

1 A bill to be entitled
2 An act relating to condominiums and
3 cooperatives; amending s. 718.103, F.S.;
4 defining the terms "buyer" and "division";
5 amending s. 718.111, F.S.; providing for the
6 operation of certain condominiums created prior
7 to 1977 as single associations; permitting
8 consolidated financial operation; requiring a
9 developer-controlled association to exercise
10 due diligence to obtain and maintain insurance;
11 providing that failure to obtain and maintain
12 adequate insurance shall constitute a breach of
13 fiduciary responsibility by the
14 developer-appointed members of the board of
15 directors; requiring adequate insurance or
16 fidelity bonding to cover funds in the custody
17 of an association; providing for financial
18 reporting requirements; providing for the
19 commingling of reserve and operating funds;
20 amending s. 718.112, F.S.; providing
21 requirements for eligibility to be a candidate
22 for the board; providing for the validity of
23 certain actions by the board; amending
24 procedures for elections; amending procedures
25 for recall of board members; amending
26 procedures for mailing of notices; amending
27 procedures for annual budgets; deleting
28 fidelity bonding requirements; amending s.
29 718.115, F.S.; providing procedures that
30 allocate cable television services as a common
31 expense; amending ss. 718.503, 718.504, F.S.;

1 requiring disclosure of financial information;
2 amending s. 718.116, F.S.; providing for unit
3 owners and the developer to be assessed in
4 accordance with their ownership interest in
5 losses resulting from a natural disaster or an
6 act of God; amending s. 719.103, F.S.; defining
7 the terms "buyer" and "division"; amending s.
8 719.1035, F.S.; requiring filing of
9 information; amending s. 719.104, F.S.;
10 requiring notification; amending s. 719.106,
11 F.S.; providing requirements relating to
12 association meetings; amending s. 719.301,
13 F.S.; providing rulemaking authority; amending
14 s. 719.403, F.S.; requiring filing of
15 information; amending s. 719.502, F.S.;
16 providing conditions precedent to closing on a
17 contract for sale or specified contracts for
18 lease; providing rulemaking authority; amending
19 s. 719.503, F.S.; providing conditions for
20 closing within the 15-day voidability period;
21 creating s. 719.621, F.S.; providing rulemaking
22 authority; amending s. 721.05, F.S.; conforming
23 a cross-reference; amending s. 721.97, F.S. as
24 created by CS for CS for SB 626 (1998);
25 providing a 1997 statutory reference; providing
26 for contingent retroactive application;
27 providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Section 718.103, Florida Statutes, is
2 amended to read:

3 718.103 Definitions.--As used in this chapter, the
4 term:

5 (1) "Assessment" means a share of the funds which are
6 required for the payment of common expenses, which from time
7 to time is assessed against the unit owner.

8 (2) "Association" means, in addition to those entities
9 responsible for the operation of common elements owned in
10 undivided shares by unit owners, any entity which operates or
11 maintains other real property in which condominium unit owners
12 have use rights, where unit owner membership in the entity is
13 composed exclusively of condominium unit owners or their
14 elected or appointed representatives, and where membership in
15 the entity is a required condition of unit ownership.

16 (3) "Association property" means that property, real
17 and personal, which is owned or leased by, or is dedicated by
18 a recorded plat to, the association for the use and benefit of
19 its members.

20 (4) "Board of administration" means the board of
21 directors or other representative body which is responsible
22 for administration of the association.

23 (5) "Buyer" means a person who purchases a
24 condominium. The term "purchaser" may be used interchangeably
25 with the term "buyer."

26 (6)~~(5)~~ "Bylaws" means the bylaws of the association as
27 they exist from time to time.

28 (7)~~(6)~~ "Committee" means a group of board members,
29 unit owners, or board members and unit owners appointed by the
30 board or a member of the board to make recommendations to the

31

1 board regarding the association budget or take action on
2 behalf of the board.

3 (8)~~(7)~~ "Common elements" means the portions of the
4 condominium property which are not included in the units.

5 (9)~~(8)~~ "Common expenses" means all expenses and
6 assessments which are properly incurred by the association for
7 the condominium.

8 (10)~~(9)~~ "Common surplus" means the excess of all
9 receipts of the association collected on behalf of a
10 condominium (including, but not limited to, assessments,
11 rents, profits, and revenues on account of the common
12 elements) over the common expenses.

13 (11)~~(10)~~ "Condominium" means that form of ownership of
14 real property which is created pursuant to the provisions of
15 this chapter, which is comprised of units that may be owned by
16 one or more persons, and in which there is, appurtenant to
17 each unit, an undivided share in common elements.

18 (12)~~(11)~~ "Condominium parcel" means a unit, together
19 with the undivided share in the common elements which is
20 appurtenant to the unit.

21 (13)~~(12)~~ "Condominium property" means the lands,
22 leaseholds, and personal property that are subjected to
23 condominium ownership, whether or not contiguous, and all
24 improvements thereon and all easements and rights appurtenant
25 thereto intended for use in connection with the condominium.

26 (14)~~(13)~~ "Conspicuous type" means type in capital
27 letters no smaller than the largest type, exclusive of
28 headings, on the page on which it appears and, in all cases,
29 at least 10-point type. Where conspicuous type is required,
30 it must be separated on all sides from other type and print.

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1 Conspicuous type may be used in contracts for purchase or
2 public offering statements only where required by law.

3 (15)~~(14)~~ "Declaration" or "declaration of condominium"
4 means the instrument or instruments by which a condominium is
5 created, as they are from time to time amended.

6 (16)~~(15)~~ "Developer" means a person who creates a
7 condominium or offers condominium parcels for sale or lease in
8 the ordinary course of business, but does not include an owner
9 or lessee of a condominium or cooperative unit who has
10 acquired the unit for his or her own occupancy, nor does it
11 include a cooperative association which creates a condominium
12 by conversion of an existing residential cooperative after
13 control of the association has been transferred to the unit
14 owners if, following the conversion, the unit owners will be
15 the same persons who were unit owners of the cooperative and
16 no units are offered for sale or lease to the public as part
17 of the plan of conversion.

18 (17) "Division" means the Division of Florida Land
19 Sales, Condominiums, and Mobile Homes of the Department of
20 Business and Professional Regulation.

21 (18)~~(16)~~ "Land" means, unless otherwise defined in the
22 declaration as hereinafter provided, the surface of a legally
23 described parcel of real property and includes, unless
24 otherwise specified in the declaration and whether separate
25 from or including such surface, airspace lying above and
26 subterranean space lying below such surface. However, if so
27 defined in the declaration, the term "land" may mean all or
28 any portion of the airspace or subterranean space between two
29 legally identifiable elevations and may exclude the surface of
30 a parcel of real property and may mean any combination of the
31 foregoing, whether or not contiguous.

1 (19)~~(17)~~ "Limited common elements" means those common
2 elements which are reserved for the use of a certain
3 condominium unit or units to the exclusion of other units, as
4 specified in the declaration of condominium.

5 (20)~~(18)~~ "Operation" or "operation of the condominium"
6 includes the administration and management of the condominium
7 property.

8 (21)~~(19)~~ "Rental agreement" means any written
9 agreement, or oral agreement if for less duration than 1 year,
10 providing for use and occupancy of premises.

11 (22)~~(20)~~ "Residential condominium" means a condominium
12 consisting of condominium units, any of which are intended for
13 use as a private temporary or permanent residence, except that
14 a condominium is not a residential condominium if the use for
15 which the units are intended is primarily commercial or
16 industrial and not more than three units are intended to be
17 used for private residence, and are intended to be used as
18 housing for maintenance, managerial, janitorial, or other
19 operational staff of the condominium. With respect to a
20 condominium that is not a timeshare condominium, a residential
21 unit includes a unit intended as a private temporary or
22 permanent residence as well as a unit not intended for
23 commercial or industrial use. With respect to a timeshare
24 condominium, the timeshare instrument as defined in s.
25 721.05(28) shall govern the intended use of each unit in the
26 condominium. If a condominium is a residential condominium but
27 contains units intended to be used for commercial or
28 industrial purposes, then, with respect to those units which
29 are not intended for or used as private residences, the
30 condominium is not a residential condominium. A condominium
31 which contains both commercial and residential units is a

1 mixed-use condominium subject to the requirements of s.
2 718.404.

3 (23)~~(21)~~ "Special assessment" means any assessment
4 levied against unit owners other than the assessment required
5 by a budget adopted annually.

6 (24)~~(22)~~ "Timeshare estate" means any interest in a
7 unit under which the exclusive right of use, possession, or
8 occupancy of the unit circulates among the various purchasers
9 of a timeshare plan pursuant to chapter 721 on a recurring
10 basis for a period of time.

11 (25)~~(23)~~ "Timeshare unit" means a unit in which
12 timeshare estates have been created.

13 (26)~~(24)~~ "Unit" means a part of the condominium
14 property which is subject to exclusive ownership. A unit may
15 be in improvements, land, or land and improvements together,
16 as specified in the declaration.

17 (27)~~(25)~~ "Unit owner" or "owner of a unit" means a
18 record owner of legal title to a condominium parcel.

19 (28)~~(26)~~ "Voting certificate" means a document which
20 designates one of the record title owners, or the corporate,
21 partnership, or entity representative, who is authorized to
22 vote on behalf of a condominium unit that is owned by more
23 than one owner or by any entity.

24 (29)~~(27)~~ "Voting interest" means the voting rights
25 distributed to the association members pursuant to s.
26 718.104(4)(i).

27 Section 2. Subsections (6) and (11), paragraph (c) of
28 subsection (12), and subsection (15) of section 718.111,
29 Florida Statutes, are amended to read:

30 718.111 The association.--
31

1 (6) OPERATION OF ~~PHASE~~ CONDOMINIUMS CREATED PRIOR TO
2 1977.--Notwithstanding any provision of this chapter, an
3 association may operate two or more residential condominiums
4 in which the initial condominium declaration was recorded
5 prior to January 1, 1977,~~a phase project initially created~~
6 ~~pursuant to former s. 711.64~~ and may continue to so operate
7 such condominiums ~~project~~ as ~~though it were~~ a single
8 condominium for purposes of financial matters, including
9 budgets, assessments, accounting, recordkeeping, and similar
10 matters, if provision is made for such consolidated operation
11 in the applicable declarations of each such condominium ~~as~~
12 ~~initially recorded~~ or in the bylaws ~~as initially adopted~~. An
13 association for such condominiums may also provide for
14 consolidated financial operation as described in this section
15 either by amending its declaration pursuant to s.
16 718.110(1)(a) or by amending its bylaws and having the
17 amendment approved by not less than two-thirds of the total
18 voting interests.Notwithstanding any provision in this
19 chapter, common expenses for residential condominiums in such
20 a project being operated by a single association may be
21 assessed against all unit owners in such project pursuant to
22 the proportions or percentages established therefor in the
23 declarations as initially recorded or in the bylaws as
24 initially adopted, subject, however, to the limitations of ss.
25 718.116 and 718.302.

26 (11) INSURANCE.--

27 (a) A unit-owner controlled ~~The~~ association shall use
28 its best efforts to obtain and maintain adequate insurance to
29 protect the association, the association property, the common
30 elements, and the condominium property required to be insured
31 by the association pursuant to paragraph (b). If the

1 association is developer-controlled, the association shall
 2 exercise due diligence to obtain and maintain such insurance.
 3 Failure to obtain and maintain adequate insurance during any
 4 period of developer control shall constitute a breach of
 5 fiduciary responsibility by the developer appointed members of
 6 the board of directors of the association, unless said members
 7 can show that despite such failure, they have exercised due
 8 diligence. ~~An~~ The association may also obtain and maintain
 9 liability insurance for directors and officers, insurance for
 10 the benefit of association employees, and flood insurance for
 11 common elements, association property, and units. An
 12 association or group of associations may self-insure against
 13 claims against the association, the association property, and
 14 the condominium property required to be insured by an
 15 association, upon compliance with ss. 624.460-624.488. A copy
 16 of each policy of insurance in effect shall be made available
 17 for inspection by unit owners at reasonable times.

18 (b) Every hazard policy which is issued to protect a
 19 condominium building shall provide that the word "building"
 20 wherever used in the policy include, but not necessarily be
 21 limited to, fixtures, installations, or additions comprising
 22 that part of the building within the unfinished interior
 23 surfaces of the perimeter walls, floors, and ceilings of the
 24 individual units initially installed, or replacements thereof
 25 of like kind or quality, in accordance with the original plans
 26 and specifications, or as they existed at the time the unit
 27 was initially conveyed if the original plans and
 28 specifications are not available. However, unless prior to
 29 October 1, 1986, the association is required by the
 30 declaration to provide coverage therefor, the word "building"
 31 does not include unit floor coverings, wall coverings, or

1 ceiling coverings, and, as to contracts entered into after
2 July 1, 1992, does not include the following equipment if it
3 is located within a unit and the unit owner is required to
4 repair or replace such equipment: electrical fixtures,
5 appliances, air conditioner or heating equipment, water
6 heaters, or built-in cabinets. With respect to the coverage
7 provided for by this paragraph, the unit owners shall be
8 considered additional insureds under the policy.

9 (c) Every insurance policy issued to an individual
10 unit owner shall provide that the coverage afforded by such
11 policy is excess over the amount recoverable under any other
12 policy covering the same property without rights of
13 subrogation against the association.

14 (d) The association shall obtain and maintain adequate
15 insurance or fidelity bonding of all persons who control or
16 disburse funds of the association. The insurance policy or
17 fidelity bond must cover the maximum funds that will be in the
18 custody of the association or its management agent at any one
19 time. As used in this paragraph, the term "persons who control
20 or disburse funds of the association" includes, but is not
21 limited to, those individuals authorized to sign checks and
22 the president, secretary, and treasurer of the association.
23 The association shall bear the cost of bonding.

24 (12) OFFICIAL RECORDS.--

25 (c) The official records of the association are open
26 to inspection by any association member or the authorized
27 representative of such member at all reasonable times. The
28 right to inspect the records includes the right to make or
29 obtain copies, at the reasonable expense, if any, of the
30 association member. The association may adopt reasonable
31 rules regarding the frequency, time, location, notice, and

1 manner of record inspections and copying. The failure of an
2 association to provide the records within 10 working days
3 after receipt of a written request shall create a rebuttable
4 presumption that the association willfully failed to comply
5 with this paragraph. A unit owner who is denied access to
6 official records is entitled to the actual damages or minimum
7 damages for the association's willful failure to comply with
8 this paragraph. The minimum damages shall be \$50 per calendar
9 day up to 10 days, the calculation to begin on the 11th
10 working day after receipt of the written request. The failure
11 to permit inspection of the association records as provided
12 herein entitles any person prevailing in an enforcement action
13 to recover reasonable attorney's fees from the person in
14 control of the records who, directly or indirectly, knowingly
15 denied access to the records for inspection. The association
16 shall maintain an adequate number of copies of the
17 declaration, articles of incorporation, bylaws, and rules, and
18 all amendments to each of the foregoing, as well as the
19 question and answer sheet provided for in s. 718.504 and
20 year-end financial information required in this section on the
21 condominium property to ensure their availability to unit
22 owners and prospective purchasers, and may charge its actual
23 costs for preparing and furnishing these documents to those
24 requesting the same. Notwithstanding the provisions of this
25 paragraph, the following records shall not be accessible to
26 unit owners:

27 1. A record which was prepared by an association
28 attorney or prepared at the attorney's express direction,
29 which reflects a mental impression, conclusion, litigation
30 strategy, or legal theory of the attorney or the association,
31 and which was prepared exclusively for civil or criminal

1 litigation or for adversarial administrative proceedings, or
2 which was prepared in anticipation of imminent civil or
3 criminal litigation or imminent adversarial administrative
4 proceedings until the conclusion of the litigation or
5 adversarial administrative proceedings.

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

9 3. Medical records of unit owners.

10 (15) COMMINGLING.--All funds shall be maintained
11 separately in the association's name. Reserve and operating
12 funds of the association shall not be commingled unless
13 combined for investment purposes. This subsection is not meant
14 to prohibit prudent investment of association funds even if
15 combined with operating or other reserve funds of the same
16 association, but such funds must be accounted for separately,
17 and the combined account balance may not, at any time, be less
18 than the amount identified as reserve funds in the combined
19 account.No manager or business entity required to be licensed
20 or registered under s. 468.432, and no agent, employee,
21 officer, or director of a condominium association shall
22 commingle any association funds with his or her funds or with
23 the funds of any other condominium association or community
24 association as defined in s. 468.431.

25 Section 3. Subsection (2) of section 718.112, Florida
26 Statutes, is amended to read:

27 718.112 Bylaws.--

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

31 (a) Administration.--

1 1. The form of administration of the association shall
2 be described indicating the title of the officers and board of
3 administration and specifying the powers, duties, manner of
4 selection and removal, and compensation, if any, of officers
5 and boards. In the absence of such a provision, the board of
6 administration shall be composed of five members, except in
7 the case of a condominium which has five or fewer units, in
8 which case in a not-for-profit corporation the board shall
9 consist of not fewer than three members. In the absence of
10 provisions to the contrary in the bylaws, the board of
11 administration shall have a president, a secretary, and a
12 treasurer, who shall perform the duties of such officers
13 customarily performed by officers of corporations. Unless
14 prohibited in the bylaws, the board of administration may
15 appoint other officers and grant them the duties it deems
16 appropriate. Unless otherwise provided in the bylaws, the
17 officers shall serve without compensation and at the pleasure
18 of the board of administration. Unless otherwise provided in
19 the bylaws, the members of the board shall serve without
20 compensation.

21 2. When a unit owner files a written inquiry by
22 certified mail with the board of administration, the board
23 shall respond in writing to the unit owner within 30 days of
24 receipt of the inquiry. The board's response shall either
25 give a substantive response to the inquirer, notify the
26 inquirer that a legal opinion has been requested, or notify
27 the inquirer that advice has been requested from the division.
28 If the board requests advice from the division, the board
29 shall, within 10 days of its receipt of the advice, provide in
30 writing a substantive response to the inquirer. If a legal
31 opinion is requested, the board shall, within 60 days after

1 the receipt of the inquiry, provide in writing a substantive
 2 response to the inquiry. The failure to provide a substantive
 3 response to the inquiry as provided herein precludes the board
 4 from recovering attorney's fees and costs in any subsequent
 5 litigation, administrative proceeding, or arbitration arising
 6 out of the inquiry. The association may through its board of
 7 administration adopt reasonable rules and regulations
 8 regarding the frequency and manner of responding to unit owner
 9 inquiries, one of which may be that the association is only
 10 obligated to respond to one written inquiry per unit in any
 11 given 30-day period. In such a case, any additional inquiry
 12 or inquiries must be responded to in the subsequent 30-day
 13 period, or periods, as applicable.

14 (b) Quorum; voting requirements; proxies.--

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

23 2. Except as specifically otherwise provided herein,
 24 after January 1, 1992, unit owners may not vote by general
 25 proxy, but may vote by limited proxies substantially
 26 conforming to a limited proxy form adopted by the division.
 27 Limited proxies and general proxies may be used to establish a
 28 quorum. Limited proxies shall be used for votes taken to
 29 waive or reduce reserves in accordance with subparagraph
 30 (f)2.; for votes taken to waive financial statement
 31 requirements as provided by s. 718.111(14); for votes taken to

1 amend the declaration pursuant to s. 718.110; for votes taken
2 to amend the articles of incorporation or bylaws pursuant to
3 this section; and for any other matter for which this chapter
4 requires or permits a vote of the unit owners. Except as
5 provided in paragraph (d), after January 1, 1992, no proxy,
6 limited or general, shall be used in the election of board
7 members. General proxies may be used for other matters for
8 which limited proxies are not required, and may also be used
9 in voting for nonsubstantive changes to items for which a
10 limited proxy is required and given. Notwithstanding the
11 provisions of this subparagraph, unit owners may vote in
12 person at unit owner meetings. Nothing contained herein shall
13 limit the use of general proxies or require the use of limited
14 proxies for any agenda item or election at any meeting of a
15 timeshare condominium association.

16 3. Any proxy given shall be effective only for the
17 specific meeting for which originally given and any lawfully
18 adjourned meetings thereof. In no event shall any proxy be
19 valid for a period longer than 90 days after the date of the
20 first meeting for which it was given. Every proxy is
21 revocable at any time at the pleasure of the unit owner
22 executing it.

23 (c) Board of administration meetings.--Meetings of the
24 board of administration at which a quorum of the members is
25 present shall be open to all unit owners. Any unit owner may
26 tape record or videotape meetings of the board of
27 administration. The right to attend such meetings includes
28 the right to speak at such meetings with reference to all
29 designated agenda items. The division shall adopt reasonable
30 rules governing the tape recording and videotaping of the
31 meeting. The association may adopt reasonable rules governing

1 the frequency, duration, and manner of unit owner statements.
2 Adequate notice of all meetings, which notice shall
3 specifically incorporate an identification of agenda items,
4 shall be posted conspicuously on the condominium property at
5 least 48 continuous hours preceding the meeting except in an
6 emergency. Any item not included on the notice may be taken
7 up on an emergency basis by at least a majority plus one of
8 the members of the board. Such emergency action shall be
9 noticed and ratified at the next regular meeting of the board.
10 However, written notice of any meeting at which nonemergency
11 special assessments, or at which amendment to rules regarding
12 unit use, will be considered shall be mailed or delivered to
13 the unit owners and posted conspicuously on the condominium
14 property not less than 14 days prior to the meeting. Evidence
15 of compliance with this 14-day notice shall be made by an
16 affidavit executed by the person providing the notice and
17 filed among the official records of the association. Upon
18 notice to the unit owners, the board shall by duly adopted
19 rule designate a specific location on the condominium property
20 or association property upon which all notices of board
21 meetings shall be posted. If there is no condominium property
22 or association property upon which notices can be posted,
23 notices of board meetings shall be mailed or delivered at
24 least 14 days before the meeting to the owner of each unit.
25 Notice of any meeting in which regular assessments against
26 unit owners are to be considered for any reason shall
27 specifically contain a statement that assessments will be
28 considered and the nature of any such assessments. Meetings of
29 a committee to take final action on behalf of the board or
30 make recommendations to the board regarding the association
31 budget are subject to the provisions of this paragraph.

1 Meetings of a committee that does not take final action on
2 behalf of the board or make recommendations to the board
3 regarding the association budget are subject to the provisions
4 of this section, unless those meetings are exempted from this
5 section by the bylaws of the association. Notwithstanding any
6 other law, the requirement that board meetings and committee
7 meetings be open to the unit owners is inapplicable to
8 meetings between the board or a committee and the
9 association's attorney, with respect to proposed or pending
10 litigation, when the meeting is held for the purpose of
11 seeking or rendering legal advice.

12 (d) Unit owner meetings.--

13 1. There shall be an annual meeting of the unit
14 owners. Unless the bylaws provide otherwise, a vacancy on the
15 board of administration caused by the expiration of a
16 director's term shall be filled by electing a new board
17 member, and the election shall be by secret ~~closed~~ ballot;
18 however, if the number of vacancies equals or exceeds the
19 number of candidates ~~there is only one candidate for election~~
20 ~~to fill the vacancy~~, no election is required. If there is no
21 provision in the bylaws for terms of the members of the board
22 of administration, the terms of all members of the board of
23 administration shall expire upon the election of their
24 successors at the annual meeting. Any unit owner desiring to
25 be a candidate for board membership shall comply with
26 subparagraph 3. In order to be eligible for board membership a
27 person must meet the requirements set forth in the
28 declaration. A person who has been convicted of any felony by
29 any court of record in the United States and who has not had
30 his or her right to vote restored pursuant to law in the
31 jurisdiction of his or her residence is not eligible for board

1 membership. The validity of an action by the board is not
2 affected if it is later determined that a member of the board
3 is ineligible for board membership due to having been
4 convicted of a felony.

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

1 with this provision, to each unit owner at the address last
2 furnished to the association.

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

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

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

30
31

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

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

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

12 8. Unless otherwise provided in the bylaws, any
13 vacancy occurring on the board before the expiration of a term
14 may be filled by the affirmative vote of the majority of the
15 remaining directors, even if the remaining directors
16 constitute less than a quorum, or by the sole remaining
17 director. In the alternative, a board may hold an election to
18 fill the vacancy, in which case the election procedures must
19 conform to the requirements of subparagraph 3. unless the
20 association has opted out of the statutory election process,
21 in which case the bylaws of the association control. Unless
22 otherwise provided in the bylaws, a board member appointed or
23 elected under this section shall fill the vacancy for the
24 unexpired term of the seat being filled. Filling vacancies
25 created by recall is governed by paragraph (j) and rules
26 adopted by the division.

27
28 Notwithstanding subparagraphs (b)2. and (d)3., an association
29 may, by the affirmative vote of a majority of the total voting
30 interests, provide for different voting and election
31 procedures in its bylaws, which vote may be by a proxy

1 specifically delineating the different voting and election
2 procedures. The different voting and election procedures may
3 provide for elections to be conducted by limited or general
4 proxy.

5 (e) Budget meeting.--The board of administration shall
6 ~~mail or~~ hand deliver to each unit owner, or mail to each unit
7 owner at the address last furnished to the association, a
8 meeting notice and copies of the proposed annual budget of
9 common expenses not less than 14 days prior to the meeting of
10 the unit owners or the board of administration at which the
11 budget will be considered. Evidence of compliance with this
12 14-day notice must be made by an affidavit executed by an
13 officer of the association or the manager or other person
14 providing notice of the meeting and filed among the official
15 records of the association. The meeting must be open to the
16 unit owners. If an adopted budget requires assessments
17 against the unit owners in any fiscal or calendar year which
18 exceed 115 percent of the assessments for the preceding year,
19 the board, upon written application of 10 percent of the
20 voting interests to the board, shall call a special meeting of
21 the unit owners within 30 days upon not less than 10 days'
22 written notice to each unit owner. At the special meeting,
23 unit owners shall consider and enact a budget. Unless the
24 bylaws require a larger vote, the adoption of the budget
25 requires a vote of not less than a majority vote of all the
26 voting interests. The board of administration may propose a
27 budget to the unit owners at a meeting of members or in
28 writing, and if the budget or proposed budget is approved by
29 the unit owners at the meeting or by a majority of all the
30 voting interests in writing, the budget is adopted. If a
31 meeting of the unit owners has been called and a quorum is not

1 attained or a substitute budget is not adopted by the unit
2 owners, the budget adopted by the board of directors goes into
3 effect as scheduled. In determining whether assessments
4 exceed 115 percent of similar assessments in prior years, any
5 authorized provisions for reasonable reserves for repair or
6 replacement of the condominium property, anticipated expenses
7 by the condominium association which are not anticipated to be
8 incurred on a regular or annual basis, or assessments for
9 betterments to the condominium property must be excluded from
10 the computation. However, as long as the developer is in
11 control of the board of administration, the board may not
12 impose an assessment for any year greater than 115 percent of
13 the prior fiscal or calendar year's assessment without
14 approval of a majority of all the voting interests.

15 (f) Annual budget.--

16 1. The proposed annual budget of common expenses shall
17 be detailed and shall show the amounts budgeted by accounts
18 and expense classifications, including, if applicable, but not
19 limited to, those expenses listed in s. 718.504(20). In
20 addition, if the association maintains limited common elements
21 with the cost to be shared only by those entitled to use the
22 limited common elements as provided for in s. 718.113(1), the
23 budget or a schedule attached thereto shall show amounts
24 budgeted therefor. If, after turnover of control of the
25 association to the unit owners, any of the expenses listed in
26 s. 718.504(20) are not applicable, they need not be listed.

27 2. In addition to annual operating expenses, the
28 budget shall include reserve accounts for capital expenditures
29 and deferred maintenance. These accounts shall include, but
30 are not limited to, roof replacement, building painting, and
31 pavement resurfacing, regardless of the amount of deferred

1 maintenance expense or replacement cost, and for any other
2 item for which the deferred maintenance expense or replacement
3 cost exceeds \$10,000. The amount to be reserved shall be
4 computed by means of a formula which is based upon estimated
5 remaining useful life and estimated replacement cost or
6 deferred maintenance expense of each reserve item. The
7 association may adjust replacement reserve assessments
8 annually to take into account any changes in estimates or
9 extension of the useful life of a reserve item caused by
10 deferred maintenance. This subsection does not apply to
11 budgets in which the members of an association have, by a
12 majority vote at a duly called meeting of the association, and
13 voting determined for a fiscal year to provide no reserves or
14 reserves less adequate than required by this subsection.
15 However, prior to turnover of control of an association by a
16 developer to unit owners other than a developer pursuant to s.
17 718.301, the developer may vote to waive the reserves or
18 reduce the funding of reserves for the first 2 years of the
19 operation of the association, after which time reserves may
20 ~~only~~ be waived or reduced only upon the vote of a majority of
21 all nondeveloper voting interests voting in person or by
22 limited proxy at a duly called meeting of the association. If
23 a meeting of the unit owners has been called to determine to
24 provide no reserves or reserves less adequate than required,
25 and such result is not attained or a quorum is not attained,
26 the reserves as included in the budget shall go into effect.

27 3. Reserve funds and any interest accruing thereon
28 shall remain in the reserve account or accounts, and shall be
29 used only for authorized reserve expenditures unless their use
30 for other purposes is approved in advance by a ~~vote of the~~
31 majority vote ~~of the voting interests voting in person or by~~

1 ~~limited proxy~~ at a duly called meeting of the association.
2 Prior to turnover of control of an association by a developer
3 to unit owners other than the developer pursuant to s.
4 718.301, the developer-controlled association shall not vote
5 to use reserves for purposes other than that for which they
6 were intended without the approval of a majority of all
7 nondeveloper voting interests, voting in person or by limited
8 proxy at a duly called meeting of the association.

9 (g) Assessments.--The manner of collecting from the
10 unit owners their shares of the common expenses shall be
11 stated in the bylaws. Assessments shall be made against units
12 not less frequently than quarterly in an amount which is not
13 less than that required to provide funds in advance for
14 payment of all of the anticipated current operating expenses
15 and for all of the unpaid operating expenses previously
16 incurred. Nothing in this paragraph shall preclude the right
17 of an association to accelerate assessments of an owner
18 delinquent in payment of common expenses. Accelerated
19 assessments shall be due and payable on the date the claim of
20 lien is filed. Such accelerated assessments shall include the
21 amounts due for the remainder of the budget year in which the
22 claim of lien was filed.

23 (h) Amendment of bylaws.--

24 1. The method by which the bylaws may be amended
25 consistent with the provisions of this chapter shall be
26 stated. If the bylaws fail to provide a method of amendment,
27 the bylaws may be amended if the amendment is approved by the
28 owners of not less than two-thirds of the voting interests.

29 2. No bylaw shall be revised or amended by reference
30 to its title or number only. Proposals to amend existing
31 bylaws shall contain the full text of the bylaws to be

1 amended; new words shall be inserted in the text underlined,
2 and words to be deleted shall be lined through with hyphens.
3 However, if the proposed change is so extensive that this
4 procedure would hinder, rather than assist, the understanding
5 of the proposed amendment, it is not necessary to use
6 underlining and hyphens as indicators of words added or
7 deleted, but, instead, a notation must be inserted immediately
8 preceding the proposed amendment in substantially the
9 following language: "Substantial rewording of bylaw. See
10 bylaw for present text."

11 3. Nonmaterial errors or omissions in the bylaw
12 process will not invalidate an otherwise properly promulgated
13 amendment.

14 (i) Transfer fees.--No charge shall be made by the
15 association or any body thereof in connection with the sale,
16 mortgage, lease, sublease, or other transfer of a unit unless
17 the association is required to approve such transfer and a fee
18 for such approval is provided for in the declaration,
19 articles, or bylaws. Any such fee may be preset, but in no
20 event may such fee exceed \$100 per applicant other than
21 husband/wife or parent/dependent child, which are considered
22 one applicant. However, if the lease or sublease is a renewal
23 of a lease or sublease with the same lessee or sublessee, no
24 charge shall be made. The foregoing notwithstanding, an
25 association may, if the authority to do so appears in the
26 declaration or bylaws, require that a prospective lessee place
27 a security deposit, in an amount not to exceed the equivalent
28 of 1 month's rent, into an escrow account maintained by the
29 association. The security deposit shall protect against
30 damages to the common elements or association property.
31 Payment of interest, claims against the deposit, refunds, and

1 disputes under this paragraph shall be handled in the same
2 fashion as provided in part II of chapter 83.

3 ~~(j) Fidelity bonds.--The association shall obtain and~~
4 ~~maintain adequate fidelity bonding of all persons who control~~
5 ~~or disburse funds of the association. As used in this~~
6 ~~section, the term "persons who control or disburse funds of~~
7 ~~the association" means those individuals authorized to sign~~
8 ~~checks, and the president, secretary, and treasurer of the~~
9 ~~association. If an association's annual gross receipts do not~~
10 ~~exceed \$100,000, the bond shall be in the principal sum of not~~
11 ~~less than \$10,000 for each such person. If an association's~~
12 ~~annual gross receipts exceed \$100,000, but do not exceed~~
13 ~~\$300,000, the bond shall be in the principal sum of \$30,000~~
14 ~~for each such person. If an association's annual gross~~
15 ~~receipts exceed \$300,000, the bond shall be in the principal~~
16 ~~sum of not less than \$50,000 for each such person. The~~
17 ~~association shall bear the cost of bonding.~~

18 (j)~~(k)~~ Recall of board members.--Subject to the
19 provisions of s. 718.301, any member of the board of
20 administration may be recalled and removed from office with or
21 without cause by the vote or agreement in writing by a
22 majority of all the voting interests. A special meeting of the
23 unit owners to recall a member or members of the board of
24 administration may be called by 10 percent of the voting
25 interests giving notice of the meeting as required for a
26 meeting of unit owners, and the notice shall state the purpose
27 of the meeting.

28 1. If the recall is approved by a majority of all
29 voting interests by a vote at a meeting, the recall will be
30 effective as provided herein. The board shall duly notice and
31 hold a board meeting within 5 full business days of the

1 adjournment of the unit owner meeting to recall one or more
2 board members. At the meeting, the board shall either certify
3 the recall, in which case such member or members shall be
4 recalled effective immediately and shall turn over to the
5 board within 5 full business days any and all records and
6 property of the association in their possession, or shall
7 proceed as set forth in subparagraph 3.

8 2. If the proposed recall is by an agreement in
9 writing by a majority of all voting interests, the agreement
10 in writing or a copy thereof shall be served on the
11 association by certified mail or by personal service in the
12 manner authorized by chapter 48 and the Florida Rules of Civil
13 Procedure. The board of administration shall duly notice and
14 hold a meeting of the board within 5 full business days after
15 receipt of the agreement in writing. At the meeting, the board
16 shall either certify the written agreement to recall a member
17 or members of the board, in which case such member or members
18 shall be recalled effective immediately and shall turn over to
19 the board within 5 full business days any and all records and
20 property of the association in their possession, or proceed as
21 described in subparagraph 3.

22 3. If the board determines not to certify the written
23 agreement to recall a member or members of the board, or does
24 not certify the recall by a vote at a meeting, the board
25 shall, within 5 full business days after the meeting, file
26 with the division a petition for arbitration pursuant to the
27 procedures in s. 718.1255. For the purposes of this section,
28 the unit owners who voted at the meeting or who executed the
29 agreement in writing shall constitute one party under the
30 petition for arbitration. If the arbitrator certifies the
31 recall as to any member or members of the board, the recall

1 will be effective upon mailing of the final order of
2 arbitration to the association. If the association fails to
3 comply with the order of the arbitrator, the division may take
4 action pursuant to s. 718.501. Any member or members so
5 recalled shall deliver to the board any and all records of the
6 association in their possession within 5 full business days of
7 the effective date of the recall.

8 4. If the board fails to duly notice and hold a board
9 meeting within 5 full business days of service of an agreement
10 in writing or within 5 full business days of the adjournment
11 of the unit owner recall meeting, the recall shall be deemed
12 effective and the board members so recalled shall immediately
13 turn over to the board any and all records and property of the
14 association.

15 5. If a vacancy occurs on the board as a result of a
16 recall and less than a majority of the board members are
17 removed, the vacancy may be filled by the affirmative vote of
18 a majority of the remaining directors, notwithstanding any
19 provision to the contrary contained in this subsection. If
20 vacancies occur on the board as a result of a recall and a
21 majority or more of the board members are removed, the
22 vacancies shall be filled in accordance with procedural rules
23 to be adopted by the division, which rules need not be
24 consistent with this subsection. The rules must provide
25 procedures governing the conduct of the recall election as
26 well as the operation of the association during the period
27 after a recall but prior to the recall election.

28 (k)~~(l)~~ Arbitration.--There shall be a provision for
29 mandatory nonbinding arbitration as provided for in s.
30 718.1255.

31

1 ~~(1)(m)~~ Certificate of compliance.--There shall be a
2 provision that a certificate of compliance from a licensed
3 electrical contractor or electrician may be accepted by the
4 association's board as evidence of compliance of the
5 condominium units to the applicable fire and life safety code.

6 ~~(m)(n)~~ Common elements; limited power to convey.--

7 1. With respect to condominiums created on or after
8 October 1, 1994, the bylaws shall include a provision granting
9 the association a limited power to convey a portion of the
10 common elements to a condemning authority for the purpose of
11 providing utility easements, right-of-way expansion, or other
12 public purposes, whether negotiated or as a result of eminent
13 domain proceedings.

14 2. In any case where the bylaws are silent as to the
15 association's power to convey common elements as described in
16 subparagraph 1., the bylaws shall be deemed to include the
17 provision described in subparagraph 1.

18 Section 4. Paragraph (b) of subsection (1) of section
19 718.115, Florida Statutes, is amended to read:

20 718.115 Common expenses and common surplus.--

21 (1)

22 (b) If so provided in the declaration, the cost of a
23 master antenna television system or duly franchised cable
24 television service obtained pursuant to a bulk contract shall
25 be deemed a common expense. If the declaration does not
26 provide for the cost of a master antenna television system or
27 duly franchised cable television service obtained under a bulk
28 contract as a common expense, the board of administration may
29 enter into such a contract and the cost of the service will be
30 a common expense but allocated on a per-unit basis rather than
31 a percentage basis if the declaration provides for other than

1 an equal sharing of common expenses and any contract entered
 2 into before July 1, 1998, in which the cost of the service is
 3 not equally divided among all unit owners, may be changed by
 4 vote of a majority of the voting interests present at a
 5 regular or special meeting of the association, to allocate the
 6 cost equally among all units., and if not, such cost shall be
 7 ~~considered common expense if it is designated as such in a~~
 8 ~~written contract between the board of administration and the~~
 9 ~~company providing the master television antenna system or the~~
 10 ~~cable television service.~~The contract shall be for a term of
 11 not less than 2 years.

12 1. Any contract made by the board after the effective
 13 date hereof for a community antenna system or duly franchised
 14 cable television service may be canceled by a majority of the
 15 voting interests present at the next regular or special
 16 meeting of the association. Any member may make a motion to
 17 cancel said contract, but if no motion is made or if such
 18 motion fails to obtain the required majority at the next
 19 regular or special meeting, whichever is sooner, following the
 20 making of the contract, then such contract shall be deemed
 21 ratified for the term therein expressed.

22 2. Any such contract shall provide, and shall be
 23 deemed to provide if not expressly set forth, that any hearing
 24 impaired or legally blind unit owner who does not occupy the
 25 unit with a non-hearing-impaired ~~nonhearing-impaired~~ or
 26 sighted person may discontinue the service without incurring
 27 disconnect fees, penalties, or subsequent service charges, and
 28 as to such units, the owners shall not be required to pay any
 29 common expenses charge related to such service. If less than
 30 all members of an association share the expenses of cable
 31 television, the expense shall be shared equally by all

1 participating unit owners. The association may use the
2 provisions of s. 718.116 to enforce payment of the shares of
3 such costs by the unit owners receiving cable television.

4 Section 5. Subsection (2) of section 718.503, Florida
5 Statutes, is amended to read:

6 718.503 Developer disclosure prior to sale;
7 nondeveloper unit owner disclosure prior to sale;
8 voidability.--

9 (2) NONDEVELOPER DISCLOSURE.--

10 (a) Each unit owner who is not a developer as defined
11 by this chapter shall comply with the provisions of this
12 subsection prior to the sale of his or her unit. Each
13 prospective purchaser who has entered into a contract for the
14 purchase of a condominium unit is entitled, at the seller's
15 expense, to a current copy of the declaration of condominium,
16 articles of incorporation of the association, bylaws, and
17 rules of the association, as well as a copy of the question
18 and answer sheet provided for by s. 718.504 and a copy of the
19 financial information required by s. 718.111.

20 (b) If a person licensed under part I of chapter 475
21 provides to or otherwise obtains for a prospective purchaser
22 the documents described in this subsection, the person is not
23 liable for any error or inaccuracy contained in the documents.

24 (c) Each contract entered into after July 1, 1992, for
25 the resale of a residential unit shall contain in conspicuous
26 type either:

27 1. A clause which states: THE BUYER HEREBY
28 ACKNOWLEDGES THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF
29 THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION OF
30 THE ASSOCIATION, BYLAWS, RULES OF THE ASSOCIATION, A COPY OF
31 THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND THE

1 QUESTION AND ANSWER SHEET MORE THAN 3 DAYS, EXCLUDING
2 SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, PRIOR TO EXECUTION OF
3 THIS CONTRACT; or

4 2. A clause which states: THIS AGREEMENT IS VOIDABLE
5 BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION
6 TO CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND
7 LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT
8 BY THE BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE
9 DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION, BYLAWS,
10 AND RULES OF THE ASSOCIATION, A COPY OF THE MOST RECENT
11 YEAR-END FINANCIAL INFORMATION AND QUESTION AND ANSWER SHEET
12 IF SO REQUESTED IN WRITING. ANY PURPORTED WAIVER OF THESE
13 VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND
14 THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 3 DAYS,
15 EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE
16 BUYER RECEIVES THE DECLARATION, ARTICLES OF INCORPORATION,
17 BYLAWS, RULES, AND QUESTION AND ANSWER SHEET IF REQUESTED IN
18 WRITING. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE
19 AT CLOSING.

20
21 A contract that does not conform to the requirements of this
22 paragraph is voidable at the option of the purchaser prior to
23 closing.

24 Section 6. Section 718.504, Florida Statutes, is
25 amended to read:

26 718.504 Prospectus or offering circular.--Every
27 developer of a residential condominium which contains more
28 than 20 residential units, or which is part of a group of
29 residential condominiums which will be served by property to
30 be used in common by unit owners of more than 20 residential
31 units, shall prepare a prospectus or offering circular and

1 file it with the Division of Florida Land Sales, Condominiums,
2 and Mobile Homes prior to entering into an enforceable
3 contract of purchase and sale of any unit or lease of a unit
4 for more than 5 years and shall furnish a copy of the
5 prospectus or offering circular to each buyer. In addition to
6 the prospectus or offering circular, each buyer shall be
7 furnished a separate page entitled "Frequently Asked Questions
8 and Answers," which shall be in accordance with a format
9 approved by the division and a copy of the financial
10 information required by s. 718.111. This page shall, in
11 readable language, inform prospective purchasers regarding
12 their voting rights and unit use restrictions, including
13 restrictions on the leasing of a unit; shall indicate whether
14 and in what amount the unit owners or the association is
15 obligated to pay rent or land use fees for recreational or
16 other commonly used facilities; shall contain a statement
17 identifying that amount of assessment which, pursuant to the
18 budget, would be levied upon each unit type, exclusive of any
19 special assessments, and which shall further identify the
20 basis upon which assessments are levied, whether monthly,
21 quarterly, or otherwise; shall state and identify any court
22 cases in which the association is currently a party of record
23 in which the association may face liability in excess of
24 \$100,000; and which shall further state whether membership in
25 a recreational facilities association is mandatory, and if so,
26 shall identify the fees currently charged per unit type. The
27 division shall by rule require such other disclosure as in its
28 judgment will assist prospective purchasers. The prospectus or
29 offering circular may include more than one condominium,
30 although not all such units are being offered for sale as of
31 the date of the prospectus or offering circular. The

1 prospectus or offering circular must contain the following
2 information:

3 (1) The front cover or the first page must contain
4 only:

5 (a) The name of the condominium.

6 (b) The following statements in conspicuous type:

7 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS
8 IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM
9 UNIT.

10 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
11 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL
12 REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND
13 SALES MATERIALS.

14 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS
15 CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER
16 TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR
17 CORRECT REPRESENTATIONS.

18 (2) Summary: The next page must contain all
19 statements required to be in conspicuous type in the
20 prospectus or offering circular.

21 (3) A separate index of the contents and exhibits of
22 the prospectus.

23 (4) Beginning on the first page of the text (not
24 including the summary and index), a description of the
25 condominium, including, but not limited to, the following
26 information:

27 (a) Its name and location.

28 (b) A description of the condominium property,
29 including, without limitation:

30 1. The number of buildings, the number of units in
31 each building, the number of bathrooms and bedrooms in each

1 unit, and the total number of units, if the condominium is not
2 a phase condominium, or the maximum number of buildings that
3 may be contained within the condominium, the minimum and
4 maximum numbers of units in each building, the minimum and
5 maximum numbers of bathrooms and bedrooms that may be
6 contained in each unit, and the maximum number of units that
7 may be contained within the condominium, if the condominium is
8 a phase condominium.

9 2. The page in the condominium documents where a copy
10 of the plot plan and survey of the condominium is located.

11 3. The estimated latest date of completion of
12 constructing, finishing, and equipping. In lieu of a date,
13 the description shall include a statement that the estimated
14 date of completion of the condominium is in the purchase
15 agreement and a reference to the article or paragraph
16 containing that information.

17 (c) The maximum number of units that will use
18 facilities in common with the condominium. If the maximum
19 number of units will vary, a description of the basis for
20 variation and the minimum amount of dollars per unit to be
21 spent for additional recreational facilities or enlargement of
22 such facilities. If the addition or enlargement of facilities
23 will result in a material increase of a unit owner's
24 maintenance expense or rental expense, if any, the maximum
25 increase and limitations thereon shall be stated.

26 (5)(a) A statement in conspicuous type describing
27 whether the condominium is created and being sold as fee
28 simple interests or as leasehold interests. If the condominium
29 is created or being sold on a leasehold, the location of the
30 lease in the disclosure materials shall be stated.

31

1 (b) If timeshare estates are or may be created with
2 respect to any unit in the condominium, a statement in
3 conspicuous type stating that timeshare estates are created
4 and being sold in units in the condominium.

5 (6) A description of the recreational and other
6 commonly used facilities that will be used only by unit owners
7 of the condominium, including, but not limited to, the
8 following:

9 (a) Each room and its intended purposes, location,
10 approximate floor area, and capacity in numbers of people.

11 (b) Each swimming pool, as to its general location,
12 approximate size and depths, approximate deck size and
13 capacity, and whether heated.

14 (c) Additional facilities, as to the number of each
15 facility, its approximate location, approximate size, and
16 approximate capacity.

17 (d) A general description of the items of personal
18 property and the approximate number of each item of personal
19 property that the developer is committing to furnish for each
20 room or other facility or, in the alternative, a
21 representation as to the minimum amount of expenditure that
22 will be made to purchase the personal property for the
23 facility.

24 (e) The estimated date when each room or other
25 facility will be available for use by the unit owners.

26 (f)1. An identification of each room or other facility
27 to be used by unit owners that will not be owned by the unit
28 owners or the association;

29 2. A reference to the location in the disclosure
30 materials of the lease or other agreements providing for the
31 use of those facilities; and

1 3. A description of the terms of the lease or other
2 agreements, including the length of the term; the rent
3 payable, directly or indirectly, by each unit owner, and the
4 total rent payable to the lessor, stated in monthly and annual
5 amounts for the entire term of the lease; and a description of
6 any option to purchase the property leased under any such
7 lease, including the time the option may be exercised, the
8 purchase price or how it is to be determined, the manner of
9 payment, and whether the option may be exercised for a unit
10 owner's share or only as to the entire leased property.

11 (g) A statement as to whether the developer may
12 provide additional facilities not described above; their
13 general locations and types; improvements or changes that may
14 be made; the approximate dollar amount to be expended; and the
15 maximum additional common expense or cost to the individual
16 unit owners that may be charged during the first annual period
17 of operation of the modified or added facilities.

18
19 Descriptions as to locations, areas, capacities, numbers,
20 volumes, or sizes may be stated as approximations or minimums.

21 (7) A description of the recreational and other
22 facilities that will be used in common with other
23 condominiums, community associations, or planned developments
24 which require the payment of the maintenance and expenses of
25 such facilities, either directly or indirectly, by the unit
26 owners. The description shall include, but not be limited to,
27 the following:

28 (a) Each building and facility committed to be built.

29 (b) Facilities not committed to be built except under
30 certain conditions, and a statement of those conditions or
31 contingencies.

1 (c) As to each facility committed to be built, or
2 which will be committed to be built upon the happening of one
3 of the conditions in paragraph (b), a statement of whether it
4 will be owned by the unit owners having the use thereof or by
5 an association or other entity which will be controlled by
6 them, or others, and the location in the exhibits of the lease
7 or other document providing for use of those facilities.

8 (d) The year in which each facility will be available
9 for use by the unit owners or, in the alternative, the maximum
10 number of unit owners in the project at the time each of all
11 of the facilities is committed to be completed.

12 (e) A general description of the items of personal
13 property, and the approximate number of each item of personal
14 property, that the developer is committing to furnish for each
15 room or other facility or, in the alternative, a
16 representation as to the minimum amount of expenditure that
17 will be made to purchase the personal property for the
18 facility.

19 (f) If there are leases, a description thereof,
20 including the length of the term, the rent payable, and a
21 description of any option to purchase.

22
23 Descriptions shall include location, areas, capacities,
24 numbers, volumes, or sizes and may be stated as approximations
25 or minimums.

26 (8) Recreation lease or associated club membership:

27 (a) If any recreational facilities or other facilities
28 offered by the developer and available to, or to be used by,
29 unit owners are to be leased or have club membership
30 associated, the following statement in conspicuous type shall
31 be included: THERE IS A RECREATIONAL FACILITIES LEASE

1 ASSOCIATED WITH THIS CONDOMINIUM; or, THERE IS A CLUB
2 MEMBERSHIP ASSOCIATED WITH THIS CONDOMINIUM. There shall be a
3 reference to the location in the disclosure materials where
4 the recreation lease or club membership is described in
5 detail.

6 (b) If it is mandatory that unit owners pay a fee,
7 rent, dues, or other charges under a recreational facilities
8 lease or club membership for the use of facilities, there
9 shall be in conspicuous type the applicable statement:

10 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
11 MANDATORY FOR UNIT OWNERS; or

12 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF
13 OWNERSHIP, TO BE LESSEES UNDER THE RECREATIONAL FACILITIES
14 LEASE; or

15 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE
16 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,
17 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES
18 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

19 4. A similar statement of the nature of the
20 organization or the manner in which the use rights are
21 created, and that unit owners are required to pay.

22
23 Immediately following the applicable statement, the location
24 in the disclosure materials where the development is described
25 in detail shall be stated.

26 (c) If the developer, or any other person other than
27 the unit owners and other persons having use rights in the
28 facilities, reserves, or is entitled to receive, any rent,
29 fee, or other payment for the use of the facilities, then
30 there shall be the following statement in conspicuous type:
31 THE UNIT OWNERS OR THE ASSOCIATION(S) MUST PAY RENT OR LAND

1 USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES.
2 Immediately following this statement, the location in the
3 disclosure materials where the rent or land use fees are
4 described in detail shall be stated.

5 (d) If, in any recreation format, whether leasehold,
6 club, or other, any person other than the association has the
7 right to a lien on the units to secure the payment of
8 assessments, rent, or other exactions, there shall appear a
9 statement in conspicuous type in substantially the following
10 form:

11 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
12 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
13 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE
14 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

15 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
16 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING
17 DUE FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE
18 RECREATIONAL OR COMMONLY USED FACILITIES. THE UNIT OWNER'S
19 FAILURE TO MAKE THESE PAYMENTS MAY RESULT IN FORECLOSURE OF
20 THE LIEN.

21
22 Immediately following the applicable statement, the location
23 in the disclosure materials where the lien or lien right is
24 described in detail shall be stated.

25 (9) If the developer or any other person has the right
26 to increase or add to the recreational facilities at any time
27 after the establishment of the condominium whose unit owners
28 have use rights therein, without the consent of the unit
29 owners or associations being required, there shall appear a
30 statement in conspicuous type in substantially the following
31 form: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED

1 WITHOUT CONSENT OF UNIT OWNERS OR THE ASSOCIATION(S).

2 Immediately following this statement, the location in the
3 disclosure materials where such reserved rights are described
4 shall be stated.

5 (10) A statement of whether the developer's plan
6 includes a program of leasing units rather than selling them,
7 or leasing units and selling them subject to such leases. If
8 so, there shall be a description of the plan, including the
9 number and identification of the units and the provisions and
10 term of the proposed leases, and a statement in boldfaced type
11 that: **THE UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.**

12 (11) The arrangements for management of the
13 association and maintenance and operation of the condominium
14 property and of other property that will serve the unit owners
15 of the condominium property, and a description of the
16 management contract and all other contracts for these purposes
17 having a term in excess of 1 year, including the following:

18 (a) The names of contracting parties.

19 (b) The term of the contract.

20 (c) The nature of the services included.

21 (d) The compensation, stated on a monthly and annual
22 basis, and provisions for increases in the compensation.

23 (e) A reference to the volumes and pages of the
24 condominium documents and of the exhibits containing copies of
25 such contracts.

26
27 Copies of all described contracts shall be attached as
28 exhibits. If there is a contract for the management of the
29 condominium property, then a statement in conspicuous type in
30 substantially the following form shall appear, identifying the
31 proposed or existing contract manager: **THERE IS (IS TO BE) A**

1 CONTRACT FOR THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH
2 (NAME OF THE CONTRACT MANAGER). Immediately following this
3 statement, the location in the disclosure materials of the
4 contract for management of the condominium property shall be
5 stated.

6 (12) If the developer or any other person or persons
7 other than the unit owners has the right to retain control of
8 the board of administration of the association for a period of
9 time which can exceed 1 year after the closing of the sale of
10 a majority of the units in that condominium to persons other
11 than successors or alternate developers, then a statement in
12 conspicuous type in substantially the following form shall be
13 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO
14 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE
15 UNITS HAVE BEEN SOLD. Immediately following this statement,
16 the location in the disclosure materials where this right to
17 control is described in detail shall be stated.

18 (13) If there are any restrictions upon the sale,
19 transfer, conveyance, or leasing of a unit, then a statement
20 in conspicuous type in substantially the following form shall
21 be included: THE SALE, LEASE, OR TRANSFER OF UNITS IS
22 RESTRICTED OR CONTROLLED. Immediately following this
23 statement, the location in the disclosure materials where the
24 restriction, limitation, or control on the sale, lease, or
25 transfer of units is described in detail shall be stated.

26 (14) If the condominium is part of a phase project,
27 the following information shall be stated:

28 (a) A statement in conspicuous type in substantially
29 the following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL
30 LAND AND UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately
31

1 following this statement, the location in the disclosure
2 materials where the phasing is described shall be stated.

3 (b) A summary of the provisions of the declaration
4 which provide for the phasing.

5 (c) A statement as to whether or not residential
6 buildings and units which are added to the condominium may be
7 substantially different from the residential buildings and
8 units originally in the condominium. If the added residential
9 buildings and units may be substantially different, there
10 shall be a general description of the extent to which such
11 added residential buildings and units may differ, and a
12 statement in conspicuous type in substantially the following
13 form shall be included: BUILDINGS AND UNITS WHICH ARE ADDED TO
14 THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER
15 BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately following
16 this statement, the location in the disclosure materials where
17 the extent to which added residential buildings and units may
18 substantially differ is described shall be stated.

19 (d) A statement of the maximum number of buildings
20 containing units, the maximum and minimum numbers of units in
21 each building, the maximum number of units, and the minimum
22 and maximum square footage of the units that may be contained
23 within each parcel of land which may be added to the
24 condominium.

25 (15) If the condominium is created by conversion of
26 existing improvements, the following information shall be
27 stated:

28 (a) The information required by s. 718.616.

29 (b) A caveat that there are no express warranties
30 unless they are stated in writing by the developer.

31

1 (16) A summary of the restrictions, if any, to be
2 imposed on units concerning the use of any of the condominium
3 property, including statements as to whether there are
4 restrictions upon children and pets, and reference to the
5 volumes and pages of the condominium documents where such
6 restrictions are found, or if such restrictions are contained
7 elsewhere, then a copy of the documents containing the
8 restrictions shall be attached as an exhibit.

9 (17) If there is any land that is offered by the
10 developer for use by the unit owners and that is neither owned
11 by them nor leased to them, the association, or any entity
12 controlled by unit owners and other persons having the use
13 rights to such land, a statement shall be made as to how such
14 land will serve the condominium. If any part of such land
15 will serve the condominium, the statement shall describe the
16 land and the nature and term of service, and the declaration
17 or other instrument creating such servitude shall be included
18 as an exhibit.

19 (18) The manner in which utility and other services,
20 including, but not limited to, sewage and waste disposal,
21 water supply, and storm drainage, will be provided and the
22 person or entity furnishing them.

23 (19) An explanation of the manner in which the
24 apportionment of common expenses and ownership of the common
25 elements has been determined.

26 (20) An estimated operating budget for the condominium
27 and the association, and a schedule of the unit owner's
28 expenses shall be attached as an exhibit and shall contain the
29 following information:
30
31

1 (a) The estimated monthly and annual expenses of the
2 condominium and the association that are collected from unit
3 owners by assessments.

4 (b) The estimated monthly and annual expenses of each
5 unit owner for a unit, other than common expenses paid by all
6 unit owners, payable by the unit owner to persons or entities
7 other than the association, as well as to the association,
8 including fees assessed pursuant to s. 718.113(1) for
9 maintenance of limited common elements where such costs are
10 shared only by those entitled to use the limited common
11 element, and the total estimated monthly and annual expense.
12 There may be excluded from this estimate expenses which are
13 not provided for or contemplated by the condominium documents,
14 including, but not limited to, the costs of private telephone;
15 maintenance of the interior of condominium units, which is not
16 the obligation of the association; maid or janitorial services
17 privately contracted for by the unit owners; utility bills
18 billed directly to each unit owner for utility services to his
19 or her unit; insurance premiums other than those incurred for
20 policies obtained by the condominium; and similar personal
21 expenses of the unit owner. A unit owner's estimated payments
22 for assessments shall also be stated in the estimated amounts
23 for the times when they will be due.

24 (c) The estimated items of expenses of the condominium
25 and the association, except as excluded under paragraph (b),
26 including, but not limited to, the following items, which
27 shall be stated either as an association expense collectible
28 by assessments or as unit owners' expenses payable to persons
29 other than the association:

- 30 1. Expenses for the association and condominium:
 - 31 a. Administration of the association.

- 1 b. Management fees.
- 2 c. Maintenance.
- 3 d. Rent for recreational and other commonly used
- 4 facilities.
- 5 e. Taxes upon association property.
- 6 f. Taxes upon leased areas.
- 7 g. Insurance.
- 8 h. Security provisions.
- 9 i. Other expenses.
- 10 j. Operating capital.
- 11 k. Reserves.
- 12 l. Fees payable to the division.
- 13 2. Expenses for a unit owner:
- 14 a. Rent for the unit, if subject to a lease.
- 15 b. Rent payable by the unit owner directly to the
- 16 lessor or agent under any recreational lease or lease for the
- 17 use of commonly used facilities, which use and payment is a
- 18 mandatory condition of ownership and is not included in the
- 19 common expense or assessments for common maintenance paid by
- 20 the unit owners to the association.
- 21 (d) The estimated amounts shall be stated for a period
- 22 of at least 12 months and may distinguish between the period
- 23 prior to the time unit owners other than the developer elect a
- 24 majority of the board of administration and the period after
- 25 that date.
- 26 (21) A schedule of estimated closing expenses to be
- 27 paid by a buyer or lessee of a unit and a statement of whether
- 28 title opinion or title insurance policy is available to the
- 29 buyer and, if so, at whose expense.
- 30 (22) The identity of the developer and the chief
- 31 operating officer or principal directing the creation and sale

1 of the condominium and a statement of its and his or her
2 experience in this field.

3 (23) Copies of the following, to the extent they are
4 applicable, shall be included as exhibits:

5 (a) The declaration of condominium, or the proposed
6 declaration if the declaration has not been recorded.

7 (b) The articles of incorporation creating the
8 association.

9 (c) The bylaws of the association.

10 (d) The ground lease or other underlying lease of the
11 condominium.

12 (e) The management agreement and all maintenance and
13 other contracts for management of the association and
14 operation of the condominium and facilities used by the unit
15 owners having a service term in excess of 1 year.

16 (f) The estimated operating budget for the condominium
17 and the required schedule of unit owners' expenses.

18 (g) A copy of the floor plan of the unit and the plot
19 plan showing the location of the residential buildings and the
20 recreation and other common areas.

21 (h) The lease of recreational and other facilities
22 that will be used only by unit owners of the subject
23 condominium.

24 (i) The lease of facilities used by owners and others.

25 (j) The form of unit lease, if the offer is of a
26 leasehold.

27 (k) A declaration of servitude of properties serving
28 the condominium but not owned by unit owners or leased to them
29 or the association.

30
31

1 (1) The statement of condition of the existing
2 building or buildings, if the offering is of units in an
3 operation being converted to condominium ownership.

4 (m) The statement of inspection for termite damage and
5 treatment of the existing improvements, if the condominium is
6 a conversion.

7 (n) The form of agreement for sale or lease of units.

8 (o) A copy of the agreement for escrow of payments
9 made to the developer prior to closing.

10 (p) A copy of the documents containing any
11 restrictions on use of the property required by subsection
12 (16).

13 (24) Any prospectus or offering circular complying,
14 prior to the effective date of this act, with the provisions
15 of former ss. 711.69 and 711.802 may continue to be used
16 without amendment or may be amended to comply with the
17 provisions of this chapter.

18 (25) A brief narrative description of the location and
19 effect of all existing and intended easements located or to be
20 located on the condominium property other than those described
21 in the declaration.

22 (26) If the developer is required by state or local
23 authorities to obtain acceptance or approval of any dock or
24 marina facilities intended to serve the condominium, a copy of
25 any such acceptance or approval acquired by the time of filing
26 with the division under s. 718.502(1) or a statement that such
27 acceptance or approval has not been acquired or received.

28 (27) Evidence demonstrating that the developer has an
29 ownership, leasehold, or contractual interest in the land upon
30 which the condominium is to be developed.

31

1 Section 7. Paragraph (a) of subsection (9) of section
2 718.116, Florida Statutes, is amended to read:

3 718.116 Assessments; liability; lien and priority;
4 interest; collection.--

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

10 1. If the declaration so provides, a developer or
11 other person who owns condominium units offered for sale may
12 be excused from the payment of the share of the common
13 expenses and assessments related to those units for a stated
14 period of time subsequent to the recording of the declaration
15 of condominium. The period must terminate no later than the
16 first day of the fourth calendar month following the month in
17 which the closing of the purchase and sale of the first
18 condominium unit occurs. However, the developer must pay
19 those ~~the portion of~~ common expenses incurred during that
20 period which exceed the amount assessed against other unit
21 owners. Notwithstanding this limitation, if a
22 developer-controlled association has maintained all insurance
23 coverages required by s. 718.111(11)(a), the common expenses
24 incurred during the foregoing period resulting from a natural
25 disaster or an act of God, which are not covered by insurance
26 proceeds from the insurance maintained by the association, may
27 be assigned against all unit owners owning units on the date
28 of such natural disaster or act of God, and their successors
29 and assigns, including the developer with respect to units
30 owned by the developer. In the event of such an assessment,
31

1 all units shall be assessed in accordance with their ownership
2 interest in the common elements as required by s. 718.115(2).

3 2. A developer or other person who owns condominium
4 units or who has an obligation to pay condominium expenses may
5 be excused from the payment of his or her share of the common
6 expense which would have been assessed against those units
7 during the period of time that he or she has guaranteed to
8 each purchaser in the purchase contract, declaration, or
9 prospectus, or by agreement between the developer and a
10 majority of the unit owners other than the developer, that the
11 assessment for common expenses of the condominium imposed upon
12 the unit owners would not increase over a stated dollar amount
13 and has obligated himself or herself to pay any amount of
14 common expenses incurred during that period and not produced
15 by the assessments at the guaranteed level receivable from
16 other unit owners. Notwithstanding this limitation, if a
17 developer-controlled association has maintained all insurance
18 coverages required by s. 718.111(11)(a), the common expenses
19 incurred during the guarantee period resulting from a natural
20 disaster or an act of God, which are not covered by insurance
21 proceeds from the insurance maintained by the association, may
22 be assessed against all unit owners owning units on the date
23 of such natural disaster or act of God, and their successors
24 and assigns, including the developer with respect to units
25 owned by the developer. In the event of such an assessment,
26 all units shall be assessed in accordance with their ownership
27 interest in the common elements as required by s. 718.115(2).
28 The guarantee may provide that after an initial stated period,
29 the developer has an option or options to extend the guarantee
30 for one or more additional stated periods.

31

1 Section 8. Section 719.103, Florida Statutes, is
2 amended to read:

3 719.103 Definitions.--As used in this chapter:

4 (1) "Assessment" means a share of the funds required
5 for the payment of common expenses, which from time to time is
6 assessed against the unit owner.

7 (2) "Association" means the corporation for profit or
8 not for profit that owns the record interest in the
9 cooperative property or a leasehold of the property of a
10 cooperative and that is responsible for the operation of the
11 cooperative.

12 (3) "Board of administration" means the board of
13 directors or other representative body responsible for
14 administration of the association.

15 (4) "Buyer" means a person who purchases a
16 cooperative. The term "purchaser" may be used interchangeably
17 with the term "buyer."

18 (5)~~(4)~~ "Bylaws" means the bylaws of the association
19 existing from time to time.

20 (6)~~(5)~~ "Committee" means a group of board members,
21 unit owners, or board members and unit owners appointed by the
22 board or a member of the board to make recommendations to the
23 board regarding the association budget or take action on
24 behalf of the board.

25 (7)~~(6)~~ "Common areas" means the portions of the
26 cooperative property not included in the units.

27 (8) "Common areas" includes within its meaning the
28 following:

29 (a) The cooperative property which is not included
30 within the units.

31

1 (b) Easements through units for conduits, ducts,
2 plumbing, wiring, and other facilities for the furnishing of
3 utility services to units and the common areas.

4 (c) An easement of support in every portion of a unit
5 which contributes to the support of a building.

6 (d) The property and installations required for the
7 furnishing of utilities and other services to more than one
8 unit or to the common areas.

9 (e) Any other part of the cooperative property
10 designated in the cooperative documents as common areas.

11 ~~(9)(7)~~ "Common expenses" means all expenses and
12 assessments properly incurred by the association for the
13 cooperative.

14 ~~(10)(8)~~ "Common surplus" means the excess of all
15 receipts of the association--including, but not limited to,
16 assessments, rents, profits, and revenues on account of the
17 common areas--over the amount of common expenses.

18 (11) "Conspicuous type" means type in capital letters
19 no smaller than the largest type on the page on which it
20 appears.

21 ~~(12)(9)~~ "Cooperative" means that form of ownership of
22 real property wherein legal title is vested in a corporation
23 or other entity and the beneficial use is evidenced by an
24 ownership interest in the association and a lease or other
25 muniment of title or possession granted by the association as
26 the owner of all the cooperative property.

27 ~~(13)(10)~~ "Cooperative documents" means:

28 (a) The documents that create a cooperative,
29 including, but not limited to, articles of incorporation of
30 the association, bylaws, and the ground lease or other
31 underlying lease, if any.

1 (b) The document evidencing a unit owner's membership
2 or share in the association.

3 (c) The document recognizing a unit owner's title or
4 right of possession to his or her unit.

5 (14)~~(11)~~ "Cooperative parcel" means the shares or
6 other evidence of ownership in a cooperative representing an
7 undivided share in the assets of the association, together
8 with the lease or other muniment of title or possession.

9 (15)~~(12)~~ "Cooperative property" means the lands,
10 leaseholds, and personal property owned by a cooperative
11 association.

12 (16)~~(13)~~ "Developer" means a person who creates a
13 cooperative or who offers cooperative parcels for sale or
14 lease in the ordinary course of business, but does not include
15 the owner or lessee of a unit who has acquired or leased the
16 unit for his or her own occupancy, nor does it include a
17 condominium association which creates a cooperative by
18 conversion of an existing residential condominium after
19 control of the association has been transferred to the unit
20 owners if, following the conversion, the unit owners will be
21 the same persons.

22 (17) "Division" means the Division of Florida Land
23 Sales, Condominiums and Mobile Homes of the Department of
24 Business and Professional Regulation.

25 (18) "Limited common areas" means those common areas
26 which are reserved for the use of a certain cooperative unit
27 or units to the exclusion of other units, as specified in the
28 cooperative documents.

29 (19)~~(14)~~ "Operation" or "operation of the cooperative"
30 includes the administration and management of the cooperative
31 property.

1 (20) "Rental agreement" means any written agreement,
2 or oral agreement if for less duration than 1 year, providing
3 for use and occupancy of premises.

4 (21) "Residential cooperative" means a cooperative
5 consisting of cooperative units, any of which are intended for
6 use as a private residence. A cooperative is not a residential
7 cooperative if the use of the units is intended as primarily
8 commercial or industrial and not more than three units are
9 intended to be used for private residence, domicile, or
10 homestead, or if the units are intended to be used as housing
11 for maintenance, managerial, janitorial, or other operational
12 staff of the cooperative. If a cooperative is a residential
13 cooperative under this definition, but has units intended to
14 be commercial or industrial, then the cooperative is a
15 residential cooperative with respect to those units intended
16 for use as a private residence, domicile, or homestead, but
17 not a residential cooperative with respect to those units
18 intended for use commercially or industrially.

19 ~~(22)(15)~~ "Unit" means a part of the cooperative
20 property which is subject to exclusive use and possession. A
21 unit may be improvements, land, or land and improvements
22 together, as specified in the cooperative documents.

23 ~~(23)(16)~~ "Unit owner" or "owner of a unit" means the
24 person holding a share in the cooperative association and a
25 lease or other muniment of title or possession of a unit that
26 is granted by the association as the owner of the cooperative
27 property.

28 ~~(17) "Residential cooperative" means a cooperative~~
29 ~~consisting of cooperative units, any of which are intended for~~
30 ~~use as a private residence. A cooperative is not a~~
31 ~~residential cooperative if the use of the units is intended as~~

1 ~~primarily commercial or industrial and not more than three~~
2 ~~units are intended to be used for private residence, domicile,~~
3 ~~or homestead, or if the units are intended to be used as~~
4 ~~housing for maintenance, managerial, janitorial, or other~~
5 ~~operational staff of the cooperative. If a cooperative is a~~
6 ~~residential cooperative under this definition, but has units~~
7 ~~intended to be commercial or industrial, then the cooperative~~
8 ~~is a residential cooperative with respect to those units~~
9 ~~intended for use as a private residence, domicile, or~~
10 ~~homestead, but not a residential cooperative with respect to~~
11 ~~those units intended for use commercially or industrially.~~

12 ~~(18) "Rental agreement" means any written agreement,~~
13 ~~or oral agreement if for less duration than 1 year, providing~~
14 ~~for use and occupancy of premises.~~

15 ~~(19) "Conspicuous type" means type in capital letters~~
16 ~~no smaller than the largest type on the page on which it~~
17 ~~appears.~~

18 ~~(20) "Limited common areas" means those common areas~~
19 ~~which are reserved for the use of a certain cooperative unit~~
20 ~~or units to the exclusion of other units, as specified in the~~
21 ~~cooperative documents.~~

22 ~~(21) "Common areas" includes within its meaning the~~
23 ~~following:~~

24 ~~(a) The cooperative property which is not included~~
25 ~~within the units.~~

26 ~~(b) Easements through units for conduits, ducts,~~
27 ~~plumbing, wiring, and other facilities for the furnishing of~~
28 ~~utility services to units and the common areas.~~

29 ~~(c) An easement of support in every portion of a unit~~
30 ~~which contributes to the support of a building.~~

31

1 ~~(d) The property and installations required for the~~
2 ~~furnishing of utilities and other services to more than one~~
3 ~~unit or to the common areas.~~

4 ~~(e) Any other part of the cooperative property~~
5 ~~designated in the cooperative documents as common areas.~~

6 Section 9. Section 719.1035, Florida Statutes, is
7 amended to read:

8 719.1035 Creation of cooperatives.--The date when
9 cooperative existence shall commence is upon commencement of
10 corporate existence of the cooperative association as provided
11 in s. 607.0203. The cooperative documents must be recorded in
12 the county in which the cooperative is located before property
13 may be conveyed or transferred to the cooperative. All
14 persons who have any record interest in any mortgage
15 encumbering the interest in the land being submitted to
16 cooperative ownership must either join in the execution of the
17 cooperative documents or execute, with the requirements for
18 deed, and record, a consent to the cooperative documents or an
19 agreement subordinating their mortgage interest to the
20 cooperative documents. Upon creation of a cooperative, the
21 developer or association shall file the recording information
22 with the division within 30 working days on a form prescribed
23 by the division.

24 Section 10. Subsection (10) is added to section
25 719.104, Florida Statutes, to read:

26 719.104 Cooperatives; access to units; records;
27 financial reports; assessments; purchase of leases.--

28 (10) NOTIFICATION OF DIVISION.--When the board of
29 directors intends to dissolve or merge the cooperative
30 association, the board shall so notify the division before
31

1 taking any action to dissolve or merge the cooperative
2 association.

3 Section 11. Paragraphs (b) and (c) of subsection (1)
4 of section 719.106, Florida Statutes, are amended to read:

5 719.106 Bylaws; cooperative ownership.--

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

9 (b) Quorum; voting requirements; proxies.--

10 1. Unless otherwise provided in the bylaws, the
11 percentage of voting interests required to constitute a quorum
12 at a meeting of the members shall be a majority of voting
13 interests, and decisions shall be made by owners of a majority
14 of the voting interests. Unless otherwise provided in this
15 chapter, or in the articles of incorporation, bylaws, or other
16 cooperative documents, and except as provided in subparagraph
17 (d)1., decisions shall be made by owners of a majority of the
18 voting interests represented at a meeting at which a quorum is
19 present.

20 2. Except as specifically otherwise provided herein,
21 after January 1, 1992, unit owners may not vote by general
22 proxy, but may vote by limited proxies substantially
23 conforming to a limited proxy form adopted by the division.
24 Limited proxies and general proxies may be used to establish a
25 quorum. Limited proxies shall be used for votes taken to
26 waive or reduce reserves in accordance with subparagraph
27 (j)2., for votes taken to amend the articles of incorporation
28 or bylaws pursuant to this section, and for any other matter
29 for which this chapter requires or permits a vote of the unit
30 owners. Except as provided in paragraph (d), after January 1,
31 1992, no proxy, limited or general, shall be used in the

1 election of board members. General proxies may be used for
2 other matters for which limited proxies are not required, and
3 may also be used in voting for nonsubstantive changes to items
4 for which a limited proxy is required and given.

5 Notwithstanding the provisions of this section, unit owners
6 may vote in person at unit owner meetings. Nothing contained
7 herein shall limit the use of general proxies or require the
8 use of limited proxies or require the use of limited proxies
9 for any agenda item or election at any meeting of a timeshare
10 cooperative.

11 3. Any proxy given shall be effective only for the
12 specific meeting for which originally given and any lawfully
13 adjourned meetings thereof. In no event shall any proxy be
14 valid for a period longer than 90 days after the date of the
15 first meeting for which it was given. Every proxy shall be
16 revocable at any time at the pleasure of the unit owner
17 executing it.

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

24 5. When some or all of the board or committee members
25 meet by telephone conference, those board or committee members
26 attending by telephone conference may be counted toward
27 obtaining a quorum and may vote by telephone. A telephone
28 speaker shall be utilized so that the conversation of those
29 board or committee members attending by telephone may be heard
30 by the board or committee members attending in person, as well
31 as by unit owners present at a meeting.

1 (c) Board of administration meetings.--Meetings of the
2 board of administration at which a quorum of the members is
3 present shall be open to all unit owners. Any unit owner may
4 tape record or videotape meetings of the board of
5 administration. The right to attend such meetings includes
6 the right to speak at such meetings with reference to all
7 designated agenda items. The division shall adopt reasonable
8 rules governing the tape recording and videotaping of the
9 meeting. The association may adopt reasonable written rules
10 governing the frequency, duration, and manner of unit owner
11 statements. Adequate notice of all meetings shall be posted in
12 a conspicuous place upon the cooperative property at least 48
13 continuous hours preceding the meeting, except in an
14 emergency. Any item not included on the notice may be taken
15 up on an emergency basis by at least a majority plus one of
16 the members of the board. Such emergency action shall be
17 noticed and ratified at the next regular meeting of the board.
18 However, written notice of any meeting at which nonemergency
19 special assessments, or at which amendment to rules regarding
20 unit use, will be considered shall be mailed or delivered to
21 the unit owners and posted conspicuously on the cooperative
22 property not less than 14 days prior to the meeting. Evidence
23 of compliance with this 14-day notice shall be made by an
24 affidavit executed by the person providing the notice and
25 filed among the official records of the association. Upon
26 notice to the unit owners, the board shall by duly adopted
27 rule designate a specific location on the cooperative property
28 upon which all notices of board meetings shall be posted.
29 Notice of any meeting in which regular assessments against
30 unit owners are to be considered for any reason shall
31 specifically contain a statement that assessments will be

1 considered and the nature of any such assessments. Meetings of
2 a committee to take final action on behalf of the board or to
3 make recommendations to the board regarding the association
4 budget are subject to the provisions of this paragraph.
5 Meetings of a committee that does not take final action on
6 behalf of the board or make recommendations to the board
7 regarding the association budget are subject to the provisions
8 of this section, unless those meetings are exempted from this
9 section by the bylaws of the association. Notwithstanding any
10 other law to the contrary, the requirement that board meetings
11 and committee meetings be open to the unit owners is
12 inapplicable to meetings between the board or a committee and
13 the association's attorney, with respect to proposed or
14 pending litigation, when the meeting is held for the purpose
15 of seeking or rendering legal advice.

16 Section 12. Subsection (6) is added to section
17 719.301, Florida Statutes, to read:

18 719.301 Transfer of association control.--

19 (6) The division may adopt rules administering the
20 provisions of this section.

21 Section 13. Subsection (7) is added to section
22 719.403, Florida Statutes, to read:

23 719.403 Phase cooperatives.--

24 (7) Upon recording the cooperative documents or
25 amendments adding phases pursuant to this section, the
26 developer or association shall file the recording information
27 with the division within 30 working days on a form prescribed
28 by the division.

29 Section 14. Subsection (1) of section 719.502, Florida
30 Statutes, is amended to read:

31 719.502 Filing prior to sale or lease.--

1 (1)(a) A developer of a residential cooperative shall
2 file with the division one copy of each of the documents and
3 items required to be furnished to a buyer or lessee by ss.
4 719.503 and 719.504, if applicable. Until the developer has
5 so filed, a contract for sale or lease of a unit for more than
6 5 years shall be voidable by the purchaser or lessee prior to
7 the closing of his or her purchase or lease of a unit. A
8 developer shall not close on any contract for sale or contract
9 for a lease period of more than 5 years until the developer
10 prepares and files with the division documents complying with
11 the requirements of this chapter and the rules promulgated by
12 the division and until the division notifies the developer
13 that the filing is proper. A developer shall not close on any
14 contract for sale or contract for a lease period of more than
15 5 years, as further provided in s. 719.503(1)(b), until the
16 developer prepares and delivers all documents required by s.
17 719.503(1)(b) to the prospective buyer.

18 (b) The division may by rule develop filing, review,
19 and examination requirements and the relevant timetables
20 necessary to ensure compliance with the notice and disclosure
21 requirements of this section.

22 Section 15. Paragraph (b) of subsection (1) of section
23 719.503, Florida Statutes, is amended to read:

24 719.503 Disclosure prior to sale.--

25 (1) DEVELOPER DISCLOSURE.--

26 (b) Copies of documents to be furnished to prospective
27 buyer or lessee.--Until such time as the developer has
28 furnished the documents listed below to a person who has
29 entered into a contract to purchase a unit or lease it for
30 more than 5 years, the contract may be voided by that person,
31 entitling the person to a refund of any deposit together with

1 interest thereon as provided in s. 719.202. The contract may
2 be terminated by written notice from the proposed buyer or
3 lessee delivered to the developer within 15 days after the
4 buyer or lessee receives all of the documents required by this
5 section. The developer shall not close for 15 days following
6 the execution of the agreement and delivery of the documents
7 to the buyer as evidenced by a receipt for documents signed by
8 the buyer unless the buyer is informed in the 15-day
9 voidability period and agrees to close prior to the expiration
10 of the 15 days. The developer shall retain in his or her
11 records a separate signed agreement as proof of the buyer's
12 agreement to close prior to the expiration of said voidability
13 period. Said proof shall be retained for a period of 5 years
14 after the date of the closing transaction.The documents to be
15 delivered to the prospective buyer are the prospectus or
16 disclosure statement with all exhibits, if the development is
17 subject to the provisions of s. 719.504, or, if not, then
18 copies of the following which are applicable:
19 1. The question and answer sheet described in s.
20 719.504, and cooperative documents, or the proposed
21 cooperative documents if the documents have not been recorded,
22 which shall include the certificate of a surveyor
23 approximately representing the locations required by s.
24 719.104.
25 2. The documents creating the association.
26 3. The bylaws.
27 4. The ground lease or other underlying lease of the
28 cooperative.
29 5. The management contract, maintenance contract, and
30 other contracts for management of the association and
31 operation of the cooperative and facilities used by the unit

1 owners having a service term in excess of 1 year, and any
2 management contracts that are renewable.

3 6. The estimated operating budget for the cooperative
4 and a schedule of expenses for each type of unit, including
5 fees assessed to a shareholder who has exclusive use of
6 limited common areas, where such costs are shared only by
7 those entitled to use such limited common areas.

8 7. The lease of recreational and other facilities that
9 will be used only by unit owners of the subject cooperative.

10 8. The lease of recreational and other common areas
11 that will be used by unit owners in common with unit owners of
12 other cooperatives.

13 9. The form of unit lease if the offer is of a
14 leasehold.

15 10. Any declaration of servitude of properties serving
16 the cooperative but not owned by unit owners or leased to them
17 or the association.

18 11. If the development is to be built in phases or if
19 the association is to manage more than one cooperative, a
20 description of the plan of phase development or the
21 arrangements for the association to manage two or more
22 cooperatives.

23 12. If the cooperative is a conversion of existing
24 improvements, the statements and disclosure required by s.
25 719.616.

26 13. The form of agreement for sale or lease of units.

27 14. A copy of the floor plan of the unit and the plot
28 plan showing the location of the residential buildings and the
29 recreation and other common areas.

30
31

1 15. A copy of all covenants and restrictions which
2 will affect the use of the property and which are not
3 contained in the foregoing.

4 16. If the developer is required by state or local
5 authorities to obtain acceptance or approval of any dock or
6 marina facilities intended to serve the cooperative, a copy of
7 any such acceptance or approval acquired by the time of filing
8 with the division pursuant to s. 719.502(1) or a statement
9 that such acceptance or approval has not been acquired or
10 received.

11 17. Evidence demonstrating that the developer has an
12 ownership, leasehold, or contractual interest in the land upon
13 which the cooperative is to be developed.

14 Section 16. Section 719.621, Florida Statutes, is
15 created to read:

16 719.621 Rulemaking authority.--The division may adopt
17 rules to administer and ensure compliance with a developer's
18 obligations with respect to cooperative conversions concerning
19 the filing and noticing of intended conversions, rental
20 agreement extensions, rights of first refusal, and disclosures
21 and post-purchase protections.

22 Section 17. Subsection (28) of section 721.05, Florida
23 Statutes, is amended to read:

24 721.05 Definitions.--As used in this chapter, the
25 term:

26 (28) "Timeshare estate" means a right to occupy a
27 timeshare unit, coupled with a freehold estate or an estate
28 for years with a future interest in a timeshare property or a
29 specified portion thereof. The term shall also mean an
30 interest in a condominium unit pursuant to s. 718.103 ~~s.~~
31 ~~718.103(22)~~.

1 Section 18. Subsection (1) of section 721.97, Florida
2 Statutes, as created by CS for CS for SB 626 (1998) is amended
3 to read:

4 (1) The Governor may appoint commissioners of deeds to
5 take acknowledgments, proofs of execution, or oaths in any
6 foreign country. The term of office is 4 years. Commissioners
7 of deeds shall have authority to take acknowledgments, proofs
8 of execution, and oaths in connection with the execution of
9 any deed, mortgage, deed of trust, contract, power of
10 attorney, or any other writing to be used or recorded in
11 connection with a timeshare estate, timeshare license, any
12 property subject to a timeshare plan, or the operation of a
13 timeshare plan located within this state; provided such
14 instrument or writing is executed outside the United States.
15 Such acknowledgments, proofs of execution, and oaths must be
16 taken or made in the manner directed by the laws of this
17 state, including but not limited to s. 117.05(4), (5)(a) and
18 (6), Florida Statutes (1997) and certified by a commissioner
19 of deeds. The certification must be endorsed on or annexed to
20 the instrument or writing aforesaid and has the same effect as
21 if made or taken by a notary public licensed in this state.

22 Section 19. The amendment to section 721.97(1),
23 Florida Statutes, made by section 18 of this act shall take
24 effect only if CS for HB 1125 (1998) becomes law, and shall
25 operate retroactively to the effective date of CS for CS for
26 SB 626 (1998).

27 Section 20. This act shall take effect upon becoming a
28 law.