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# Finance and Tax Committee

Monday, April 13, 2015

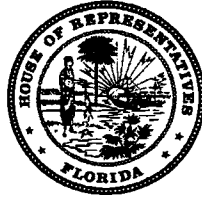
2:00 p.m. – 4:30 p.m.

Morris Hall

MEETING PACKET

# The Florida House of Representatives

## Finance and Tax Committee



**Steve Crisafulli**  
Speaker

**Matt Gaetz**  
Chair

### AGENDA

April 13, 2015  
2:00 p.m. – 4:30 p.m.  
Morris Hall

- I. Call to Order/Roll Call
- II. Chair's Opening Remarks
- III. ***Consideration of the following proposed committee substitute:***  
PCS for CS/HB 791
- IV. Closing Remarks and Adjournment



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCS for CS/HB 791 Residential Properties  
**SPONSOR(S):** Finance & Tax Committee  
**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Finance & Tax Committee		Pewitt <i>JP</i>	Langston <i>SL</i>

### SUMMARY ANALYSIS

The proposed committee substitute amends the statutes relating to various forms of residential properties, including condominiums, cooperatives, and homeowners' associations. Specifically, the proposed committee substitute:

- Amends the definition of "developer" to exclude certain owners who own small numbers of condominium units and certain timeshare trustees;
- Regulates the order of application of payments received by a condominium or cooperative association for past due assessments;
- Revises provisions related to fines and penalties assessed by associations;
- Provides that a homeowners' association may only levy fines up to \$100, unless otherwise provided in the association's governing documents;
- Provides that a homeowners' association member that fails to pay a fine may be suspended from the board of directors or barred from running for the board;
- Provides that a homeowners' association's failure to provide notice of the recording of an amendment does not affect the validity or enforceability of the amendment;
- Authorizes non-profit corporation proxy voting based on a reproduction of the original proxy;
- Updates the definition of "governing documents" for homeowners' associations to include the rules and regulations that have been adopted by the association; and
- Extends the time limitation for classification as bulk assignee or bulk buyer under the Distressed Condominium Relief Act until July 1, 2018 from July 1, 2016.

The proposed committee substitute does not appear to have a fiscal impact on state or local government.

The proposed committee substitute provides an effective date of July 1, 2015.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### ***Condominiums***

A condominium is a form of ownership of real property created pursuant to ch. 718, F.S., which is comprised of units which are individually owned, but have an undivided share of access to common facilities.<sup>1</sup> A condominium is created by recording a declaration of condominium in the public records of the county in which the condominium will be located.<sup>2</sup> A declaration is similar to a constitution in that it governs the relationships among condominium unit owners and the condominium association. Specifically, a declaration of condominium may include covenants and restrictions concerning the use, occupancy, and transfer of the units permitted by law with reference to real property.<sup>3</sup>

All unit owners are members of the condominium association, an entity responsible for the operation of the common elements owned by the unit owners, which operates or maintains real property in which unit owners have use rights.<sup>4</sup> The condominium association is overseen by an elected board of directors, commonly referred to as a "board of administration."<sup>5</sup> The association enacts condominium association bylaws, which govern the administration of the association, including, but not limited to, quorum, voting rights, and election and removal of board members.<sup>6</sup>

##### ***Cooperative Associations***

A cooperative is a form of real property ownership created pursuant to ch. 719, F.S. The real property is owned by the cooperative association,<sup>7</sup> and individual units are leased to the residents, who own shares in the cooperative association.<sup>8</sup> The lease payment amount is the pro-rata share of the operational expenses of the cooperative. Cooperatives are, in practice, operated in a fashion very similar to condominiums, and the laws regulating cooperatives are in many instances nearly identical.

##### ***Homeowners' Associations***

A homeowners' association is a corporation responsible for the operation of a community subdivision. Only homeowners' associations whose covenants and restrictions include mandatory assessments are regulated by the statute.<sup>9</sup>

##### ***Distressed Condominium Relief Act***

In 2010, the Legislature passed the Distressed Condominium Relief Act (Act) in order to relieve developers, lenders, unit owners, and condominium associations from certain provisions of the Florida Condominium Act. The Act was intended to relieve specific parties from certain liabilities so as to enable economic opportunities for successor purchasers of distressed condominiums.<sup>10</sup>

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<sup>1</sup> Section 718.103(11), F.S.

<sup>2</sup> Section 718.104(2), F.S.

<sup>3</sup> *Id.* at (5).

<sup>4</sup> Section 718.103(2), F.S.

<sup>5</sup> *Id.* at (4).

<sup>6</sup> Section 718.112, F.S.

<sup>7</sup> Section 719.103(2), F.S.

<sup>8</sup> *Id.* at (26).

<sup>9</sup> Section 720.301(9), F.S.

<sup>10</sup> Chapter 2010-174, L.O.F.

Specifically, the Act created categories of "bulk buyers" and "bulk assignees." A bulk assignee is a person who acquires more than seven condominium parcels as provided in s. 718.703, F.S., and receives an assignment of some or all of the rights of the developer under specified recording documents.<sup>11</sup> Similarly, a bulk buyer is a person who acquires more than seven condominium parcels, but who does not receive an assignment of developer rights other than the right to: conduct sales, leasing, and marketing activities within the condominium; be exempt from payment of working capital contributions; and be exempt from rights of first refusal.<sup>12</sup>

Because the Act was created in reaction to the "massive downturn in the condominium market which has occurred throughout the state," it was not intended to be open-ended. Rather, the intent of the Legislature was to enact the relief only for "a specific and defined period."<sup>13</sup> Accordingly, the time limitation for classification as a bulk assignee or bulk buyer is until July 1, 2016.

## **Effect of the Bill**

### **Condominiums - Definition of Developer**

Section 718.103(16), F.S., defines a developer as one "who creates a condominium or offers condominium [units] for sale or lease in the ordinary course of business . . ." In essence, the statute creates two classes of developers: those who create the condominium by executing and recording the condominium documents and those who offer condominium units for sale or lease in the ordinary course of business. There are advantages that may accrue with the status as successor developer, including acquisition of certain developer-retained rights under the condominium documents and the ability to control the condominium association by electing or designating a majority of the directors of the condominium association board of directors. On the other hand, there are certain disadvantages, including potential warranty liability, liability for prior financial mismanagement of the condominium association, and loss of the ability to control the condominium association.<sup>14</sup>

The proposed committee substitute amends the definition of "developer" in s. 718.103(16), F.S., to exclude:

- A person who owns 7 or fewer units operated by an association consisting of 40 or fewer units or who owns less than 20 percent of the units operated by an association consisting of more than 40 units; and
- The trustee and any related trust association of a timeshare trust.

### **Condominiums - Association Insurance and Repair of Uninsured Events**

Current law, s. 718.111(11), F.S., provides that condominium property that is damaged by an insurable event must be repaired or replaced by the association as a common expense. If the damage is not the result of an insurable event, the association or the unit owners are responsible for the repair or replacement, as determined by the declaration or bylaws. The proposed committee substitute specifies that in cases where the damage is not the result of an insurable event, the *maintenance* provisions of declaration or bylaws determine whether the association or the unit owners are responsible for the repair or replacement.

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<sup>11</sup> Section 718.703(1), F.S.

<sup>12</sup> *Id.* at (2).

<sup>13</sup> Section 718.702, F.S.

<sup>14</sup> Schwartz, *The Successor Developer Conundrum in Distressed Condominium Projects*, The Florida Bar Journal, Vol. 83, No. 7, July/August 2009.

## **Condominiums and Cooperatives - Assessments**

Sections 718.116(3) and 719.108(3), F.S., provide that any payment received by a condominium or cooperative 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. This payment structure applies in spite of any restrictive endorsement, designation, or instruction placed on or accompanying a payment.

The proposed committee substitute amends ss. 718.116(3) and 719.108(3), F.S., to provide that the required distribution of delinquent assessment payments also applies in spite of any purported accord and satisfaction.<sup>15</sup> The proposed committee substitute states that the amended sentences are intended to clarify existing law.

## **Condominiums, Cooperatives, and Homeowners' Associations - Fines and Penalties**

Current law authorizes condominium, cooperative, and homeowners' associations to levy fines against owners or members who violate the association's rules or other governing documents.<sup>16</sup> A fine may only be levied after the association has provided the owner or member notice and a hearing. If an owner or member fails to pay an imposed monetary obligation, the association may suspend his or her right to use common elements, facilities, or areas and may suspend his or her voting rights. Additionally, failure by an owner or member of a condominium or cooperative association to pay a monetary obligation bars him or her from being nominated for the board,<sup>17</sup> and, if he or she is a condominium board member, failure to pay after 90 days results in abandonment in his or her seat on the board.<sup>18</sup>

The proposed committee substitute amends ss. 718.303, 719.303, and 720.305, F.S., to provide general uniformity among the three provisions. The proposed committee substitute specifies that it is the board of administration of the association that levies any fines and that the committee formed to hear potential fines is limited to that purpose and must be impartial.

With regard to condominium and homeowners' associations, the proposed committee substitute provides that when an owner or member's voting rights have been suspended, the total number of voting interests of the association must be reduced by the number of suspended voting interests when calculating the total percentage or number of all voting interests available to take or approve any action. Additionally, any suspensions imposed apply even if the suspension arose from less than all of the units or parcels owned by the member.

With regard to homeowners' associations only, the proposed committee substitute provides that a fine may not exceed \$100 per violation, unless a greater amount is provided in the association's governing documents. The proposed committee substitute also provides that an association member's failure to pay a monetary obligation bars him or her from being nominated for the board, and, if he or she is a board member, failure to pay after 90 days results in abandonment in his or her seat on the board.

## **Homeowners' Associations - Amendments to Governing Documents**

Section 720.306(1), F.S., provides that a homeowners' association may amend its governing documents. The process for amendment, and the vote required is generally found in the governing documents. Once adopted, an amendment to the governing documents must be recorded in the public records. Generally, a homeowners' association must furnish each member with a copy of an

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<sup>15</sup> Generally, an accord and satisfaction occurs when a person against whom a claim is asserted proves that debt payment instrument or an accompanying written communication contained a conspicuous statement that the instrument was tendered as full satisfaction of the claim. The result is that the claimed debt is discharged. See s. 673.3111, F.S.

<sup>16</sup> Sections 718.303, 719.303, and 720.305, F.S.

<sup>17</sup> Sections 718.112(2)(d)(2) and 719.106(1)(a)2., F.S.

<sup>18</sup> Section 718.112(2)(n)

amendment within 30 days of recording; however, in lieu of providing a copy of the recorded amendment, the association may provide notice to members that the amendment was adopted and identify the book and page number or instrument number of the recorded amendment.

The proposed committee substitute amends 720.306(1), F.S., to provide that the association's failure to timely provide notice of the recording of the amendment does not affect the validity or enforceability of the amendment.

### **Other Effects of the Bill**

The proposed committee substitute amends s. 617.0721, F.S., related to proxy voting for members of a non-profit corporation, to provide that a copy, fax, or other reliable reproduction of an original proxy may be substituted for any purpose for which the original proxy could be used.

The proposed committee substitute amends s. 718.111, F.S., and s. 719.104, F.S., to specify that "all other *written* records" of the condominium association and cooperative association which are related to the association but not otherwise specifically required in current law, are considered official records that must be maintained by the association.

The proposed committee substitute amends s. 720.301, F.S., to update the definition of "governing documents" for homeowners' associations, to include the rules and regulations adopted under the authority of the association's declaration, articles of incorporation, or bylaws.

The proposed committee substitute creates s. 720.3015, F.S., to identify ch. 720, F.S., as the "Homeowners' Association Act."

The proposed committee substitute extends the time limitation for classification as a bulk assignee or bulk buyer under the Distressed Condominium Relief Act from July 1, 2016 until July 1, 2018.

The proposed committee substitute provides an effective date of July 1, 2015.

### **B. SECTION DIRECTORY:**

Section 1 amends s. 617.0721, F.S., related to voting by members.

Section 2 amends s. 718.103, F.S., related to definitions.

Section 3 amends s. 718.111, F.S., related to condominium associations.

Section 4 amends s. 718.112, F.S., related to condominium association bylaws.

Section 5 amends s. 718.116, F.S., related to assessments; lien and priority; interest; and collection.

Section 6 amends s. 718.303, F.S., related to the obligations of owners and occupants, and remedies.

Section 7 amends s. 718.707, F.S., related to the time limitation for classification as bulk assignee or bulk buyer under the Distressed Condominium Relief Act.

Section 8 amends 719.104, F.S., related to cooperatives; access to units; records; financial reports; assessments; and purchase of leases.

Section 9 amends s. 791.108, F.S., related to rents and assessments; liability; lien and priority; interest; collection; and cooperative ownership.

Section 10 amends s. 719.303, F.S., related to obligations of owners.



Section 11 amends s. 720.301, F.S., related to definitions.

Section 12 creates s. 720.3015, F.S., related to the short title.

Section 13 amends s. 720.305, F.S., related to the obligations of members; remedies at law or in equity; and levy of fines and suspension of use rights.

Section 14 amends 720.306, F.S., related to meetings of members; voting and election procedures; amendments.

Section 15 provides an effective date of July 1, 2015.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

The proposed committee substitute does not appear to have an impact on state revenues.

#### **2. Expenditures:**

The proposed committee substitute does not appear to have any impact on state expenditures.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

The proposed committee substitute does not appear to have any impact on local government revenues.

#### **2. Expenditures:**

The proposed committee substitute does not appear to have any impact on local government expenditures.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The proposed committee substitute does not appear to have any direct economic impact on the private sector.

### **D. FISCAL COMMENTS:**

None.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

#### **1. Applicability of Municipality/County Mandates Provision:**

The proposed committee substitute does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

#### **2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

The proposed committee substitute does not appear to create a need for rulemaking or rulemaking authority.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**



27 the term "governing documents"; creating s. 720.3015,  
 28 F.S.; providing a short title; amending s. 720.305,  
 29 F.S.; revising requirements for levying a fine or  
 30 suspension; revising application of certain  
 31 provisions; amending s. 720.306, F.S.; revising  
 32 requirements for the adoption of amendments to the  
 33 governing documents; revising requirements for the  
 34 election of directors; providing an effective date.

35  
 36 Be It Enacted by the Legislature of the State of Florida:

37  
 38 Section 1. Subsection (2) of section 617.0721, Florida  
 39 Statutes, is amended to read:

40 617.0721 Voting by members.--

41 (2) A member who is entitled to vote may vote in person  
 42 or, unless the articles of incorporation or the bylaws otherwise  
 43 provide, may vote by proxy executed in writing by the member or  
 44 by his or her duly authorized attorney in fact. Notwithstanding  
 45 any provision to the contrary in the articles of incorporation  
 46 or bylaws, any copy, facsimile transmission, or other reliable  
 47 reproduction of the original proxy may be substituted or used in  
 48 lieu of the original proxy for any purpose for which the  
 49 original proxy could be used if the copy, facsimile  
 50 transmission, or other reproduction is a complete reproduction  
 51 of the entire proxy. An appointment of a proxy is not valid  
 52 after 11 months following the date of its execution unless

53 otherwise provided in the proxy.

54 (a) If directors or officers are to be elected by members,  
55 the bylaws may provide that such elections may be conducted by  
56 mail.

57 (b) A corporation may reject a vote, consent, waiver, or  
58 proxy appointment if the secretary or other officer or agent  
59 authorized to tabulate votes, acting in good faith, has a  
60 reasonable basis for doubting the validity of the signature on  
61 it or the signatory's authority to sign for the member.

62 Section 2. Subsection (16) of section 718.103, Florida  
63 Statutes, is amended to read:

64 718.103 Definitions.—As used in this chapter, the term:

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

68 (a) An owner or lessee of a condominium or cooperative  
69 unit who has acquired the unit for his or her own occupancy;

70 (b) A cooperative association that creates a condominium  
71 by conversion of an existing residential cooperative after  
72 control of the association has been transferred to the unit  
73 owners if, following the conversion, the unit owners are the  
74 same persons who were unit owners of the cooperative and no  
75 units are offered for sale or lease to the public as part of the  
76 plan of conversion;

77 (c) A bulk-assignee or bulk buyer as defined in s.  
78 718.703;

79           (d) A person who acquires title to 7 or fewer units  
 80 operated by the same association consisting of 40 or fewer units  
 81 or who acquires title to less than 20 percent of the units  
 82 operated by the same association consisting of more than 40  
 83 units, regardless of whether that person offers any of those  
 84 units for sale;

85           (e) The trustee and any related trust association of a  
 86 timeshare trust, the interests in which are qualified as  
 87 timeshare estates pursuant to s. 721.08 or s. 721.53; or

88           (f)~~(d)~~ A state, county, or municipal entity acting as a  
 89 lessor and not otherwise named as a developer in the declaration  
 90 of condominium.

91           Section 3. Paragraph (j) of subsection (11) and paragraph  
 92 (a) of subsection (12) of section 718.111, Florida Statutes, are  
 93 amended to read:

94           718.111 The association.—

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

103           (j) Any portion of the condominium property that must be  
 104 insured by the association against property loss pursuant to

105 paragraph (f) which is damaged by an insurable event shall be  
 106 reconstructed, repaired, or replaced as necessary by the  
 107 association as a common expense. In the absence of an insurable  
 108 event, the association or the unit owners shall be responsible  
 109 for the reconstruction, repair, or replacement, as determined by  
 110 the maintenance provisions of the declaration or bylaws. All  
 111 property insurance deductibles, ~~uninsured losses,~~ and other  
 112 damages in excess of property insurance coverage under the  
 113 property insurance policies maintained by the association are a  
 114 common expense of the condominium, except that:

115 1. A unit owner is responsible for the costs of repair or  
 116 replacement of any portion of the condominium property not paid  
 117 by insurance proceeds if such damage is caused by intentional  
 118 conduct, negligence, or failure to comply with the terms of the  
 119 declaration or the rules of the association by a unit owner, the  
 120 members of his or her family, unit occupants, tenants, guests,  
 121 or invitees, without compromise of the subrogation rights of the  
 122 insurer.

123 2. The provisions of subparagraph 1. regarding the  
 124 financial responsibility of a unit owner for the costs of  
 125 repairing or replacing other portions of the condominium  
 126 property also apply to the costs of repair or replacement of  
 127 personal property of other unit owners or the association, as  
 128 well as other property, whether real or personal, which the unit  
 129 owners are required to insure.

130 3. To the extent the cost of repair or reconstruction for

131 which the unit owner is responsible under this paragraph is  
 132 reimbursed to the association by insurance proceeds, and the  
 133 association has collected the cost of such repair or  
 134 reconstruction from the unit owner, the association shall  
 135 reimburse the unit owner without the waiver of any rights of  
 136 subrogation.

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

144 (12) OFFICIAL RECORDS.—

145 (a) From the inception of the association, the association  
 146 shall maintain each of the following items, if applicable, which  
 147 constitutes the official records of the association:

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

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

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

155 4. A certified copy of the articles of incorporation of  
 156 the association, or other documents creating the association,



157 and each amendment thereto.

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

159 6. A book or books that contain the minutes of all  
 160 meetings of the association, the board of administration, and  
 161 the unit owners, which minutes must be retained for at least 7  
 162 years.

163 7. A current roster of all unit owners and their mailing  
 164 addresses, unit identifications, voting certifications, and, if  
 165 known, telephone numbers. The association shall also maintain  
 166 the electronic mailing addresses and facsimile numbers of unit  
 167 owners consenting to receive notice by electronic transmission.  
 168 The electronic mailing addresses and facsimile numbers are not  
 169 accessible to unit owners if consent to receive notice by  
 170 electronic transmission is not provided in accordance with  
 171 subparagraph (c)5. However, the association is not liable for an  
 172 inadvertent disclosure of the electronic mail address or  
 173 facsimile number for receiving electronic transmission of  
 174 notices.

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

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

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

183           11. Accounting records for the association and separate  
 184 accounting records for each condominium that the association  
 185 operates. All accounting records must be maintained for at least  
 186 7 years. Any person who knowingly or intentionally defaces or  
 187 destroys such records, or who knowingly or intentionally fails  
 188 to create or maintain such records, with the intent of causing  
 189 harm to the association or one or more of its members, is  
 190 personally subject to a civil penalty pursuant to s.  
 191 718.501(1)(d). The accounting records must include, but are not  
 192 limited to:

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

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

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

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

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

209 13. All rental records if the association is acting as  
 210 agent for the rental of condominium units.

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

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

216 16. A copy of the inspection report as described in s.  
 217 718.301(4)(p).

218 Section 4. Paragraph (f) of subsection (2) of section  
 219 718.112, Florida Statutes, is amended to read:

220 718.112 Bylaws.—

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

224 (f) Annual budget.—

225 1. The proposed annual budget of estimated revenues and  
 226 expenses must be detailed and must show the amounts budgeted by  
 227 accounts and expense classifications, including, at a minimum,  
 228 any if applicable, ~~but not limited to,~~ those expenses listed in  
 229 s. 718.504(21). A multicondominium association shall adopt a  
 230 separate budget of common expenses for each condominium the  
 231 association operates and shall adopt a separate budget of common  
 232 expenses for the association. In addition, if the association  
 233 maintains limited common elements with the cost to be shared  
 234 only by those entitled to use the limited common elements as

235 provided for in s. 718.113(1), the budget or a schedule attached  
 236 to it must show the amount budgeted for this maintenance. If,  
 237 after turnover of control of the association to the unit owners,  
 238 any of the expenses listed in s. 718.504(21) are not applicable,  
 239 they need not be listed.

240       2.a. In addition to annual operating expenses, the budget  
 241 must include reserve accounts for capital expenditures and  
 242 deferred maintenance. These accounts must include, but are not  
 243 limited to, roof replacement, building painting, and pavement  
 244 resurfacing, regardless of the amount of deferred maintenance  
 245 expense or replacement cost, and ~~for~~ any other item that has a  
 246 deferred maintenance expense or replacement cost that exceeds  
 247 \$10,000. The amount to be reserved must be computed using a  
 248 formula based upon estimated remaining useful life and estimated  
 249 replacement cost or deferred maintenance expense of each reserve  
 250 item. The association may adjust replacement reserve assessments  
 251 annually to take into account any changes in estimates or  
 252 extension of the useful life of a reserve item caused by  
 253 deferred maintenance. This subsection does not apply to an  
 254 adopted budget in which the members of an association have  
 255 determined, by a majority vote at a duly called meeting of the  
 256 association, to provide no reserves or less reserves than  
 257 required by this subsection.

258       b. ~~Before However, prior to~~ turnover of control of an  
 259 association by a developer to unit owners other than a developer  
 260 pursuant to s. 718.301, the developer may vote the voting

261 interests allocated to its units to waive the reserves or reduce  
 262 the funding of reserves through the period expiring at the end  
 263 of the second fiscal year after the fiscal year in which the  
 264 certificate of a surveyor and mapper is recorded pursuant to s.  
 265 718.104(4)(e) or an instrument that transfers title to a unit in  
 266 the condominium which is not accompanied by a recorded  
 267 assignment of developer rights in favor of the grantee of such  
 268 unit is recorded, whichever occurs first, after which time  
 269 reserves may be waived or reduced only upon the vote of a  
 270 majority of all nondeveloper voting interests voting in person  
 271 or by limited proxy at a duly called meeting of the association.  
 272 If a meeting of the unit owners has been called to determine  
 273 whether to waive or reduce the funding of reserves, and no such  
 274 result is achieved or a quorum is not attained, the reserves  
 275 included in the budget shall go into effect. After the turnover,  
 276 the developer may vote its voting interest to waive or reduce  
 277 the funding of reserves.

278 3. Reserve funds and any interest accruing thereon shall  
 279 remain in the reserve account or accounts, and may be used only  
 280 for authorized reserve expenditures unless their use for other  
 281 purposes is approved in advance by a majority vote at a duly  
 282 called meeting of the association. Before ~~Prior to~~ turnover of  
 283 control of an association by a developer to unit owners other  
 284 than the developer pursuant to s. 718.301, the developer-  
 285 controlled association may ~~shall~~ not vote to use reserves for  
 286 purposes other than those ~~that~~ for which they were intended

287 without the approval of a majority of all nondeveloper voting  
 288 interests, voting in person or by limited proxy at a duly called  
 289 meeting of the association.

290 4. The only voting interests that are eligible to vote on  
 291 questions that involve waiving or reducing the funding of  
 292 reserves, or using existing reserve funds for purposes other  
 293 than purposes for which the reserves were intended, are the  
 294 voting interests of the units subject to assessment to fund the  
 295 reserves in question. Proxy questions relating to waiving or  
 296 reducing the funding of reserves or using existing reserve funds  
 297 for purposes other than purposes for which the reserves were  
 298 intended must ~~shall~~ contain the following statement in  
 299 capitalized, bold letters in a font size larger than any other  
 300 used on the face of the proxy ballot: WAIVING OF RESERVES, IN  
 301 WHOLE OR IN PART, OR ALLOWING ALTERNATIVE USES OF EXISTING  
 302 RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF  
 303 UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

304 Section 5. Subsection (3) and paragraph (b) of subsection  
 305 (5) of section 718.116, Florida Statutes, are amended to read:

306 718.116 Assessments; liability; lien and priority;  
 307 interest; collection.—

308 (3) Assessments and installments on assessments which are  
 309 not paid when due bear interest at the rate provided in the  
 310 declaration, from the due date until paid. The rate may not  
 311 exceed the rate allowed by law, and, if no rate is provided in  
 312 the declaration, interest accrues at the rate of 18 percent per

313 year. If provided by the declaration or bylaws, the association  
 314 may, in addition to such interest, charge an administrative late  
 315 fee of up to the greater of \$25 or 5 percent of each delinquent  
 316 installment for which the payment is late. Any payment received  
 317 by an association must be applied first to any interest accrued  
 318 by the association, then to any administrative late fee, then to  
 319 any costs and reasonable attorney ~~attorney's~~ fees incurred in  
 320 collection, and then to the delinquent assessment. The foregoing  
 321 is applicable notwithstanding s. 673.3111, any purported accord  
 322 and satisfaction, or any restrictive endorsement, designation,  
 323 or instruction placed on or accompanying a payment. The  
 324 preceding sentence is intended to clarify existing law. A late  
 325 fee is not subject to chapter 687 or s. 718.303(4).

326 (5)

327 (b) To be valid, a claim of lien must state the  
 328 description of the condominium parcel, the name of the record  
 329 owner, the name and address of the association, the amount due,  
 330 and the due dates. It must be executed and acknowledged by an  
 331 officer or authorized agent of the association. The lien is not  
 332 effective 1 year after the claim of lien was recorded unless,  
 333 within that time, an action to enforce the lien is commenced.  
 334 The 1-year period is automatically extended for any length of  
 335 time during which the association is prevented from filing a  
 336 foreclosure action by an automatic stay resulting from a  
 337 bankruptcy petition filed by the parcel owner or any other  
 338 person claiming an interest in the parcel. The claim of lien

339 secures all unpaid assessments that are due and that may accrue  
 340 after the claim of lien is recorded and through the entry of a  
 341 final judgment, as well as interest, administrative late fees,  
 342 and all reasonable costs and attorney ~~attorney's~~ fees incurred  
 343 by the association incident to the collection process. Upon  
 344 payment in full, the person making the payment is entitled to a  
 345 satisfaction of the lien.

346 Section 6. Subsections (3), (4), and (5) of section  
 347 718.303, Florida Statutes, are amended, and subsection (7) is  
 348 added to that section, to read:

349 718.303 Obligations of owners and occupants; remedies.—

350 (3) The association may levy reasonable fines for the  
 351 failure of the owner of the unit or its occupant, licensee, or  
 352 invitee to comply with any provision of the declaration, the  
 353 association bylaws, or reasonable rules of the association. A  
 354 fine may not become a lien against a unit. A fine may be levied  
 355 by the board on the basis of each day of a continuing violation,  
 356 with a single notice and opportunity for hearing before a  
 357 committee as provided in paragraph (b). However, the fine may  
 358 not exceed \$100 per violation, or \$1,000 in the aggregate.

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



365 does not apply to limited common elements intended to be used  
 366 only by that unit, common elements needed to access the unit,  
 367 utility services provided to the unit, parking spaces, or  
 368 elevators.

369 (b) A fine or suspension levied by the board of  
 370 administration may not be imposed unless the board association  
 371 first provides at least 14 days' written notice and an  
 372 opportunity for a hearing to the unit owner and, if applicable,  
 373 its occupant, licensee, or invitee. The hearing must be held  
 374 before a committee of other unit owners who are neither board  
 375 members nor persons residing in a board member's household. The  
 376 role of the committee is limited to determining whether to  
 377 confirm or reject the fine or suspension levied by the board. If  
 378 the committee does not agree, the fine or suspension may not be  
 379 imposed.

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

391 subsection.

392 (5) An association may suspend the voting rights of a unit  
393 or member due to nonpayment of any fee, fine, or other monetary  
394 obligation due to the association which is more than 90 days  
395 delinquent. A voting interest or consent right allocated to a  
396 unit or member which has been suspended by the association shall  
397 be subtracted from ~~may not be counted towards~~ the total number  
398 of voting interests in the association, which shall be reduced  
399 by the number of suspended voting interests when calculating the  
400 total percentage or number of all voting interests available to  
401 take or approve any action, and the suspended voting interests  
402 shall not be considered for any purpose, including, but not  
403 limited to, the percentage or number of voting interests  
404 necessary to constitute a quorum, the percentage or number of  
405 voting interests required to conduct an election, or the  
406 percentage or number of voting interests required to approve an  
407 action under this chapter or pursuant to the declaration,  
408 articles of incorporation, or bylaws. The suspension ends upon  
409 full payment of all obligations currently due or overdue the  
410 association. The notice and hearing requirements under  
411 subsection (3) do not apply to a suspension imposed under this  
412 subsection.

413 (7) The suspensions permitted by paragraph (3)(a) and  
414 subsections (4) and (5) apply to a member and, when appropriate,  
415 the member's tenants, guests, or invitees, even if the  
416 delinquency or failure that resulted in the suspension arose

417 from less than all of the multiple units owned by a member.

418 Section 7. Section 718.707, Florida Statutes, is amended  
419 to read:

420 718.707 Time limitation for classification as bulk  
421 assignee or bulk buyer.—A person acquiring condominium parcels  
422 may not be classified as a bulk assignee or bulk buyer unless  
423 the condominium parcels were acquired on or after July 1, 2010,  
424 but before July 1, 2018 ~~2016~~. The date of such acquisition shall  
425 be determined by the date of recording a deed or other  
426 instrument of conveyance for such parcels in the public records  
427 of the county in which the condominium is located, or by the  
428 date of issuing a certificate of title in a foreclosure  
429 proceeding with respect to such condominium parcels.

430 Section 8. Paragraph (a) of subsection (2) of section  
431 719.104, Florida Statutes, is amended to read:

432 719.104 Cooperatives; access to units; records; financial  
433 reports; assessments; purchase of leases.—

434 (2) OFFICIAL RECORDS.—

435 (a) From the inception of the association, the association  
436 shall maintain a copy of each of the following, where  
437 applicable, which shall constitute the official records of the  
438 association:

439 1. The plans, permits, warranties, and other items  
440 provided by the developer pursuant to s. 719.301(4).

441 2. A photocopy of the cooperative documents.

442 3. A copy of the current rules of the association.

443           4. A book or books containing the minutes of all meetings  
 444 of the association, of the board of directors, and of the unit  
 445 owners, which minutes shall be retained for a period of not less  
 446 than 7 years.

447           5. A current roster of all unit owners and their mailing  
 448 addresses, unit identifications, voting certifications, and, if  
 449 known, telephone numbers. The association shall also maintain  
 450 the electronic mailing addresses and the numbers designated by  
 451 unit owners for receiving notice sent by electronic transmission  
 452 of those unit owners consenting to receive notice by electronic  
 453 transmission. The electronic mailing addresses and numbers  
 454 provided by unit owners to receive notice by electronic  
 455 transmission shall be removed from association records when  
 456 consent to receive notice by electronic transmission is revoked.  
 457 However, the association is not liable for an erroneous  
 458 disclosure of the electronic mail address or the number for  
 459 receiving electronic transmission of notices.

460           6. All current insurance policies of the association.

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

465           8. Bills of sale or transfer for all property owned by the  
 466 association.

467           9. Accounting records for the association and separate  
 468 accounting records for each unit it operates, according to good

469 accounting practices. All accounting records shall be maintained  
 470 for a period of not less than 7 years. The accounting records  
 471 shall include, but not be limited to:

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

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

479 c. All audits, reviews, accounting statements, and  
 480 financial reports of the association.

481 d. All contracts for work to be performed. Bids for work  
 482 to be performed shall also be considered official records and  
 483 shall be maintained for a period of 1 year.

484 10. Ballots, sign-in sheets, voting proxies, and all other  
 485 papers relating to voting by unit owners, which shall be  
 486 maintained for a period of 1 year after the date of the  
 487 election, vote, or meeting to which the document relates.

488 11. All rental records where the association is acting as  
 489 agent for the rental of units.

490 12. A copy of the current question and answer sheet as  
 491 described in s. 719.504.

492 13. All other written records of the association not  
 493 specifically included in the foregoing which are related to the  
 494 operation of the association.

495 Section 9. Subsections (3) and (4) of section 719.108,  
 496 Florida Statutes, are amended to read:

497 719.108 Rents and assessments; liability; lien and  
 498 priority; interest; collection; cooperative ownership.—

499 (3) Rents and assessments, and installments on them, not  
 500 paid when due bear interest at the rate provided in the  
 501 cooperative documents from the date due until paid. This rate  
 502 may not exceed the rate allowed by law and, if a rate is not  
 503 provided in the cooperative documents, accrues at 18 percent per  
 504 annum. If the cooperative documents or bylaws so provide, the  
 505 association may charge an administrative late fee in addition to  
 506 such interest, not to exceed the greater of \$25 or 5 percent of  
 507 each installment of the assessment for each delinquent  
 508 installment that the payment is late. Any payment received by an  
 509 association must be applied first to any interest accrued by the  
 510 association, then to any administrative late fee, then to any  
 511 costs and reasonable attorney fees incurred in collection, and  
 512 then to the delinquent assessment. The foregoing applies  
 513 notwithstanding s. 673.3111, any purported accord and  
 514 satisfaction, or any restrictive endorsement, designation, or  
 515 instruction placed on or accompanying a payment. The preceding  
 516 sentence of is intended to clarify existing law. A late fee is  
 517 not subject to chapter 687 or s. 719.303(4).

518 (4) The association has a lien on each cooperative parcel  
 519 for any unpaid rents and assessments, plus interest, and any  
 520 authorized administrative late fees. If authorized by the

521 cooperative documents, the lien also secures reasonable attorney  
 522 fees incurred by the association incident to the collection of  
 523 the rents and assessments or enforcement of such lien. The lien  
 524 is effective from and after recording a claim of lien in the  
 525 public records in the county in which the cooperative parcel is  
 526 located which states the description of the cooperative parcel,  
 527 the name of the unit owner, the amount due, and the due dates.  
 528 Except as otherwise provided in this chapter, a lien may not be  
 529 filed by the association against a cooperative parcel until 30  
 530 days after the date on which a notice of intent to file a lien  
 531 has been delivered to the owner.

532 (a) The notice must be sent to the unit owner at the  
 533 address of the unit by first-class United States mail, and the  
 534 notice must be in substantially the following form:

535 NOTICE OF INTENT

536 TO RECORD A CLAIM OF LIEN

537 RE: Unit ...(unit number)... of ...(name of cooperative)...

538 The following amounts are currently due on your account to  
 539 ...(name of association)..., and must be paid within 30 days  
 540 after your receipt of this letter. This letter shall serve as  
 541 the association's notice of intent to record a Claim of Lien  
 542 against your property no sooner than 30 days after your receipt  
 543 of this letter, unless you pay in full the amounts set forth  
 544 below:

545	Maintenance due ...(dates)...	\$.....
546	Late fee, if applicable	\$.....

547	Interest through ... (dates) ... *	\$.....
548	Certified mail charges	\$.....
549	Other costs	\$.....
550	TOTAL OUTSTANDING	\$.....

551 \*Interest accrues at the rate of .... percent per annum.

552 1. If the most recent address of the unit owner on the  
 553 records of the association is the address of the unit, the  
 554 notice must be sent by certified mail, return receipt requested,  
 555 to the unit owner at the address of the unit.

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

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

565 (b) A notice that is sent pursuant to this subsection is  
 566 deemed delivered upon mailing. A claim of lien must be executed  
 567 and acknowledged by an officer or authorized agent of the  
 568 association. The lien is not effective 1 year after the claim of  
 569 lien was recorded unless, within that time, an action to enforce  
 570 the lien is commenced. The 1-year period is automatically  
 571 extended for any length of time during which the association is  
 572 prevented from filing a foreclosure action by an automatic stay



573 resulting from a bankruptcy petition filed by the parcel owner  
 574 or any other person claiming an interest in the parcel. The  
 575 claim of lien secures all unpaid rents and assessments that are  
 576 due and that may accrue after the claim of lien is recorded and  
 577 through the entry of a final judgment, as well as interest and  
 578 all reasonable costs and attorney fees incurred by the  
 579 association incident to the collection process. Upon payment in  
 580 full, the person making the payment is entitled to a  
 581 satisfaction of the lien.

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

586 NOTICE OF CONTEST OF LIEN

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

596 After notice of contest of lien has been recorded, the clerk of  
 597 the circuit court shall mail a copy of the recorded notice to  
 598 the association by certified mail, return receipt requested, at

599 the address shown in the claim of lien or most recent amendment  
 600 to it and shall certify to the service on the face of the  
 601 notice. Service is complete upon mailing. After service, the  
 602 association has 90 days in which to file an action to enforce  
 603 the lien. If the action is not filed within the 90-day period,  
 604 the lien is void. However, the 90-day period shall be extended  
 605 for any length of time during which the association is prevented  
 606 from filing its action because of an automatic stay resulting  
 607 from the filing of a bankruptcy petition by the unit owner or by  
 608 any other person claiming an interest in the parcel.

609 (d) A release of lien must be in substantially the  
 610 following form:

611 RELEASE OF LIEN

612 The undersigned lienor, in consideration of the final payment in  
 613 the amount of \$...., hereby waives and releases its lien and  
 614 right to claim a lien for unpaid assessments through ....,  
 615 ...(year)..., recorded in the Official Records Book .... at Page  
 616 ....., of the public records of .... County, Florida, for the  
 617 following described real property:

618 THAT COOPERATIVE PARCEL WHICH INCLUDES UNIT NO. .... OF ...(NAME  
 619 OF COOPERATIVE)..., A COOPERATIVE AS SET FORTH IN THE  
 620 COOPERATIVE DOCUMENTS AND THE EXHIBITS ANNEXED THERETO AND  
 621 FORMING A PART THEREOF, RECORDED IN OFFICIAL RECORDS BOOK .....,  
 622 PAGE ....., OF THE PUBLIC RECORDS OF .... COUNTY, FLORIDA.

623 ...(Signature of Authorized Agent).....(Signature of Witness)...  
 624 ...(Print Name)... .....(Print Name)...



651 that unit, common elements needed to access the unit, utility  
 652 services provided to the unit, parking spaces, or elevators.

653 (b) A fine or suspension levied by the board of  
 654 administration may not be imposed unless the board first  
 655 provides at least 14 days' written ~~except after giving~~  
 656 ~~reasonable~~ notice and an opportunity for a hearing to the unit  
 657 owner and, if applicable, its occupant, ~~the unit's~~ licensee, or  
 658 invitee. The hearing must be held before a committee of other  
 659 unit owners who are neither board members nor persons residing  
 660 in a board member's household. The role of the committee is  
 661 limited to determining whether to confirm or reject the fine or  
 662 suspension levied by the board. If the committee does not agree  
 663 with the fine or suspension, it may not be imposed.

664 Section 11. Subsection (8) of section 720.301, Florida  
 665 Statutes, is amended to read:

666 720.301 Definitions.—As used in this chapter, the term:

667 (8) "Governing documents" means:

668 (a) The recorded declaration of covenants for a community,  
 669 and all duly adopted and recorded amendments, supplements, and  
 670 recorded exhibits thereto; ~~and~~

671 (b) The articles of incorporation and bylaws of the  
 672 homeowners' association, and any duly adopted amendments  
 673 thereto; and

674 (c) Rules and regulations adopted under the authority of  
 675 the recorded declaration, articles of incorporation, or bylaws  
 676 and duly adopted amendments thereto.

677 Section 12. Section 720.3015, Florida Statutes, is created  
 678 to read:

679 720.3015 Short title.—This chapter may be cited as the  
 680 "Homeowners' Association Act."

681 Section 13. Section 720.305, Florida Statutes, is amended  
 682 to read:

683 720.305 Obligations of members; remedies at law or in  
 684 equity; levy of fines and suspension of use rights.—

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

692 (a) The association;

693 (b) A member;

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

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

699  
 700 The prevailing party in any such litigation is entitled to  
 701 recover reasonable attorney ~~attorney's~~ fees and costs. A member  
 702 prevailing in an action between the association and the member

703 under this section, in addition to recovering his or her  
 704 reasonable attorney ~~attorney's~~ fees, may recover additional  
 705 amounts as determined by the court to be necessary to reimburse  
 706 the member for his or her share of assessments levied by the  
 707 association to fund its expenses of the litigation. This relief  
 708 does not exclude other remedies provided by law. This section  
 709 does not deprive any person of any other available right or  
 710 remedy.

711 (2) The association may levy reasonable fines. A fine may  
 712 not exceed ~~of up to~~ \$100 per violation against any member or any  
 713 member's tenant, guest, or invitee for the failure of the owner  
 714 of the parcel or its occupant, licensee, or invitee to comply  
 715 with any provision of the declaration, the association bylaws,  
 716 or reasonable rules of the association unless otherwise provided  
 717 in the governing documents. A fine may be levied by the board  
 718 for each day of a continuing violation, with a single notice and  
 719 opportunity for hearing, except that the fine may not exceed  
 720 \$1,000 in the aggregate unless otherwise provided in the  
 721 governing documents. A fine of less than \$1,000 may not become a  
 722 lien against a parcel. In any action to recover a fine, the  
 723 prevailing party is entitled to reasonable attorney fees and  
 724 costs from the nonprevailing party as determined by the court.

725 (a) An association may suspend, for a reasonable period of  
 726 time, the right of a member, or a member's tenant, guest, or  
 727 invitee, to use common areas and facilities for the failure of  
 728 the owner of the parcel or its occupant, licensee, or invitee to

729 comply with any provision of the declaration, the association  
 730 bylaws, or reasonable rules of the association. This paragraph  
 731 does not apply to that portion of common areas used to provide  
 732 access or utility services to the parcel. A suspension may not  
 733 prohibit ~~impair the right of an owner or tenant of a parcel from~~  
 734 having to have vehicular and pedestrian ingress to and egress  
 735 from the parcel, including, but not limited to, the right to  
 736 park.

737 (b) A fine or suspension may not be imposed by the board  
 738 of administration without at least 14 days' notice to the person  
 739 sought to be fined or suspended and an opportunity for a hearing  
 740 before a committee of at least three members appointed by the  
 741 board who are not officers, directors, or employees of the  
 742 association, or the spouse, parent, child, brother, or sister of  
 743 an officer, director, or employee. If the committee, by majority  
 744 vote, does not approve a proposed fine or suspension, it may not  
 745 be imposed. The role of the committee is limited to determining  
 746 whether to confirm or reject the fine or suspension levied by  
 747 the board. If the board of administration ~~association~~ imposes a  
 748 fine or suspension, the association must provide written notice  
 749 of such fine or suspension by mail or hand delivery to the  
 750 parcel owner and, if applicable, to any tenant, licensee, or  
 751 invitee of the parcel owner.

752 (3) If a member is more than 90 days delinquent in paying  
 753 any fee, fine, or other a monetary obligation due to the  
 754 association, the association may suspend the rights of the

755 member, or the member's tenant, guest, or invitee, to use common  
 756 areas and facilities until the fee, fine, or other monetary  
 757 obligation is paid in full. This subsection does not apply to  
 758 that portion of common areas used to provide access or utility  
 759 services to the parcel. A suspension may does not prohibit  
 760 ~~impair the right of~~ an owner or tenant of a parcel from having  
 761 ~~to have~~ vehicular and pedestrian ingress to and egress from the  
 762 parcel, including, but not limited to, the right to park. The  
 763 notice and hearing requirements under subsection (2) do not  
 764 apply to a suspension imposed under this subsection.

765 (4) An association may suspend the voting rights of a  
 766 parcel or member for the nonpayment of any fee, fine, or other  
 767 monetary obligation due to the association that is more than 90  
 768 days delinquent. A voting interest or consent right allocated to  
 769 a parcel or member which has been suspended by the association  
 770 shall be subtracted from ~~may not be counted towards~~ the total  
 771 number of voting interests in the association, which shall be  
 772 reduced by the number of suspended voting interests when  
 773 calculating the total percentage or number of all voting  
 774 interests available to take or approve any action, and the  
 775 suspended voting interests shall not be considered for any  
 776 purpose, including, but not limited to, the percentage or number  
 777 of voting interests necessary to constitute a quorum, the  
 778 percentage or number of voting interests required to conduct an  
 779 election, or the percentage or number of voting interests  
 780 required to approve an action under this chapter or pursuant to



781 the governing documents. The notice and hearing requirements  
 782 under subsection (2) do not apply to a suspension imposed under  
 783 this subsection. The suspension ends upon full payment of all  
 784 obligations currently due or overdue to the association.

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

790 (6) The suspensions permitted by paragraph (2)(a) and  
 791 subsections (3) and (4) apply to a member and, when appropriate,  
 792 the member's tenants, guests, or invitees, even if the  
 793 delinquency or failure that resulted in the suspension arose  
 794 from less than all of the multiple parcels owned by a member.

795 Section 14. Paragraph (b) of subsection (1) and subsection  
 796 (9) of section 720.306, Florida Statutes, are amended to read:

797 720.306 Meetings of members; voting and election  
 798 procedures; amendments.—

799 (1) QUORUM; AMENDMENTS.—

800 (b) Unless otherwise provided in the governing documents  
 801 or required by law, and other than those matters set forth in  
 802 paragraph (c), any governing document of an association may be  
 803 amended by the affirmative vote of two-thirds of the voting  
 804 interests of the association. Within 30 days after recording an  
 805 amendment to the governing documents, the association shall  
 806 provide copies of the amendment to the members. However, if a

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807 copy of the proposed amendment is provided to the members before  
808 they vote on the amendment and the proposed amendment is not  
809 changed before the vote, the association, in lieu of providing a  
810 copy of the amendment, may provide notice to the members that  
811 the amendment was adopted, identifying the official book and  
812 page number or instrument number of the recorded amendment and  
813 that a copy of the amendment is available at no charge to the  
814 member upon written request to the association. The copies and  
815 notice described in this paragraph may be provided  
816 electronically to those owners who previously consented to  
817 receive notice electronically. The failure to timely provide  
818 notice of the recording of the amendment does not affect the  
819 validity or enforceability of the amendment.

820 (9) ELECTIONS AND BOARD VACANCIES.—

821 (a) Elections of directors must be conducted in accordance  
822 with the procedures set forth in the governing documents of the  
823 association. Except as provided in paragraph (b), all members of  
824 the association are eligible to serve on the board of directors,  
825 and a member may nominate himself or herself as a candidate for  
826 the board at a meeting where the election is to be held;  
827 provided, however, that if the election process allows  
828 candidates to be nominated in advance of the meeting, the  
829 association is not required to allow nominations at the meeting.  
830 An election is not required unless more candidates are nominated  
831 than vacancies exist. Except as otherwise provided in the  
832 governing documents, boards of directors must be elected by a

833 plurality of the votes cast by eligible voters. Any challenge to  
 834 the election process must be commenced within 60 days after the  
 835 election results are announced.

836 (b) A person who is delinquent in the payment of any fee,  
 837 fine, or other monetary obligation to the association on the day  
 838 that he or she could last nominate himself or herself or be  
 839 nominated for the board may not seek election to the board, and  
 840 his or her name shall not be listed on the ballot. A person  
 841 serving as a board member who becomes more than 90 days  
 842 delinquent in the payment of any fee, fine, or other monetary  
 843 obligation to the association shall be deemed to have abandoned  
 844 his or her seat on the board, creating a vacancy on the board to  
 845 be filled according to law. For purposes of this paragraph, the  
 846 term "any fee, fine, or other monetary obligation" means any  
 847 delinquency to the association with respect to any parcel ~~for~~  
 848 ~~more than 90 days is not eligible for board membership.~~ A person  
 849 who has been convicted of any felony in this state or in a  
 850 United States District or Territorial Court, or has been  
 851 convicted of any offense in another jurisdiction which would be  
 852 considered a felony if committed in this state, may not seek  
 853 election to the board and is not eligible for board membership  
 854 unless such felon's civil rights have been restored for at least  
 855 5 years as of the date on which such person seeks election to  
 856 the board. The validity of any action by the board is not  
 857 affected if it is later determined that a person was ineligible  
 858 to seek election to the board or that a member of the board is

859 ineligible for board membership.

860 (c) Any election dispute between a member and an  
 861 association must be submitted to mandatory binding arbitration  
 862 with the division. Such proceedings must be conducted in the  
 863 manner provided by s. 718.1255 and the procedural rules adopted  
 864 by the division. Unless otherwise provided in the bylaws, any  
 865 vacancy occurring on the board before the expiration of a term  
 866 may be filled by an affirmative vote of the majority of the  
 867 remaining directors, even if the remaining directors constitute  
 868 less than a quorum, or by the sole remaining director. In the  
 869 alternative, a board may hold an election to fill the vacancy,  
 870 in which case the election procedures must conform to the  
 871 requirements of the governing documents. Unless otherwise  
 872 provided in the bylaws, a board member appointed or elected  
 873 under this section is appointed for the unexpired term of the  
 874 seat being filled. Filling vacancies created by recall is  
 875 governed by s. 720.303(10) and rules adopted by the division.

876 Section 15. This act shall take effect July 1, 2015.