperative parcel for any unpaid rents and assessments, plus interest, and 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 lien also secures reasonable attorney's fees incurred by the association incident to the collection of the rents and assessments or enforcement of such lien. The lien is effective from and after recording a claim of lien in the public records in the county in which the 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 if a claim of lien is not filed within 1 year after the date the assessment was due, and the lien does not continue for longer than 1 year after the claim of lien has been recorded unless, within that time, an action to enforce the lien is commenced. 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.

(10)(a) 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 to the association the subsequent rental payments ~~future monetary obligations related to the cooperative share to the association and~~ continue to the tenant must make such payments until all monetary obligations of the unit owner related to the unit have been paid in full to the association ~~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.

1. The association must provide the tenant a notice, by hand delivery or United States mail, in substantially the following form:

Pursuant to section 719.108(10), Florida Statutes, we demand that you make your rent payments directly to the cooperative association and continue doing so until the association notifies you otherwise.

Payment due the cooperative association may be in the same form as you paid your landlord and must be sent by United States mail or hand delivery to ...(full address)..., payable to ...(name)....

Your obligation to pay your rent to the association begins immediately, unless you have already paid rent to your landlord for the current period before receiving this notice. In that case, you must provide the association written proof of your payment within 14 days after receiving this notice and your obligation to pay rent to the association would then begin with the next rental period.

Pursuant to section 719.108(10), Florida Statutes, your payment of rent to the association gives you complete immunity from any claim for the rent by your landlord.

2. The association must mail written notice to the unit owner of the association's demand that the tenant make payments to the association.

3. The association shall, upon request, provide the tenant with written receipts for payments made.

4. ~~A tenant who acts in good faith in response to a written demand from an association is immune from any claim by from the landlord or unit owner related to the rent timely paid to the association after the association has made written demand.~~

~~(b)(a) If the tenant paid prepaid rent to the landlord or unit owner for a given rental period before receiving the demand from the association and provides written evidence to the association of having paid paying the rent to the association within 14 days after receiving the demand, the tenant shall begin making rental payments to the association for the following rental period and shall continue making 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 until the association releases the tenant or the tenant discontinues tenancy in the unit to the association.~~

~~(c)(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 tenant's landlord. The tenant's landlord shall provide the tenant a credit against rents due to the landlord unit owner in the amount of moneys paid to the association under this section.~~

~~(d)(e) The association may issue notice 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 after written demand has been made to the tenant. However, the association is not otherwise considered a landlord under chapter 83 and specifically has no obligations duties under s. 83.51.

~~(e)(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.

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

Section 15. Subsection (3) of section 719.303, Florida Statutes, is amended, and subsections (4), (5), and (6) are added to that section, to read:

719.303 Obligations of owners.—

~~(3) If the cooperative documents so provide,~~ The association may levy reasonable fines against a unit owner for failure of the unit owner or the unit's occupant, his or her licensee, or invitee or the unit's occupant to comply with any provision of the cooperative documents or reasonable rules of the association. A fine may not ~~No fine shall~~ become a lien against a unit. ~~No fine shall 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 fine may not exceed \$100 per violation, or \$1,000 provided that no such fine shall in the aggregate exceed \$1,000.

(a) An association may suspend, for a reasonable period of time, the right of a unit owner, or a unit owner's tenant, guest, or invitee, to use the common elements, common facilities, or any other association property for failure to comply with any provision of the cooperative documents or reasonable rules of the association.

~~(b) A No fine or suspension may not be imposed~~ levied except after giving reasonable notice and opportunity for a hearing to the unit owner and, if applicable, the unit's his or her licensee or invitee. The hearing must shall be held before a committee of other unit owners. If the committee does not agree with the fine or suspension, it may shall not be imposed levied. ~~This subsection does not apply to unoccupied units.~~

(4) If a unit owner is more than 90 days delinquent in paying a monetary obligation due to the association, the association may suspend the right of the unit owner or the unit's occupant, licensee, or invitee to use common elements, common facilities, or any other association property until the monetary obligation is paid in full. This subsection does not apply to limited common elements intended to be used only by that unit, common elements needed to access the unit, utility services provided to the unit, parking spaces, or elevators. The notice and hearing requirements under subsection (3) do not apply to suspensions imposed under this subsection.

(5) An association may suspend the voting rights of a unit or member due to nonpayment of any monetary obligation due to the association which is

more than 90 days delinquent. A voting interest or consent right allocated to a unit or member which has been suspended by the association may not be counted towards the total number of voting interests for any purpose, including, but not limited to, the number of voting interests necessary to constitute a quorum, the number of voting interests required to conduct an election, or the number of voting interests required to approve an action under this chapter or pursuant to the cooperative documents, articles of incorporation, or bylaws. The suspension ends upon full payment of all obligations currently due or overdue the association. The notice and hearing requirements under subsection (3) do not apply to a suspension imposed under this subsection.

(6) All suspensions imposed pursuant to subsection (4) or subsection (5) must be approved at a properly noticed board meeting. Upon approval, the association must notify the unit owner and, if applicable, the unit's occupant, licensee, or invitee by mail or hand delivery.

Section 16. Subsection (4) of section 720.301, Florida Statutes, is amended to read:

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

(4) “Declaration of covenants,” or “declaration,” means a recorded written instrument or instruments in the nature of covenants running with the land which subject subjects the land comprising the community to the jurisdiction and control of an association or associations in which the owners of the parcels, or their association representatives, must be members.

Section 17. Paragraph (b) of subsection (2) and paragraph (c) of subsection (5) of section 720.303, Florida Statutes, are amended 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 right to attend such meetings includes the right to speak at such meetings with reference to all designated items.~~ 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, meetings between the board or a committee and the association's attorney to discuss proposed or pending litigation or 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.

(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 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 this paragraph, the following records are not 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, a 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 such imminent civil or eriminal litigation or imminent adversarial administrative proceedings until the conclusion of the litigation or administrative proceedings.

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

3. Personnel records of the association’s employees, including, but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this subparagraph, the term “personnel records” does not include written employment agreements with an association employee or budgetary or financial records that indicate the compensation paid to an association employee.

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, facsimile 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. However, an owner may consent in writing to the disclosure of protected information described in this subparagraph. The association is not liable for the disclosure of information that is protected under this subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association.

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.

Section 18. 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.—

(1) Each member and the member's tenants, guests, and invitees, and each association, are governed by, and must comply with, this chapter, the governing documents of the community, and the rules of the association. Actions at law or in equity, or both, to redress alleged failure or refusal to comply with these provisions may be brought by the association or by any member against:

(a) The association;

(b) A member;

(c) Any director or officer of an association who willfully and knowingly fails to comply with these provisions; and

(d) Any tenants, guests, or invitees occupying a parcel or using the common areas.

The prevailing party in any such litigation is entitled to recover reasonable attorney's fees and costs. A member prevailing in an action between the association and the member 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 member 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.

This section does not deprive any person of any other available right or remedy.

(2) ~~The association~~ If a member is delinquent for more than 90 days in paying a monetary obligation due the association, an association may suspend, until such monetary obligation is paid, 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 \$100 per violation, against any member or any member's tenant, guest, or invitee for the failure of the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association. A fine may be levied for each day of a continuing violation, with a single notice and opportunity for hearing, except that the a fine may not exceed \$1,000 in the aggregate unless otherwise provided in the governing documents. A fine of less than \$1,000 may 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.

(a) An association may suspend, for a reasonable period of time, the right of a member, or a member's tenant, guest, or invitee, to use common areas and facilities for the failure of the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association. 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.

~~(b)(a)~~ A fine or suspension may not be imposed without 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.

(3) If a member is more than 90 days delinquent in paying a monetary obligation due to the association, the association may suspend the rights of the member, or the member's tenant, guest, or invitee, to use common areas and facilities until the monetary obligation is paid in full. This subsection does not apply to that portion of common areas used to provide access or utility services to the parcel.

~~(b) Suspension does of common-area-use rights do 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.~~

The notice and hearing requirements under subsection (2) do not apply to a suspension imposed under this subsection.

~~(4)(3) If the governing documents so provide, An association may suspend the voting rights of a parcel or member for the nonpayment of any monetary obligation due to the association that is more than regular annual assessments that are delinquent in excess of 90 days delinquent. A voting interest or consent right allocated to a parcel or member which has been suspended by the association may not be counted towards the total number of voting interests for any purpose, including, but not limited to, the number of voting interests necessary to constitute a quorum, the number of voting interests required to conduct an election, or the number of voting interests required to approve an action under this chapter or pursuant to the governing documents. The notice and hearing requirements under subsection (2) do not apply to a suspension imposed under this subsection. The suspension ends upon full payment of all obligations currently due or overdue to the association.~~

(5) All suspensions imposed pursuant to subsection (3) or subsection (4) must be approved at a properly noticed board meeting. Upon approval, the association must notify the parcel owner and, if applicable, the parcel's occupant, licensee, or invitee by mail or hand delivery.

Section 19. Subsection (9) of section 720.306, Florida Statutes, is amended to read:

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

(9)(a) 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 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.

(b) A person who is delinquent in the payment of any fee, fine, or other monetary obligation to the association for more than 90 days 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 has been convicted of any offense in another jurisdiction which 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 5 years as of the date on which such person seeks election to the board. The validity of any action by the board is not affected if it is later determined that a member of the board is ineligible for board membership.

(c) Any election dispute between a member and an association must be submitted to mandatory binding arbitration with the division. Such proceedings must 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 20. Paragraph (d) is added to subsection (2) of section 720.3085, Florida Statutes, and paragraph (a) of subsection (1) and subsections (3) and (8) of that section are amended, to read:

720.3085 Payment for assessments; lien claims.—

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

(a) To be valid, a claim of lien must state the description of the parcel, the name of the record owner, the name and address of the association, the assessment amount due, and the due date. The claim of lien secures ~~shall secure~~ all unpaid assessments that are due and that may accrue subsequent to the recording of the claim of lien and before entry of a certificate of title, as well as interest, late charges, and reasonable costs and attorney's fees incurred by the association incident to the collection process. The person making the payment is entitled to a satisfaction of the lien upon payment in full.

(2)

(d) An association, or its successor or assignee, that acquires title to a parcel through the foreclosure of its lien for assessments is not liable for any unpaid assessments, late fees, interest, or reasonable attorney's fees and costs that came due before the association's acquisition of title in favor of any other association, as defined in s. 718.103(2) or s. 720.301(9), which holds a

superior lien interest on the parcel. This paragraph is intended to clarify existing law.

(3) Assessments and installments on assessments that are not paid when due bear interest from the due date until paid at the rate provided in the declaration of covenants or the bylaws of the association, which rate may not exceed the rate allowed by law. If no rate is provided in the declaration or bylaws, interest accrues at the rate of 18 percent per year.

(a) If the declaration or bylaws so provide, the association may also charge an administrative late fee ~~in an amount~~ not to exceed the greater of \$25 or 5 percent of the amount of each installment that is paid past the due date.

(b) Any payment received by an association and accepted shall be applied first to any interest accrued, then to any administrative late fee, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent assessment. This paragraph applies notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment. A late fee is not subject to the provisions of chapter 687 and is not a fine.

(8)(a) ~~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 subsequent rental payments and continue to make such payments until all the monetary obligations of the parcel owner related to the parcel have been paid in full to the association and 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 until the tenant discontinues tenancy in the parcel.~~

1. The association must provide the tenant a notice, by hand delivery or United States mail, in substantially the following form:

Pursuant to section 720.3085(8), Florida Statutes, we demand that you make your rent payments directly to the homeowners' association and continue doing so until the association notifies you otherwise.

Payment due the homeowners' association may be in the same form as you paid your landlord and must be sent by United States mail or hand delivery to ...(full address)..., payable to ...(name)....

Your obligation to pay your rent to the association begins immediately, unless you have already paid rent to your landlord for the current period before receiving this notice. In that case, you must provide the association written proof of your payment within 14 days after receiving this notice and your obligation to pay rent to the association would then begin with the next rental period.

Pursuant to section 720.3085(8), Florida Statutes, your payment of rent to the association gives you complete immunity from any claim for the rent by your landlord.

2. A tenant who acts in good faith in response to a written demand from an association is immune from any claim by from the parcel owner related to the rent timely paid to the association after the association has made written demand.

(b)(a) If the tenant paid prepaid rent to the landlord or parcel owner for a given rental period before receiving the demand from the association and provides written evidence to the association of having paid paying the rent to the association within 14 days after receiving the demand, the tenant shall begin making rental payments to the association for the following rental period and shall continue making 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 until the association releases the tenant or the tenant discontinues tenancy in the unit 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.

(c)(b) The liability of the tenant may not exceed the amount due from the tenant to the tenant's landlord. 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 landlord parcel owner in the amount of assessments paid to the association.

(d)(e) The association may issue notice 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 obligations duties under s. 83.51.

(e)(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.

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

Section 21. Section 720.309, Florida Statutes, is amended to read:

720.309 Agreements entered into by the association.—

(1) Any grant or reservation made by any document, and any contract that has with a term greater than in excess of 10 years, that is made by an association before control of the association is turned over to the members

other than the developer, ~~and that provides which provide~~ for the operation, maintenance, or management of the association or common areas, must be fair and reasonable.

(2) If the governing documents provide for the cost of communications services as defined in s. 202.11, information services or Internet services obtained pursuant to a bulk contract shall be deemed an operating expense of the association. If the governing documents do not provide for such services, the board may contract for the services, and the cost shall be deemed an operating expense of the association but must be allocated on a per-parcel basis rather than a percentage basis, notwithstanding that the governing documents provide for other than an equal sharing of operating expenses. Any contract entered into before July 1, 2011, in which the cost of the service is not equally divided among all parcel owners may be changed by a majority of the voting interests present at a regular or special meeting of the association in order to allocate the cost equally among all parcels.

(a) Any contract entered into by the board may be canceled by a majority of the voting interests present at the next regular or special meeting of the association, whichever occurs first. Any member may make a motion to cancel such contract, but if no motion is made or if such motion fails to obtain the required vote, the contract shall be deemed ratified for the term expressed therein.

(b) Any contract entered into by the board must provide, and shall be deemed to provide if not expressly set forth therein, that a hearing-impaired or legally blind parcel owner who does not occupy the parcel with a non-hearing-impaired or sighted person, or a parcel owner who receives supplemental security income under Title XVI of the Social Security Act or food assistance as administered by the Department of Children and Family Services pursuant to s. 414.31, may discontinue the service without incurring disconnect fees, penalties, or subsequent service charges, and may not be required to pay any operating expenses charge related to such service for those parcels. If fewer than all parcel owners share the expenses of the communications services, information services, or Internet services, the expense must be shared by all participating parcel owners. The association may use the provisions of s. 720.3085 to enforce payment by the parcel owners receiving such services.

(c) A resident of any parcel, whether a tenant or parcel owner, may not be denied access to available franchised, licensed, or certificated cable or video service providers if the resident pays the provider directly for services. A resident or a cable or video service provider may not be required to pay anything of value in order to obtain or provide such service except for the charges normally paid for like services by residents of single-family homes located outside the community but within the same franchised, licensed, or certificated area, and except for installation charges agreed to between the resident and the service provider.

Section 22. This act shall take effect July 1, 2011.

Approved by the Governor June 21, 2011.

Filed in Office Secretary of State June 21, 2011.