

By Senator Dudley

25-1037-98

1                                   A bill to be entitled  
2           An act relating to condominiums; amending s.  
3           718.111, F.S.; providing for the regulation of  
4           resort condominiums; amending s. 718.112, F.S.;  
5           revising criteria for a unit owner to become a  
6           candidate for the board of administration;  
7           amending s. 718.116, F.S.; providing for the  
8           assessment of uninsured common expenses under  
9           certain circumstances; providing an effective  
10          date.

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

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14           Section 1. Subsection (6) of section 718.111, Florida  
15 Statutes, is amended to read:

16           718.111 The association.--

17           (6) OPERATION OF PHASE AND RESORT CONDOMINIUMS.--

18           (a) Notwithstanding any provision of this chapter, an  
19 association may operate residential condominiums in a phase  
20 project initially created pursuant to former s. 711.64 and may  
21 continue to so operate such project as though it were a single  
22 condominium for purposes of financial matters, including  
23 budgets, assessments, accounting, recordkeeping, and similar  
24 matters, if provision is made for such consolidated operation  
25 in the applicable declarations of each such condominium as  
26 initially recorded or in the bylaws as initially adopted.  
27 Notwithstanding any provision in this chapter, common expenses  
28 for residential condominiums in such a project being operated  
29 by a single association may be assessed against all unit  
30 owners in such project pursuant to the proportions or  
31 percentages established therefor in the declarations as

1 initially recorded or in the bylaws as initially adopted,  
2 subject, however, to the limitations of ss. 718.116 and  
3 718.302.

4 (b) If authorized by the bylaws, common expenses of  
5 multiple condominiums operated by a single association may  
6 also be assessed against all owners in such condominiums,  
7 provided that such condominiums are all operated as part of a  
8 rental pool in a hotel or resort-type setting, where each unit  
9 of a similar type and square footage receives a uniform rental  
10 income; the association determines that the proper maintenance  
11 of the units and buildings in all condominiums participating  
12 in such an agreement is important to the preservation of value  
13 and marketability of each of the individual condominiums; and  
14 the condominium units were registered and sold as securities  
15 with the Securities and Exchange Commission and the prospectus  
16 did not state that the owners in each condominium within the  
17 complex would be solely responsible for expenses attributable  
18 to the individual condominium.

19 Section 2. Paragraph (d) of subsection (2) of section  
20 718.112, Florida Statutes, is amended to read:

21 718.112 Bylaws.--

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

25 (d) Unit owner meetings.--

26 1. There shall be an annual meeting of the unit  
27 owners. Unless the bylaws provide otherwise, a vacancy on the  
28 board of administration caused by the expiration of a  
29 director's term shall be filled by electing a new board  
30 member, and the election shall be by closed ballot; however,  
31 if there is only one candidate for election to fill the

1 vacancy, no election is required. If there is no provision in  
2 the bylaws for terms of the members of the board of  
3 administration, the terms of all members of the board of  
4 administration shall expire upon the election of their  
5 successors at the annual meeting. Any unit owner who is  
6 eligible to register to vote in the jurisdiction of his or her  
7 residence and who seeks ~~desiring~~ to become ~~be~~ a candidate for  
8 board membership must ~~shall~~ comply with subparagraph 3.

9           2. The bylaws shall provide the method of calling  
10 meetings of unit owners, including annual meetings. Written  
11 notice, which notice must include an agenda, shall be mailed  
12 or delivered to each unit owner at least 14 days prior to the  
13 annual meeting and shall be posted in a conspicuous place on  
14 the condominium property at least 14 continuous days preceding  
15 the annual meeting. Upon notice to the unit owners, the board  
16 shall by duly adopted rule designate a specific location on  
17 the condominium property or association property upon which  
18 all notices of unit owner meetings shall be posted; however,  
19 if there is no condominium property or association property  
20 upon which notices can be posted, this requirement does not  
21 apply. Unless a unit owner waives in writing the right to  
22 receive notice of the annual meeting by mail, the notice of  
23 the annual meeting shall be sent by mail to each unit owner.  
24 Where a unit is owned by more than one person, the association  
25 shall provide notice, for meetings and all other purposes, to  
26 that one address which the developer initially identifies for  
27 that purpose and thereafter as one or more of the owners of  
28 the unit shall so advise the association in writing, or if no  
29 address is given or the owners of the unit do not agree, to  
30 the address provided on the deed of record. An officer of the  
31 association, or the manager or other person providing notice

1 of the association meeting, shall provide an affidavit or  
2 United States Postal Service certificate of mailing, to be  
3 included in the official records of the association affirming  
4 that the notice was mailed or hand delivered, in accordance  
5 with this provision, to each unit owner at the address last  
6 furnished to the association.

7           3. After January 1, 1992, the members of the board of  
8 administration shall be elected by written ballot or voting  
9 machine. Proxies shall in no event be used in electing the  
10 board of administration, either in general elections or  
11 elections to fill vacancies caused by recall, resignation, or  
12 otherwise, unless otherwise provided in this chapter. Not less  
13 than 60 days before a scheduled election, the association  
14 shall mail or deliver, whether by separate association mailing  
15 or included in another association mailing or delivery  
16 including regularly published newsletters, to each unit owner  
17 entitled to a vote, a first notice of the date of the  
18 election. Any eligible unit owner or other eligible person  
19 seeking ~~desiring~~ to become ~~be~~ a candidate for the board of  
20 administration must give written notice to the association not  
21 less than 40 days before a scheduled election. Together with  
22 the written notice and agenda as set forth in subparagraph 2.,  
23 the association shall mail or deliver a second notice of the  
24 election to all unit owners entitled to vote therein, together  
25 with a ballot which shall list all candidates. Upon request of  
26 a candidate, the association shall include an information  
27 sheet, no larger than 8 1/2 inches by 11 inches, which must be  
28 furnished by the candidate not less than 35 days before the  
29 election, to be included with the mailing of the ballot, with  
30 the costs of mailing or delivery and copying to be borne by  
31 the association. However, the association has no liability for

1 the contents of the information sheets prepared by the  
2 candidates. In order to reduce costs, the association may  
3 print or duplicate the information sheets on both sides of the  
4 paper. The division shall by rule establish voting procedures  
5 consistent with the provisions contained herein, including  
6 rules providing for the secrecy of ballots. Elections shall  
7 be decided by a plurality of those ballots cast. There shall  
8 be no quorum requirement; however, at least 20 percent of the  
9 eligible voters must cast a ballot in order to have a valid  
10 election of members of the board of administration. No unit  
11 owner shall permit any other person to vote his or her ballot,  
12 and any such ballots improperly cast shall be deemed invalid.  
13 A unit owner who needs assistance in casting the ballot for  
14 the reasons stated in s. 101.051 may obtain assistance in  
15 casting the ballot. Any unit owner violating this provision  
16 may be fined by the association in accordance with s. 718.303.  
17 The regular election shall occur on the date of the annual  
18 meeting. The provisions of this subparagraph shall not apply  
19 to timeshare condominium associations. Notwithstanding the  
20 provisions of this subparagraph, an election and balloting are  
21 not required unless more candidates file notices of intent to  
22 run or are nominated than vacancies exist on the board.

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

1 allowed by the applicable bylaws or declaration or any statute  
2 which provides for such action.

3           5. Unit owners may waive notice of specific meetings  
4 if allowed by the applicable bylaws or declaration or any  
5 statute.

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

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

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15 Notwithstanding subparagraphs (b)2. and (d)3., an association  
16 may, by the affirmative vote of a majority of the total voting  
17 interests, provide for different voting and election  
18 procedures in its bylaws, which vote may be by a proxy  
19 specifically delineating the different voting and election  
20 procedures. The different voting and election procedures may  
21 provide for elections to be conducted by limited or general  
22 proxy.

23           Section 3. Paragraph (a) of subsection (9) of section  
24 718.116, Florida Statutes, is amended to read:

25           718.116 Assessments; liability; lien and priority;  
26 interest; collection.--

27           (9)(a) No unit owner may be excused from the payment  
28 of his or her share of the common expense of a condominium  
29 unless all unit owners are likewise proportionately excused  
30 from payment, except as provided in subsection (1) and in the  
31 following cases:

1           1. If the declaration so provides, a developer or  
2 other person who owns condominium units offered for sale may  
3 be excused from the payment of the share of the common  
4 expenses and assessments related to those units for a stated  
5 period of time subsequent to the recording of the declaration  
6 of condominium. The period must terminate no later than the  
7 first day of the fourth calendar month following the month in  
8 which the closing of the purchase and sale of the first  
9 condominium unit occurs. However, the developer must pay  
10 those ~~the portion of~~ common expenses incurred during that  
11 period which exceed the amount assessed against other unit  
12 owners. However, if the developer-controlled association has  
13 maintained all the insurance coverages required by s.  
14 718.111(11), the common expenses incurred during the foregoing  
15 period which resulted from a natural disaster or an act of God  
16 and which are not covered by insurance proceeds from the  
17 insurance maintained by the association shall be assessed  
18 against all unit owners owning units on the date of such  
19 natural disaster or act of God and their successors and  
20 assigns, including the developer with respect to units owned  
21 by the developer. Each unit owner and his or her unit shall  
22 be assessed a pro rata amount of such uninsured costs based  
23 upon such unit's undivided share of the common elements.

24           2. A developer or other person who owns condominium  
25 units or who has an obligation to pay condominium expenses may  
26 be excused from the payment of his or her share of the common  
27 expense which would have been assessed against those units  
28 during the period of time that he or she has guaranteed to  
29 each purchaser in the purchase contract, declaration, or  
30 prospectus, or by agreement between the developer and a  
31 majority of the unit owners other than the developer, that the

1 assessment for common expenses of the condominium imposed upon  
2 the unit owners would not increase over a stated dollar amount  
3 and has obligated himself or herself to pay those ~~any amount~~  
4 ~~of~~ common expenses incurred during that period and not  
5 produced by the assessments at the guaranteed level receivable  
6 from other unit owners. The guarantee may provide that after  
7 an initial stated period, the developer has an option or  
8 options to extend the guarantee for one or more additional  
9 stated periods. However, notwithstanding the foregoing  
10 limitation, if the developer-controlled association has  
11 properly maintained all insurance coverages required by s.  
12 718.111(11), the common expenses incurred during the period of  
13 guarantee which resulted from a natural disaster or an act of  
14 God and which are not covered by insurance proceeds from the  
15 insurance maintained by the association shall be assessed  
16 against all unit owners owning units on the date of such  
17 natural disaster or act of God and their successors and  
18 assigns, including the developer with respect to the units  
19 owned by the developer. Each unit owner and his or her unit  
20 shall be assessed a pro rata amount of such uninsured costs  
21 based upon such unit's undivided share of common elements.

22 Section 4. This act shall take effect upon becoming a  
23 law.

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26 SENATE SUMMARY

27 Provides for the regulation of resort condominiums.  
28 Revises criteria for a unit owner to become a candidate  
29 for the board of administration. Provides for the  
30 assessment of uninsured common expenses.  
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