

By Representative Livingston

1 A bill to be entitled
2 An act relating to condominiums; amending s.
3 718.103, F.S.; redefining the term
4 "association" and defining the terms "master
5 association," "master declaration," and
6 "multicondominium association"; amending s.
7 718.111, F.S.; revising language with respect
8 to title to property, purchase of leases,
9 easements, insurance, rules, and commingling in
10 regard to the association to include reference
11 to master declarations, declarations of
12 condominium, articles of incorporation, and
13 bylaws; providing that a certain provision on
14 insurance does not apply to master
15 associations, which must meet other described
16 requirements for insurance; exempting master
17 associations from described requirements with
18 respect to commingling; providing that
19 commingling requirements do not preclude
20 prudent investment of association funds;
21 amending s. 718.112, F.S.; revising language
22 with respect to bylaws; including reference to
23 multicondominium associations; providing for
24 separate quorums with respect to master
25 associations and multicondominium associations;
26 exempting master associations from certain
27 voting requirements; revising language with
28 respect to unit owner meetings; exempting
29 master associations from certain unit owner
30 meeting requirements; providing a procedure for
31 the filing of certain vacancies on the board of

1 administration; exempting master associations
2 from certain budget meeting requirements and
3 annual budget requirements; revising language
4 with respect to assessments and recall of board
5 members; amending s. 718.113, F.S.; revising
6 language with respect to common elements and
7 hurricane shutter requirements; exempting
8 master associations from hurricane shutter
9 requirements; amending s. 718.114, F.S.;
10 revising language with respect to association
11 powers to conform to the act; amending s.
12 718.115, F.S.; revising language with respect
13 to telecommunications services and master
14 antenna television systems or duly franchised
15 cable television service; amending s. 721.05,
16 F.S.; conforming a cross reference; providing
17 an effective date.

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

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21 Section 1. Subsection (2) of section 718.103, Florida
22 Statutes, is amended, subsections (18) through (27) are
23 renumbered as subsections (21) through (30), respectively, and
24 new subsections (18), (19), and (20) are added to said
25 section, to read:

26 718.103 Definitions.--As used in this chapter, the
27 term:

28 (2) "Association" means, in addition to those entities
29 responsible for the operation of common elements owned in
30 undivided shares by unit owners, and association property, any
31 entity which owns, operates, or maintains other real property

1 in which condominium unit owners have use rights, where voting
2 ~~unit owner~~ membership in the entity is composed exclusively of
3 condominium unit owners or their elected or appointed
4 representatives, and where membership in the entity is a
5 required condition of unit ownership.

6 (18) "Master association" means any association that
7 is comprised of other associations, as defined herein, or any
8 association comprised exclusively of voting members who are
9 also members of another association, such as a governing
10 subassociation. Except where otherwise provided, all
11 provisions of this chapter applying to associations shall
12 equally apply to master associations.

13 (19) "Master declaration" means a declaration of
14 restrictions, servitudes, or deed restrictions that governs
15 rights and responsibilities regarding properties operated by a
16 master association or a multicondominium association, and
17 which are not separately subjected to a declaration of
18 condominium. A master declaration is not required in order for
19 a valid master association or multicondominium association to
20 exist.

21 (20) "Multicondominium association" means an
22 association as defined in subsection (2) which operates more
23 than one condominium.

24 Section 2. Paragraph (a) of subsection (7),
25 subsections (8) and (10), paragraph (b) of subsection (11),
26 and subsections (14) and (15) of section 718.111, Florida
27 Statutes, are amended to read:

28 718.111 The association.--

29 (7) TITLE TO PROPERTY.--

30 (a) The association has the power to acquire title to
31 property or otherwise hold, convey, lease, and mortgage

1 association property for the use and benefit of its members.
2 The power to acquire personal property shall be exercised by
3 the board of administration. Except as otherwise permitted in
4 subsections (8) and (9) and in s. 718.114, no association may
5 acquire, convey, lease, or mortgage association real property
6 except in the manner provided in the master declaration,
7 declaration of condominium, articles of incorporation, or
8 bylaws, and if the master declaration, declaration of
9 condominium, articles of incorporation, or bylaws ~~does~~ not
10 specify the procedure, then approval of 75 percent of the
11 total voting interests shall be required.

12 (8) PURCHASE OF LEASES.--~~An~~ The association has the
13 power to purchase any land lease or recreation lease upon the
14 approval of such voting interests ~~interest~~ as are ~~is~~ required
15 by the master declaration, declaration of condominium,
16 articles of incorporation, or bylaws. If the master
17 declaration, declaration of condominium, articles of
18 incorporation, or bylaws ~~make~~ makes no provision for
19 acquisition of the land lease or recreation lease, the vote
20 required to permit the acquisition shall be that required to
21 amend the master declaration, declaration of condominium,
22 articles of incorporation, or bylaws ~~to permit the~~
23 acquisition.

24 (10) EASEMENTS.--Unless prohibited by the master
25 declaration, declaration of condominium, articles of
26 incorporation, or bylaws, the board of administration has the
27 authority, without the joinder of any unit owner, to grant,
28 modify, or move any easement if the easement constitutes part
29 of or crosses the common elements or association property.
30 This subsection does not authorize the board of administration
31 to modify, move, or vacate any easement created in whole or in

1 part for the use or benefit of anyone other than the unit
2 owners, or crossing the property of anyone other than the unit
3 owners, without the consent or approval of those other persons
4 having the use or benefit of the easement, as required by law
5 or by the instrument creating the easement. Nothing in this
6 subsection affects the minimum requirements of s.
7 718.104(4)(m) or the powers enumerated in subsection (3).

8 (11) INSURANCE.--

9 (b) Every hazard policy which is issued to protect a
10 condominium building shall provide that the word "building"
11 wherever used in the policy include, but not necessarily be
12 limited to, fixtures, installations, or additions comprising
13 that part of the building within the unfinished interior
14 surfaces of the perimeter walls, floors, and ceilings of the
15 individual units initially installed, or replacements thereof
16 of like kind or quality, in accordance with the original plans
17 and specifications, or as they existed at the time the unit
18 was initially conveyed if the original plans and
19 specifications are not available. However, unless prior to
20 October 1, 1986, the association is required by the
21 declaration to provide coverage therefor, the word "building"
22 does not include unit floor coverings, wall coverings, or
23 ceiling coverings, and, as to contracts entered into after
24 July 1, 1992, does not include the following equipment if it
25 is located within a unit and the unit owner is required to
26 repair or replace such equipment: electrical fixtures,
27 appliances, air conditioner or heating equipment, water
28 heaters, or built-in cabinets. With respect to the coverage
29 provided for by this paragraph, the unit owners shall be
30 considered additional insureds under the policy. This

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1 paragraph does not apply to master associations, which,
2 however, must comply with paragraph (a).

3 (14) The division shall adopt rules which may require
4 that the association deliver to the unit owners, in lieu of
5 the financial report required by subsection (13), a complete
6 set of financial statements for the preceding fiscal year.
7 The financial statements shall be delivered within 90 days
8 following the end of the previous fiscal year or annually on
9 such other date as provided by the bylaws. The rules of the
10 division may require that the financial statements be
11 compiled, reviewed, or audited, and the rules shall take into
12 consideration the criteria set forth in s. 718.501(1)(j). For
13 multicondominium associations, the economic criteria relating
14 to the level of year-end financial reporting requirements
15 contained in the rules of the division shall be applied on a
16 condominium-by-condominium basis.The requirement to have the
17 financial statements compiled, reviewed, or audited does not
18 apply to associations when a majority of the voting interests
19 of the association present at a duly called meeting of the
20 association have determined for a fiscal year to waive this
21 requirement. In an association in which turnover of control
22 by the developer has not occurred, the developer may vote to
23 waive the audit requirement for the first 2 years of the
24 operation of the association, after which time waiver of an
25 applicable audit requirement shall be by a majority of voting
26 interests other than the developer. The meeting shall be held
27 prior to the end of the fiscal year, and the waiver shall be
28 effective for only 1 fiscal year. This subsection does not
29 apply to a condominium which consists of 50 or fewer units.

30 (15) ~~COMMINGLING~~.--All funds shall be maintained
31 separately in the association's name. Reserve and operating

1 funds of the association must be accounted for separately and
2 may ~~shall not~~ be commingled if the accounting records of the
3 association readily identify the reserves and their available
4 funding. Nothing contained herein shall prohibit prudent
5 investment of association funds, even if combined with
6 operating and other reserve funds of the same association. No
7 manager or business entity required to be licensed or
8 registered under s. 468.432, and no agent, employee, officer,
9 or director of a condominium association shall commingle any
10 association funds with his or her funds or with the funds of
11 any other condominium association or community association as
12 defined in s. 468.431. This subsection shall not apply to
13 master associations in regard to commingling of operating and
14 reserve funds, which shall be governed by the master
15 declaration, the articles of incorporation, or the bylaws of
16 the master association regarding investment of association
17 funds.

18 Section 3. Paragraph (a) of subsection (1) and
19 paragraphs (a), (b), (d), (e), (f), (g), and (k) of subsection
20 (2) of section 718.112, Florida Statutes, are amended to read:

21 718.112 Bylaws.--

22 (1) GENERALLY.--

23 (a) The operation of the association shall be governed
24 by the articles of incorporation if the association is
25 incorporated, and the bylaws of the association, which shall
26 be included as exhibits to the recorded declaration. In a
27 multicondominium association ~~if one association operates more~~
28 ~~than one condominium,~~ it shall not be necessary to rerecord
29 the same articles of incorporation and bylaws as exhibits to
30 each declaration after the first, provided that in each case
31 where the articles and bylaws are not so recorded, the

1 declaration expressly incorporates them by reference as
2 exhibits and identifies the book and page of the public
3 records where the first declaration to which they were
4 attached is recorded.

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

8 (a) Administration.--

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

1 of incorporation, or bylaws, the members of the board shall
2 serve without compensation.

3 2. When a unit owner files a written inquiry by
4 certified mail with the board of administration, the board
5 shall respond in writing to the unit owner within 30 days of
6 receipt of the inquiry. The board's response shall either
7 give a substantive response to the inquirer, notify the
8 inquirer that a legal opinion has been requested, or notify
9 the inquirer that advice has been requested from the division.
10 If the board requests advice from the division, the board
11 shall, within 10 days of its receipt of the advice, provide in
12 writing a substantive response to the inquirer. If a legal
13 opinion is requested, the board shall, within 60 days after
14 the receipt of the inquiry, provide in writing a substantive
15 response to the inquiry. The failure to provide a substantive
16 response to the inquiry as provided herein precludes the board
17 from recovering attorney's fees and costs in any subsequent
18 litigation, administrative proceeding, or arbitration arising
19 out of the inquiry. The association may through its board of
20 administration adopt reasonable rules and regulations
21 regarding the frequency and manner of responding to unit owner
22 inquiries, one of which may be that the association is only
23 obligated to respond to one written inquiry per unit in any
24 given 30-day period. In such a case, any additional inquiry
25 or inquiries must be responded to in the subsequent 30-day
26 period, or periods, as applicable.

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

28 1. Unless a lower number is provided in the master
29 declaration, declaration of condominium, articles of
30 incorporation, or bylaws, the percentage of voting interests
31 required to constitute a quorum at a meeting of the members

1 shall be a majority of the voting interests. In
2 multicondominium associations, and in master associations,
3 separate quorums may be established when class voting is
4 required or permitted by law, the master declaration,
5 declaration of condominium, articles of incorporation, or
6 bylaws. Unless otherwise provided in this chapter or in the
7 master declaration, declaration of condominium, articles of
8 incorporation, or bylaws, and except as provided in
9 subparagraph (d)3., decisions shall be made by owners of a
10 majority of the voting interests represented at a meeting at
11 which a quorum is present.

12 2. Except as specifically otherwise provided herein,
13 after January 1, 1992, unit owners may not vote by general
14 proxy, but may vote by limited proxies substantially
15 conforming to a limited proxy form adopted by the division.
16 Limited proxies and general proxies may be used to establish a
17 quorum. Limited proxies shall be used for votes taken to
18 waive or reduce reserves in accordance with subparagraph
19 (f)2.; for votes taken to waive financial statement
20 requirements as provided by s. 718.111(14); for votes taken to
21 amend the declaration pursuant to s. 718.110; for votes taken
22 to amend the articles of incorporation or bylaws pursuant to
23 this section; and for any other matter for which this chapter
24 requires or permits a vote of the unit owners. Except as
25 provided in paragraph (d), after January 1, 1992, no proxy,
26 limited or general, shall be used in the election of board
27 members. General proxies may be used for other matters for
28 which limited proxies are not required, and may also be used
29 in voting for nonsubstantive changes to items for which a
30 limited proxy is required and given. Notwithstanding the
31 provisions of this subparagraph, unit owners may vote in

1 person at unit owner meetings. Nothing contained herein shall
2 limit the use of general proxies or require the use of limited
3 proxies for any agenda item or election at any meeting of a
4 timeshare condominium association. This subparagraph shall not
5 apply to master associations, which shall conduct voting and
6 elections pursuant to the master declaration, articles of
7 incorporation, or bylaws for the master association.

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

15 (d) Unit owner meetings.--

16 1. There shall be an annual meeting of the unit
17 owners. Unless the master declaration, declaration of
18 condominium, articles of incorporation, or bylaws provide
19 otherwise, a vacancy on the board of administration caused by
20 the expiration of a director's term shall be filled by
21 electing a new board member, and the election shall be by
22 secret ~~closed~~ ballot; however, if there is only one candidate
23 or less for each open board position, then ~~for election to~~
24 ~~fill the vacancy,~~ no election is required. If there is no
25 provision in the master declaration, declaration of
26 condominium, articles of incorporation, or bylaws for terms of
27 the members of the board of administration, the terms of all
28 members of the board of administration shall expire upon the
29 election of their successors at the annual meeting. Any unit
30 owner desiring to be a candidate for board membership shall
31 comply with subparagraph 3.

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

1 and conduct meetings as set forth in the master declaration,
2 articles of incorporation, or bylaws of the master
3 association.

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

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

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

1 action by written agreement without meetings is expressly
2 allowed by the applicable articles of incorporation, bylaws,
3 master ~~or~~ declaration, or declaration of condominium or any
4 statute which provides for such action.

5 5. Unit owners may waive notice of specific meetings
6 if allowed by the applicable articles of incorporation,
7 bylaws, master ~~or~~ declaration, or declaration of condominium
8 or any statute.

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

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

17 8. Unless otherwise provided in the declaration of
18 condominium, articles of incorporation, or bylaws, any vacancy
19 occurring on the board prior to the expiration of a term may
20 be filled by the affirmative vote of the majority of the
21 remaining directors, even if the remaining directors
22 constitute less than a quorum, or by the sole remaining
23 director. In the alternative, a board may in its discretion
24 hold an election to fill the vacancy, in which case the
25 election procedures must conform to the requirements of
26 subparagraph 3., unless the association has opted out of the
27 statutory election process, in which case the declaration of
28 condominium, articles of incorporation, or bylaws of the
29 association shall control. Unless otherwise provided in the
30 declaration of condominium, articles of incorporation, or
31 bylaws, a board member appointed or elected pursuant to this

1 subparagraph shall fill the vacancy for the unexpired term of
2 the seat being filled. Filling vacancies created by recall
3 shall be governed by paragraph (k) and rules promulgated by
4 the division.

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6 Notwithstanding subparagraphs (b)2. and (d)3., an association
7 may, by the affirmative vote of a majority of the total voting
8 interests, provide for different voting and election
9 procedures in its bylaws, which vote may be by a proxy
10 specifically delineating the different voting and election
11 procedures. The different voting and election procedures may
12 provide for elections to be conducted by limited or general
13 proxy.

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

1 budget. Unless the bylaws require a larger vote, the adoption
2 of the budget requires a vote of not less than a majority vote
3 of all the voting interests. The board of administration may
4 propose a budget to the unit owners at a meeting of members or
5 in writing, and if the budget or proposed budget is approved
6 by the unit owners at the meeting or by a majority of all the
7 voting interests in writing, the budget is adopted. If a
8 meeting of the unit owners has been called and a quorum is not
9 attained or a substitute budget is not adopted by the unit
10 owners, the budget adopted by the board of directors goes into
11 effect as scheduled. In determining whether assessments
12 exceed 115 percent of similar assessments in prior years, any
13 authorized provisions for reasonable reserves for repair or
14 replacement of the condominium property, anticipated expenses
15 by the condominium association which are not anticipated to be
16 incurred on a regular or annual basis, or assessments for
17 betterments to the condominium property must be excluded from
18 the computation. However, as long as the developer is in
19 control of the board of administration, the board may not
20 impose an assessment for any year greater than 115 percent of
21 the prior fiscal or calendar year's assessment without
22 approval of a majority of all the voting interests. This
23 paragraph shall not apply to master associations, which shall
24 adopt and provide notice of proposed budgets as provided in
25 the master declaration, articles of incorporation, or bylaws
26 of the master association.

27 (f) Annual budget.--

28 1. The proposed annual budget of common expenses shall
29 be detailed and shall show the amounts budgeted by accounts
30 and expense classifications, including, if applicable, but not
31 limited to, those expenses listed in s. 718.504(20). In

1 addition, if the association maintains limited common elements
2 with the cost to be shared only by those entitled to use the
3 limited common elements as provided for in s. 718.113(1), the
4 budget or a schedule attached thereto shall show amounts
5 budgeted therefor. If, after turnover of control of the
6 association to the unit owners, any of the expenses listed in
7 s. 718.504(20) are not applicable, they need not be listed.
8 This subparagraph shall not apply to master associations,
9 which shall prepare and adopt proposed budgets in the manner
10 provided in the master declaration, articles of incorporation,
11 or bylaws of the master association.

12 2. In addition to annual operating expenses, the
13 budget shall include reserve accounts for capital expenditures
14 and deferred maintenance. These accounts shall include, but
15 are not limited to, roof replacement, building painting, and
16 pavement resurfacing, regardless of the amount of deferred
17 maintenance expense or replacement cost, and for any other
18 item for which the deferred maintenance expense or replacement
19 cost exceeds \$10,000. Master associations shall establish
20 reserves for any asset or infrastructure component owned or
21 maintained by the master association for which the replacement
22 cost or deferred maintenance expense exceeds \$10,000.The
23 amount to be reserved shall be computed by means of a formula
24 which is based upon estimated remaining useful life and
25 estimated replacement cost or deferred maintenance expense of
26 each reserve item. The association may adjust replacement
27 reserve assessments annually to take into account any changes
28 in estimates or extension of the useful life of a reserve item
29 caused by deferred maintenance. This subsection does not apply
30 to budgets in which the members of an association or, in the
31 case of master associations, their designated voting

1 representatives have, by a majority vote present in person or
2 by proxy and voting at a duly called meeting of the
3 association, determined for a fiscal year to provide no
4 reserves or reserves less adequate than required by this
5 subsection. However, prior to turnover of control of an
6 association by a developer to unit owners other than a
7 developer pursuant to s. 718.301, ~~the developer may vote to~~
8 ~~waive the reserves or reduce the funding of reserves for the~~
9 ~~first 2 years of the operation of the association, after which~~
10 ~~time~~ reserves may only be waived or reduced upon the vote of a
11 majority of all nondeveloper voting interests voting in person
12 or by limited proxy at a duly called meeting of the
13 association. If a meeting of the unit owners has been called
14 to determine to provide no reserves or reserves less adequate
15 than required, and such result is not attained or a quorum is
16 not attained, the reserves as included in the budget shall go
17 into effect.

18 3. Reserve funds and any interest accruing thereon
19 shall remain in the reserve account or accounts, and shall be
20 used only for authorized reserve expenditures unless their use
21 for other purposes is approved in advance by a vote of the
22 majority of the entire voting interests or, in the case of
23 master associations, their designated voting representatives,
24 voting in person or by limited proxy at a duly called meeting
25 of the association. Prior to turnover of control of an
26 association by a developer to unit owners other than the
27 developer pursuant to s. 718.301, the developer-controlled
28 association shall not vote to use reserves for purposes other
29 than that for which they were intended without the approval of
30 a majority of all nondeveloper voting interests, voting in
31

1 person or by limited proxy at a duly called meeting of the
2 association.

3 (g) Assessments.--The manner of collecting from the
4 unit owners their shares of the common expenses shall be
5 stated in the master declaration, declaration of condominium,
6 articles of incorporation, or bylaws. Assessments shall be
7 made against units not less frequently than quarterly in an
8 amount which is not less than that required to provide funds
9 in advance for payment of all of the anticipated current
10 operating expenses and for all of the unpaid operating
11 expenses previously incurred. Master associations may conduct
12 assessments annually. Nothing in this paragraph shall preclude
13 the right of an association to accelerate assessments of an
14 owner delinquent in payment of common expenses, provided such
15 authority is contained in the master declaration, declaration
16 of condominium, articles of incorporation, or bylaws.

17 Accelerated assessments shall be due and payable on the date
18 the claim of lien is filed. Such accelerated assessments shall
19 include the amounts due for the remainder of the budget year
20 in which the claim of lien was filed.

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

1 multicondominium associations and master associations may
2 specify alternative recall procedures.

3 1. If the recall is approved by a majority of all
4 voting interests by a vote at a meeting, the recall will be
5 effective as provided herein. The board shall duly notice and
6 hold a board meeting within 5 full business days of the
7 adjournment of the unit owner meeting to recall one or more
8 board members. At the meeting, the board shall either certify
9 the recall, in which case such member or members shall be
10 recalled effective immediately and shall turn over to the
11 board within 5 full business days any and all records and
12 property of the association in their possession, or shall
13 proceed as set forth in subparagraph 3.

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

28 3. If the board determines not to certify the written
29 agreement to recall a member or members of the board, or does
30 not certify the recall by a vote at a meeting, the board
31 shall, within 5 full business days after the meeting, file

1 with the division a petition for arbitration pursuant to the
2 procedures in s. 718.1255. For the purposes of this section,
3 the unit owners who voted at the meeting or who executed the
4 agreement in writing shall constitute one party under the
5 petition for arbitration. If the arbitrator certifies the
6 recall as to any member or members of the board, the recall
7 will be effective upon mailing of the final order of
8 arbitration to the association. If the association fails to
9 comply with the order of the arbitrator, the division may take
10 action pursuant to s. 718.501. Any member or members so
11 recalled shall deliver to the board any and all records of the
12 association in their possession within 5 full business days of
13 the effective date of the recall.

14 4. If the board fails to duly notice and hold a board
15 meeting within 5 full business days of service of an agreement
16 in writing or within 5 full business days of the adjournment
17 of the unit owner recall meeting, the recall shall be deemed
18 effective and the board members so recalled shall immediately
19 turn over to the board any and all records and property of the
20 association.

21 5. If a vacancy occurs on the board as a result of a
22 recall and less than a majority of the board members are
23 removed, the vacancy may be filled by the affirmative vote of
24 a majority of the remaining directors, notwithstanding any
25 provision to the contrary contained in this subsection. If
26 vacancies occur on the board as a result of a recall and a
27 majority or more of the board members are removed, the
28 vacancies shall be filled in accordance with procedural rules
29 to be adopted by the division, which rules need not be
30 consistent with this subsection. The rules must provide
31 procedures governing the conduct of the recall election as

1 well as the operation of the association during the period
2 after a recall but prior to the recall election.

3 Section 4. Subsections (2) and (5) of section 718.113,
4 Florida Statutes, are amended to read:

5 718.113 Maintenance; limitation upon improvement;
6 display of flag; hurricane shutters.--

7 (2) Except as otherwise provided in this section,
8 there shall be no material alteration or substantial additions
9 to the common elements or to real property which is
10 association property, except in a manner provided in the
11 master declaration, declaration of condominium, articles of
12 incorporation, or bylaws. If the master declaration,
13 declaration of condominium, articles of incorporation, or
14 bylaws do ~~does~~ not specify the procedure for approval of
15 alterations or additions, 75 percent of the total voting
16 interests of the association must approve the alterations or
17 additions.

18 (5) Each board of administration shall adopt hurricane
19 shutter specifications for each building within each
20 condominium operated by the association which shall include
21 color, style, and other factors deemed relevant by the board.
22 This subsection shall not apply to master associations.All
23 specifications adopted by the board shall comply with the
24 applicable building code. Notwithstanding any provision to the
25 contrary in the condominium documents, if approval is required
26 by the documents, a board shall not refuse to approve the
27 installation or replacement of hurricane shutters conforming
28 to the specifications adopted by the board. The board may,
29 subject to the provisions of s. 718.3026, and the approval of
30 a majority of voting interests of the condominium, install
31 hurricane shutters and may maintain, repair, or replace such

1 approved hurricane shutters, whether on or within common
2 elements, limited common elements, units, or association
3 property. However, where laminated glass or window film
4 architecturally designed to function as hurricane protection
5 which complies with the applicable building code has been
6 installed, the board may not install hurricane shutters. The
7 board may operate shutters installed pursuant to this
8 subsection without permission of the unit owners only where
9 such operation is necessary to preserve and protect the
10 condominium property and association property. The
11 installation, replacement, operation, repair, and maintenance
12 of such shutters in accordance with the procedures set forth
13 herein shall not be deemed a material alteration to the common
14 elements or association property within the meaning of this
15 section.

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

18 718.114 Association powers.--An association has the
19 power to enter into agreements, to acquire leaseholds,
20 memberships, and other possessory or use interests in lands or
21 facilities such as country clubs, golf courses, marinas, and
22 other recreational facilities. It has this power whether or
23 not the lands or facilities are contiguous to the lands of the
24 condominium, if they are intended to provide enjoyment,
25 recreation, or other use or benefit to the unit owners. All of
26 these leaseholds, memberships, and other possessory or use
27 interests existing or created at the time of recording the
28 declaration must be stated and fully described in the master
29 declaration, declaration of condominium, articles of
30 incorporation, or bylaws. Subsequent to the recording of the
31 declaration, the association may not acquire or enter into

1 agreements acquiring these leaseholds, memberships, or other
2 possessory or use interests except as authorized by the master
3 declaration, declaration of condominium, articles of
4 incorporation, or bylaws. The master declaration, declaration
5 of condominium, articles of incorporation, or bylaws may
6 provide that the rental, membership fees, operations,
7 replacements, and other expenses are common expenses and may
8 impose covenants and restrictions concerning their use and may
9 contain other provisions not inconsistent with this chapter.
10 A condominium association may conduct bingo games as provided
11 in s. 849.0931.

12 Section 6. Paragraph (b) of subsection (1) of section
13 718.115, Florida Statutes, is amended to read:

14 718.115 Common expenses and common surplus.--

15 (1)

16 (b) If so provided in the declaration, the cost of
17 telecommunications services, a master antenna television
18 system, or a duly franchised cable television service obtained
19 pursuant to a bulk contract shall be deemed a common expense.
20 If the declaration does not provide for the cost of
21 telecommunications services, a master antenna television
22 system, or a duly franchised cable television service obtained
23 pursuant to a bulk contract as a common expense, the board of
24 administration may enter into such contract and the cost of
25 the service shall be an association expense but allocated on a
26 per-unit basis rather than a percentage basis if the
27 declaration provides for other than an equal sharing of common
28 expenses. Any contract entered into pursuant to this section,
29 other than those so provided in the original declaration as
30 recorded, whereby the cost of the service is not equally
31 divided among all unit owners may, by vote of a majority of

1 the voting interests present at the next regular or special
2 meeting of the association, approve to have the cost allocated
3 equally among all units, ~~and if not, such cost shall be~~
4 ~~considered common expense if it is designated as such in a~~
5 ~~written contract between the board of administration and the~~
6 ~~company providing the master television antenna system or the~~
7 ~~cable television service.~~ The contract shall be for a term of
8 not less than 2 years.

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

19 2. Any such contract shall provide, and shall be
20 deemed to provide if not expressly set forth, that any hearing
21 impaired or legally blind unit owner who does not occupy the
22 unit with a nonhearing impaired or sighted person may
23 discontinue the service without incurring disconnect fees,
24 penalties, or subsequent service charges, and as to such
25 units, the owners shall not be required to pay any common
26 expenses charge related to such service. If less than all
27 members of an association share the expenses of cable
28 television, the expense shall be shared equally by all
29 participating unit owners. The association may use the
30 provisions of s. 718.116 to enforce payment of the shares of
31 such costs by the unit owners receiving cable television.

1 Section 7. Subsection (28) of section 721.05, Florida
2 Statutes, is amended to read:

3 721.05 Definitions.--As used in this chapter, the
4 term:

5 (28) "Timeshare estate" means a right to occupy a
6 timeshare unit, coupled with a freehold estate or an estate
7 for years with a future interest in a timeshare property or a
8 specified portion thereof. The term shall also mean an
9 interest in a condominium unit pursuant to s. 718.103(25)~~(22)~~.

10 Section 8. This act shall take effect upon becoming a
11 law.

12 *****

13 HOUSE SUMMARY

14 Revises provisions of law relating to the regulation of
15 condominiums to:

16 1. Define the term "master association" to mean any
17 association that is comprised of other associations, or
18 any association comprised exclusively of voting members
19 who are also members of other associations, such as
20 governing subassociations; to define the term
21 "multicondominium" as a described association which
22 operates more than one condominium; and to define the
23 term "master declaration" to mean declaration of
24 restrictions, servitudes, or deed restrictions that
25 governs the rights and responsibilities regarding
26 properties operated by a master association or a
27 multicondominium association and which are not separately
28 subjected to a declaration of condominium.

29 2. Provide for reference to master associations and
30 multicondominiums in provisions relating to the
31 association, bylaws, maintenance, and association powers.

See bill for details.