

By Senator Dudley

25-699-98

1 A bill to be entitled
2 An act relating to condominiums; amending s.
3 718.103, F.S.; defining the terms "master
4 association", "master declaration", and
5 "multi-condominium association"; amending s.
6 718.111, F.S.; providing methods for the
7 transfer of title to real property; providing
8 methods for the purchase of a land lease or
9 recreation lease; providing methods for the
10 granting, modification, or movement of an
11 easement; providing that the definition of the
12 term "building" for purposes of hazard
13 insurance is not applicable to master
14 associations; providing for financial reporting
15 requirements; providing for the commingling of
16 reserve and operating funds; amending s.
17 718.112, F.S.; providing that the
18 administration, quorum and voting requirements,
19 unit owner meetings, budget meetings, annual
20 budgets, assessments, and recall of board
21 members of an association may be governed by a
22 master declaration, declaration of condominium,
23 articles of incorporation, or bylaws of the
24 association; providing special conditions for
25 master associations; authorizing master
26 associations to collect assessments annually;
27 amending s. 718.113, F.S.; authorizing
28 improvements to association property by master
29 declaration, declaration of condominium,
30 articles of incorporation, or bylaws; exempting
31 master associations from hurricane shutter

1 specifications; amending s. 718.114, F.S.;
2 providing for the exercise of association
3 powers through a master declaration,
4 declaration of condominium, articles of
5 incorporation, or bylaws; amending s. 718.115,
6 F.S.; providing that telecommunication services
7 may be considered a common expense; amending s.
8 718.116, F.S.; revising assessments; amending
9 s. 718.501, F.S.; providing procedures for the
10 investigation of violations and the imposition
11 of fines by the Division of Florida Land Sales,
12 Condominiums, and Mobile Homes of the
13 Department of Business and Professional
14 Regulation; amending s. 721.05, F.S.;
15 conforming a statutory cross-reference;
16 providing an effective date.

17

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

19

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

25 718.103 Definitions.--As used in this chapter, the
26 term:

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

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

5 (18) "Master association" means any association that
6 is comprised of other associations as defined in subsection
7 (2) or any association comprised exclusively of voting members
8 who are also members of another association, such as a
9 governing sub-association. Except when otherwise provided, all
10 provisions of this chapter applying to associations equally
11 apply to master associations.

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

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

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

26 718.111 The association.--

27 (7) TITLE TO PROPERTY.--

28 (a) The association has the power to acquire title to
29 property or otherwise hold, convey, lease, and mortgage
30 association property for the use and benefit of its members.
31 The power to acquire personal property shall be exercised by

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

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

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

1 owners, without the consent or approval of those other persons
2 having the use or benefit of the easement, as required by law
3 or by the instrument creating the easement. Nothing in this
4 subsection affects the minimum requirements of s.

5 718.104(4)(m) or the powers enumerated in subsection (3).

6 (11) INSURANCE.--

7 (a) The association shall use its best efforts to
8 obtain and maintain adequate insurance to protect the
9 association, the association property, the common elements,
10 and the condominium property required to be insured by the
11 association pursuant to paragraph (b). The association may
12 also obtain and maintain liability insurance for directors and
13 officers, insurance for the benefit of association employees,
14 and flood insurance for common elements, association property,
15 and units. An association or group of associations may
16 self-insure against claims against the association, the
17 association property, and the condominium property required to
18 be insured by an association, upon compliance with ss.

19 624.460-624.488. A copy of each policy of insurance in effect
20 shall be made available for inspection by unit owners at
21 reasonable times.

22 (b) Every hazard policy which is issued to protect a
23 condominium building shall provide that the word "building"
24 wherever used in the policy include, but not necessarily be
25 limited to, fixtures, installations, or additions comprising
26 that part of the building within the unfinished interior
27 surfaces of the perimeter walls, floors, and ceilings of the
28 individual units initially installed, or replacements thereof
29 of like kind or quality, in accordance with the original plans
30 and specifications, or as they existed at the time the unit
31 was initially conveyed if the original plans and

1 specifications are not available. However, unless prior to
2 October 1, 1986, the association is required by the
3 declaration to provide coverage therefor, the word "building"
4 does not include unit floor coverings, wall coverings, or
5 ceiling coverings, and, as to contracts entered into after
6 July 1, 1992, does not include the following equipment if it
7 is located within a unit and the unit owner is required to
8 repair or replace such equipment: electrical fixtures,
9 appliances, air conditioner or heating equipment, water
10 heaters, or built-in cabinets. With respect to the coverage
11 provided for by this paragraph, the unit owners shall be
12 considered additional insureds under the policy. This
13 paragraph does not apply to master associations; however,
14 master associations must comply with paragraph (a).

15 (c) Every insurance policy issued to an individual
16 unit owner shall provide that the coverage afforded by such
17 policy is excess over the amount recoverable under any other
18 policy covering the same property without rights of
19 subrogation against the association.

20 (14) The division shall adopt rules which may require
21 that the association deliver to the unit owners, in lieu of
22 the financial report required by subsection (13), a complete
23 set of financial statements for the preceding fiscal year.
24 The financial statements shall be delivered within 90 days
25 following the end of the previous fiscal year or annually on
26 such other date as provided by the bylaws. The rules of the
27 division may require that the financial statements be
28 compiled, reviewed, or audited, and the rules shall take into
29 consideration the criteria set forth in s. 718.501(1)(j). For
30 multi-condominium associations, the economic criteria relating
31 to the level of year-end financial reporting requirements

1 contained in the division's rule must be applied on a
2 condominium-by-condominium basis.The requirement to have the
3 financial statements compiled, reviewed, or audited does not
4 apply to associations when a majority of the voting interests
5 of the association present at a duly called meeting of the
6 association have determined for a fiscal year to waive this
7 requirement. In an association in which turnover of control
8 by the developer has not occurred, the developer may vote to
9 waive the audit requirement for the first 2 years of the
10 operation of the association, after which time waiver of an
11 applicable audit requirement shall be by a majority of voting
12 interests other than the developer. The meeting shall be held
13 prior to the end of the fiscal year, and the waiver shall be
14 effective for only 1 fiscal year. This subsection does not
15 apply to a condominium which consists of 50 or fewer units.

16 (15) COMMINGLING.--All funds shall be maintained
17 separately in the association's name. Reserve and operating
18 funds of the association must be accounted for separately, but
19 may shall not be commingled if the accounting records of the
20 association readily identify the reserves and their available
21 funding. This subsection is not meant to prohibit prudent
22 investment of association funds even if combined with
23 operating or other reserve funds of the same association. No
24 manager or business entity required to be licensed or
25 registered under s. 468.432, and no agent, employee, officer,
26 or director of a condominium association shall commingle any
27 association funds with his or her funds or with the funds of
28 any other condominium association or community association as
29 defined in s. 468.431. This subsection does not apply to
30 master associations in regard to commingling of operating and
31 reserve funds, which shall be governed by the master

1 declaration, the articles of incorporation, or the bylaws of
2 the master association regarding investment of association
3 funds.

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

7 718.112 Bylaws.--

8 (1) GENERALLY.--

9 (a) The operation of the association shall be governed
10 by the articles of incorporation if the association is
11 incorporated, and the bylaws of the association, which shall
12 be included as exhibits to the recorded declaration. In a
13 multi-condominium association ~~if one association operates more~~
14 ~~than one condominium~~, it shall not be necessary to rerecord
15 the same articles of incorporation and bylaws as exhibits to
16 each declaration after the first, provided that in each case
17 where the articles and bylaws are not so recorded, the
18 declaration expressly incorporates them by reference as
19 exhibits and identifies the book and page of the public
20 records where the first declaration to which they were
21 attached is recorded.

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

25 (a) Administration.--

26 1. The form of administration of the association shall
27 be described indicating the title of the officers and board of
28 administration and specifying the powers, duties, manner of
29 selection and removal, and compensation, if any, of officers
30 and boards. In the absence of such a provision, the board of
31 administration shall be composed of five members, except in

1 the case of a condominium which has five or fewer units, in
2 which case in a not-for-profit corporation the board shall
3 consist of not fewer than three members. In the absence of
4 provisions to the contrary in the bylaws, the board of
5 administration shall have a president, a secretary, and a
6 treasurer, who shall perform the duties of such officers
7 customarily performed by officers of corporations. Unless
8 prohibited in the bylaws, the board of administration may
9 appoint other officers and grant them the duties it deems
10 appropriate. Unless otherwise provided in the master
11 declaration, declaration of condominium, articles of
12 incorporation, or bylaws, the officers shall serve without
13 compensation and at the pleasure of the board of
14 administration. Unless otherwise provided in the master
15 declaration, declaration of condominium, articles of
16 incorporation, or bylaws, the members of the board shall serve
17 without compensation.

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

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

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

12 1. Unless a lower number is provided in the master
13 declaration, declaration of condominium, articles of
14 incorporation, or bylaws, the percentage of voting interests
15 required to constitute a quo rum at a meeting of the members
16 shall be a majority of the voting interests. In
17 multi-condominium associations and in master associations,
18 separate quorums may be established in which class voting is
19 required or permitted by law, the master declaration,
20 declaration of condominium, articles of incorporation, or
21 bylaws.Unless otherwise provided in this chapter or in the
22 master declaration, declaration of condominium,articles of
23 incorporation, or bylaws, and except as provided in
24 subparagraph (d)3., decisions shall be made by owners of a
25 majority of the voting interests represented at a meeting at
26 which a quorum is present.

27 2. Except as specifically otherwise provided herein,
28 after January 1, 1992, unit owners may not vote by general
29 proxy, but may vote by limited proxies substantially
30 conforming to a limited proxy form adopted by the division.
31 Limited proxies and general proxies may be used to establish a

1 quorum. Limited proxies shall be used for votes taken to
2 waive or reduce reserves in accordance with subparagraph
3 (f)2.; for votes taken to waive financial statement
4 requirements as provided by s. 718.111(14); for votes taken to
5 amend the declaration pursuant to s. 718.110; for votes taken
6 to amend the articles of incorporation or bylaws pursuant to
7 this section; and for any other matter for which this chapter
8 requires or permits a vote of the unit owners. Except as
9 provided in paragraph (d), after January 1, 1992, no proxy,
10 limited or general, shall be used in the election of board
11 members. General proxies may be used for other matters for
12 which limited proxies are not required, and may also be used
13 in voting for nonsubstantive changes to items for which a
14 limited proxy is required and given. Notwithstanding the
15 provisions of this subparagraph, unit owners may vote in
16 person at unit owner meetings. Nothing contained herein shall
17 limit the use of general proxies or require the use of limited
18 proxies for any agenda item or election at any meeting of a
19 timeshare condominium association. This subparagraph does not
20 apply to master associations, which must conduct voting and
21 elections pursuant to the master declaration, the articles of
22 incorporation, or bylaws for the master association.

23 3. Any proxy given shall be effective only for the
24 specific meeting for which originally given and any lawfully
25 adjourned meetings thereof. In no event shall any proxy be
26 valid for a period longer than 90 days after the date of the
27 first meeting for which it was given. Every proxy is
28 revocable at any time at the pleasure of the unit owner
29 executing it.

30 (d) Unit owner meetings.--

31

1 1. There shall be an annual meeting of the unit
2 owners. Unless the master declaration, declaration of
3 condominium, articles of incorporation, or bylaws provide
4 otherwise, a vacancy on the board of administration caused by
5 the expiration of a director's term shall be filled by
6 electing a new board member, and the election shall be by
7 secret ~~closed~~ ballot; however, if there is only one candidate
8 or less for each open board position, then for election to
9 ~~fill the vacancy,~~ no election is required. If there is no
10 provision in the master declaration, declaration of
11 condominium, articles of incorporation, or bylaws for terms of
12 the members of the board of administration, the terms of all
13 members of the board of administration shall expire upon the
14 election of their successors at the annual meeting. Any unit
15 owner desiring to be a candidate for board membership shall
16 comply with subparagraph 3.

17 2. The declaration of condominium, articles of
18 incorporation, or bylaws shall provide the method of calling
19 meetings of unit owners, including annual meetings. Written
20 notice, which notice must include an agenda, shall be mailed
21 or delivered to each unit owner at least 14 days prior to the
22 annual meeting and shall be posted in a conspicuous place on
23 the condominium property at least 14 continuous days preceding
24 the annual meeting. Upon notice to the unit owners, the board
25 shall by duly adopted rule designate a specific location on
26 the condominium property or association property upon which
27 all notices of unit owner meetings shall be posted; however,
28 if there is no condominium property or association property
29 upon which notices can be posted, this requirement does not
30 apply. Unless a unit owner waives in writing the right to
31 receive notice of the annual meeting by mail, the notice of

1 the annual meeting shall be sent by mail to each unit owner.
2 Where a unit is owned by more than one person, the association
3 shall provide notice, for meetings and all other purposes, to
4 that one address which the developer initially identifies for
5 that purpose and thereafter as one or more of the owners of
6 the unit shall so advise the association in writing, or if no
7 address is given or the owners of the unit do not agree, to
8 the address provided on the deed of record. An officer of the
9 association, or the manager or other person providing notice
10 of the association meeting, shall provide an affidavit or
11 United States Postal Service certificate of mailing, to be
12 included in the official records of the association affirming
13 that the notice was mailed or hand delivered, in accordance
14 with this provision, to each unit owner at the address last
15 furnished to the association. This subparagraph does not apply
16 to master associations, which must provide notice of and
17 conduct meetings as set forth in the master declaration, the
18 articles of incorporation, or bylaws of the master
19 association.

20 3. After January 1, 1992, the members of the board of
21 administration shall be elected by written ballot or voting
22 machine. Proxies shall in no event be used in electing the
23 board of administration, either in general elections or
24 elections to fill vacancies caused by recall, resignation, or
25 otherwise, unless otherwise provided in this chapter. Not less
26 than 60 days before a scheduled election, the association
27 shall mail or deliver, whether by separate association mailing
28 or included in another association mailing or delivery
29 including regularly published newsletters, to each unit owner
30 entitled to a vote, a first notice of the date of the
31 election. Any unit owner or other eligible person desiring to

1 be a candidate for the board of administration must give
2 written notice to the association not less than 40 days before
3 a scheduled election. Together with the written notice and
4 agenda as set forth in subparagraph 2., the association shall
5 mail or deliver a second notice of the election to all unit
6 owners entitled to vote therein, together with a ballot which
7 shall list all candidates. Upon request of a candidate, the
8 association shall include an information sheet, no larger than
9 8 1/2 inches by 11 inches, which must be furnished by the
10 candidate not less than 35 days before the election, to be
11 included with the mailing of the ballot, with the costs of
12 mailing or delivery and copying to be borne by the
13 association. However, the association has no liability for the
14 contents of the information sheets prepared by the candidates.
15 In order to reduce costs, the association may print or
16 duplicate the information sheets on both sides of the paper.
17 The division shall by rule establish voting procedures
18 consistent with the provisions contained herein, including
19 rules providing for the secrecy of ballots. Elections shall
20 be decided by a plurality of those ballots cast. There shall
21 be no quorum requirement; however, at least 20 percent of the
22 eligible voters must cast a ballot in order to have a valid
23 election of members of the board of administration. No unit
24 owner shall permit any other person to vote his or her ballot,
25 and any such ballots improperly cast shall be deemed invalid.
26 A unit owner who needs assistance in casting the ballot for
27 the reasons stated in s. 101.051 may obtain assistance in
28 casting the ballot. Any unit owner violating this provision
29 may be fined by the association in accordance with s. 718.303.
30 The regular election shall occur on the date of the annual
31 meeting. The provisions of this subparagraph shall not apply

1 to timeshare condominium associations. Notwithstanding the
2 provisions of this subparagraph, an election and balloting are
3 not required unless more candidates file notices of intent to
4 run or are nominated than vacancies exist on the board. This
5 subparagraph does not apply to master associations, which must
6 elect or seat their boards of administration as provided in
7 the master declaration, the articles of incorporation, or
8 bylaws of the master association.

9 4. Any approval by unit owners called for by this
10 chapter or the applicable declaration or bylaws, including,
11 but not limited to, the approval requirement in s. 718.111(8),
12 shall be made at a duly noticed meeting of unit owners and
13 shall be subject to all requirements of this chapter or the
14 applicable condominium documents relating to unit owner
15 decisionmaking, except that unit owners may take action by
16 written agreement, without meetings, on matters for which
17 action by written agreement without meetings is expressly
18 allowed by the applicable articles of incorporation, bylaws,
19 master ~~or~~ declaration, declaration of condominium, or any
20 statute which provides for such action.

21 5. Unit owners may waive notice of specific meetings
22 if allowed by the applicable articles of incorporation,
23 bylaws, master ~~or~~ declaration, declaration of condominium, or
24 any statute.

25 6. Unit owners shall have the right to participate in
26 meetings of unit owners with reference to all designated
27 agenda items. However, the association may adopt reasonable
28 rules governing the frequency, duration, and manner of unit
29 owner participation.

30
31

1 7. Any unit owner may tape record or videotape a
2 meeting of the unit owners subject to reasonable rules adopted
3 by the division.

4
5 Notwithstanding subparagraphs (b)2. and (d)3., an association
6 may, by the affirmative vote of a majority of the total voting
7 interests, provide for different voting and election
8 procedures in its bylaws, which vote may be by a proxy
9 specifically delineating the different voting and election
10 procedures. The different voting and election procedures may
11 provide for elections to be conducted by limited or general
12 proxy.

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

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

1 replacement of the condominium property, anticipated expenses
2 by the condominium association which are not anticipated to be
3 incurred on a regular or annual basis, or assessments for
4 betterments to the condominium property must be excluded from
5 the computation. However, as long as the developer is in
6 control of the board of administration, the board may not
7 impose an assessment for any year greater than 115 percent of
8 the prior fiscal or calendar year's assessment without
9 approval of a majority of all the voting interests. This
10 subparagraph does not apply to master associations, which must
11 adopt and provide notice of proposed budgets as provided in
12 the master declaration, the articles of incorporation, or
13 bylaws of the master association.

14 (f) Annual budget.--

15 1. The proposed annual budget of common expenses shall
16 be detailed and shall show the amounts budgeted by accounts
17 and expense classifications, including, if applicable, but not
18 limited to, those expenses listed in s. 718.504(20). In
19 addition, if the association maintains limited common elements
20 with the cost to be shared only by those entitled to use the
21 limited common elements as provided for in s. 718.113(1), the
22 budget or a schedule attached thereto shall show amounts
23 budgeted therefor. If, after turnover of control of the
24 association to the unit owners, any of the expenses listed in
25 s. 718.504(20) are not applicable, they need not be listed.
26 This subparagraph does not apply to master associations, which
27 must prepare and adopt proposed budgets in the manner provided
28 in the master declaration, the articles of incorporation, or
29 bylaws of the master association.

30 2. In addition to annual operating expenses, the
31 budget shall include reserve accounts for capital expenditures

1 and deferred maintenance. These accounts shall include, but
2 are not limited to, roof replacement, building painting, and
3 pavement resurfacing, regardless of the amount of deferred
4 maintenance expense or replacement cost, and for any other
5 item for which the deferred maintenance expense or replacement
6 cost exceeds \$10,000. Master associations shall establish
7 reserves for any asset or infrastructure component owned or
8 maintained by the master association for which the replacement
9 cost or deferred maintenance expense exceeds \$10,000.The
10 amount to be reserved shall be computed by means of a formula
11 which is based upon estimated remaining useful life and
12 estimated replacement cost or deferred maintenance expense of
13 each reserve item. The association may adjust replacement
14 reserve assessments annually to take into account any changes
15 in estimates or extension of the useful life of a reserve item
16 caused by deferred maintenance. This subsection does not apply
17 to budgets in which the members of an association or in the
18 case of master associations, their designated voting
19 representatives, have, by a majority vote present in person or
20 by proxy, and voting at a duly called meeting of the
21 association, determined for a fiscal year to provide no
22 reserves or reserves less adequate than required by this
23 subsection. However, prior to turnover of control of an
24 association by a developer to unit owners other than a
25 developer pursuant to s. 718.301, ~~the developer may vote to~~
26 ~~waive the reserves or reduce the funding of reserves for the~~
27 ~~first 2 years of the operation of the association, after which~~
28 ~~time~~ reserves may only be waived or reduced upon the vote of a
29 majority of all nondeveloper voting interests voting in person
30 or by limited proxy at a duly called meeting of the
31 association. If a meeting of the unit owners has been called

1 to determine to provide no reserves or reserves less adequate
2 than required, and such result is not attained or a quorum is
3 not attained, the reserves as included in the budget shall go
4 into effect.

5 3. Reserve funds and any interest accruing thereon
6 shall remain in the reserve account or accounts, and shall be
7 used only for authorized reserve expenditures unless their use
8 for other purposes is approved in advance by a vote of the
9 majority of the entire voting interests or in the case of
10 master associations, their designated voting representatives,
11 voting in person or by limited proxy at a duly called meeting
12 of the association. Prior to turnover of control of an
13 association by a developer to unit owners other than the
14 developer pursuant to s. 718.301, the developer-controlled
15 association shall not vote to use reserves for purposes other
16 than that for which they were intended without the approval of
17 a majority of all nondeveloper voting interests, voting in
18 person or by limited proxy at a duly called meeting of the
19 association.

20 (g) Assessments.--The manner of collecting from the
21 unit owners their shares of the common expenses shall be
22 stated in the master declaration, declaration of condominium,
23 articles of incorporation, or bylaws. Assessments shall be
24 made against units not less frequently than quarterly in an
25 amount which is not less than that required to provide funds
26 in advance for payment of all of the anticipated current
27 operating expenses and for all of the unpaid operating
28 expenses previously incurred. Master associations may collect
29 assessments annually. Nothing in this paragraph shall preclude
30 the right of an association to accelerate assessments of an
31 owner delinquent in payment of common expenses if such

1 authority is contained in the master declaration, declaration
2 of condominium, articles of incorporation, or bylaws.

3 Accelerated assessments shall be due and payable on the date
4 the claim of lien is filed. Such accelerated assessments shall
5 include the amounts due for the remainder of the budget year
6 in which the claim of lien was filed.

7 (k) Recall of board members.--Subject to the
8 provisions of s. 718.301, any member of the board of
9 administration may be recalled and removed from office with or
10 without cause by the vote or agreement in writing by a
11 majority of all the voting interests. A special meeting of the
12 unit owners to recall a member or members of the board of
13 administration may be called by 10 percent of the voting
14 interests giving notice of the meeting as required for a
15 meeting of unit owners, and the notice shall state the purpose
16 of the meeting. The master declaration, declaration of
17 condominium, articles of incorporation, or bylaws for
18 multi-condominium associations and master associations may
19 specify alternative recall procedures.

20 1. If the recall is approved by a majority of all
21 voting interests by a vote at a meeting, the recall will be
22 effective as provided herein. The board shall duly notice and
23 hold a board meeting within 5 full business days of the
24 adjournment of the unit owner meeting to recall one or more
25 board members. At the meeting, the board shall either certify
26 the recall, in which case such member or members shall be
27 recalled effective immediately and shall turn over to the
28 board within 5 full business days any and all records and
29 property of the association in their possession, or shall
30 proceed as set forth in subparagraph 3.

31

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

15 3. If the board determines not to certify the written
16 agreement to recall a member or members of the board, or does
17 not certify the recall by a vote at a meeting, the board
18 shall, within 5 full business days after the meeting, file
19 with the division a petition for arbitration pursuant to the
20 procedures in s. 718.1255. For the purposes of this section,
21 the unit owners who voted at the meeting or who executed the
22 agreement in writing shall constitute one party under the
23 petition for arbitration. If the arbitrator certifies the
24 recall as to any member or members of the board, the recall
25 will be effective upon mailing of the final order of
26 arbitration to the association. If the association fails to
27 comply with the order of the arbitrator, the division may take
28 action pursuant to s. 718.501. Any member or members so
29 recalled shall deliver to the board any and all records of the
30 association in their possession within 5 full business days of
31 the effective date of the recall.

1 4. If the board fails to duly notice and hold a board
2 meeting within 5 full business days of service of an agreement
3 in writing or within 5 full business days of the adjournment
4 of the unit owner recall meeting, the recall shall be deemed
5 effective and the board members so recalled shall immediately
6 turn over to the board any and all records and property of the
7 association.

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

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

23 718.113 Maintenance; limitation upon improvement;
24 display of flag; hurricane shutters.--

25 (2) Except as otherwise provided in this section,
26 there shall be no material alteration or substantial additions
27 to the common elements or to real property which is
28 association property, except in a manner provided in the
29 master declaration, declaration of condominium, articles of
30 incorporation, or bylaws. If the master declaration,
31 declaration of condominium, articles of incorporation, or

1 bylaws do ~~does~~ not specify the procedure for approval of
2 alterations or additions, 75 percent of the total voting
3 interests of the association must approve the alterations or
4 additions.

5 (5) Each board of administration shall adopt hurricane
6 shutter specifications for each building within each
7 condominium operated by the association which shall include
8 color, style, and other factors deemed relevant by the board.
9 This subsection does not apply to master associations.All
10 specifications adopted by the board shall comply with the
11 applicable building code. Notwithstanding any provision to the
12 contrary in the condominium documents, if approval is required
13 by the documents, a board shall not refuse to approve the
14 installation or replacement of hurricane shutters conforming
15 to the specifications adopted by the board. The board may,
16 subject to the provisions of s. 718.3026, and the approval of
17 a majority of voting interests of the condominium, install
18 hurricane shutters and may maintain, repair, or replace such
19 approved hurricane shutters, whether on or within common
20 elements, limited common elements, units, or association
21 property. However, where laminated glass or window film
22 architecturally designed to function as hurricane protection
23 which complies with the applicable building code has been
24 installed, the board may not install hurricane shutters. The
25 board may operate shutters installed pursuant to this
26 subsection without permission of the unit owners only where
27 such operation is necessary to preserve and protect the
28 condominium property and association property. The
29 installation, replacement, operation, repair, and maintenance
30 of such shutters in accordance with the procedures set forth
31 herein shall not be deemed a material alteration to the common

1 elements or association property within the meaning of this
2 section.

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

5 718.114 Association powers.--An association has the
6 power to enter into agreements, to acquire leaseholds,
7 memberships, and other possessory or use interests in lands or
8 facilities such as country clubs, golf courses, marinas, and
9 other recreational facilities. It has this power whether or
10 not the lands or facilities are contiguous to the lands of the
11 condominium, if they are intended to provide enjoyment,
12 recreation, or other use or benefit to the unit owners. All of
13 these leaseholds, memberships, and other possessory or use
14 interests existing or created at the time of recording the
15 declaration must be stated and fully described in the master
16 declaration, declaration of condominium, articles of
17 incorporation, or bylaws. Subsequent to the recording of the
18 declaration, the association may not acquire or enter into
19 agreements acquiring these leaseholds, memberships, or other
20 possessory or use interests except as authorized by the master
21 declaration, declaration of condominium, articles of
22 incorporation, or bylaws. The master declaration, declaration
23 of condominium, articles of incorporation, or bylaws may
24 provide that the rental, membership fees, operations,
25 replacements, and other expenses are common expenses and may
26 impose covenants and restrictions concerning their use and may
27 contain other provisions not inconsistent with this chapter.
28 A condominium association may conduct bingo games as provided
29 in s. 849.0931.

30 Section 6. Paragraph (b) of subsection (1) of section
31 718.115, Florida Statutes, is amended to read:

1 718.115 Common expenses and common surplus.--
2 (1)
3 (b) If so provided in the declaration, the cost of
4 telecommunication services,a master antenna television
5 system,or duly franchised cable television service obtained
6 pursuant to a bulk contract shall be deemed a common expense.
7 If the declaration does not provide for the cost of
8 telecommunications services, a master antenna television
9 system, or duly franchised cable television service obtained
10 under a bulk contract as a common expense, the board of
11 administration may enter into such a contract and the cost of
12 the service will be an association expense but allocated on a
13 per-unit basis rather than a percentage basis if the
14 declaration provides for other than an equal sharing of common
15 expenses. Any contract entered into under this section, other
16 than those provided for in the original declaration as
17 recorded, in which the cost of the service is not equally
18 divided among all unit owners, may be changed by vote of a
19 majority of the voting interests present at the next regular
20 or special meeting of the association, to allocate the cost
21 equally among all units., and if not, such cost shall be
22 considered common expense if it is designated as such in a
23 written contract between the board of administration and the
24 company providing the master television antenna system or the
25 cable television service.The contract shall be for a term of
26 not less than 2 years.
27 1. Any contract made by the board after the effective
28 date hereof for a community antenna system or duly franchised
29 cable television service may be canceled by a majority of the
30 voting interests present at the next regular or special
31 meeting of the association. Any member may make a motion to

1 cancel said contract, but if no motion is made or if such
2 motion fails to obtain the required majority at the next
3 regular or special meeting, whichever is sooner, following the
4 making of the contract, then such contract shall be deemed
5 ratified for the term therein expressed.

6 2. Any such contract shall provide, and shall be
7 deemed to provide if not expressly set forth, that any hearing
8 impaired or legally blind unit owner who does not occupy the
9 unit with a nonhearing impaired or sighted person may
10 discontinue the service without incurring disconnect fees,
11 penalties, or subsequent service charges, and as to such
12 units, the owners shall not be required to pay any common
13 expenses charge related to such service. If less than all
14 members of an association share the expenses of cable
15 television, the expense shall be shared equally by all
16 participating unit owners. The association may use the
17 provisions of s. 718.116 to enforce payment of the shares of
18 such costs by the unit owners receiving cable television.

19 Section 7. Paragraph (b) of subsection (1) of section
20 718.116, Florida Statutes, is amended to read:

21 718.116 Assessments; liability; lien and priority;
22 interest; collection.--

23 (1)

24 (b) The liability of a first mortgagee or its
25 successor or assignees who acquire title to a unit by
26 foreclosure or by deed in lieu of foreclosure for the unpaid
27 assessments that became due prior to the mortgagee's
28 acquisition of title is limited to the lesser of:

29 1. The unit's unpaid common expenses and regular
30 periodic assessments which accrued or came due during the 6
31 months immediately preceding the acquisition of title and for

1 which payment in full has not been received by the
2 association; or

3 2. Five ~~One~~ percent of the original mortgage debt. The
4 provisions of this paragraph shall not apply unless the first
5 mortgagee joined the association as a defendant in the
6 foreclosure action. Joinder of the association is not required
7 if, on the date the complaint is filed, the association was
8 dissolved or did not maintain an office or agent for service
9 of process at a location which was known to or reasonably
10 discoverable by the mortgagee.

11 Section 8. Section 718.501, Florida Statutes, is
12 amended to read:

13 718.501 Powers and duties of Division of Florida Land
14 Sales, Condominiums, and Mobile Homes.--

15 (1) The Division of Florida Land Sales, Condominiums,
16 and Mobile Homes of the Department of Business and
17 Professional Regulation, referred to as the "division" in this
18 part, in addition to other powers and duties prescribed by
19 chapter 498, has the power, subject to the limitations set
20 forth in this chapter, to enforce and ensure compliance with
21 the provisions of this chapter and rules promulgated pursuant
22 hereto relating to the development, construction, sale, lease,
23 ownership, operation, and management of residential
24 condominium units. In performing its duties, the division has
25 the following powers and duties:

26 (a) The division may make necessary public or private
27 investigations within or outside this state to determine
28 whether any person has violated this chapter or any rule or
29 order hereunder, to aid in the understanding and enforcement
30 of this chapter, or to aid in the adoption of rules or forms
31 hereunder.

1 1. In connection with any investigation of an
2 association, upon determining that a violation of this chapter
3 or any division rule or order has occurred, the division shall
4 enter appropriate orders to promptly correct or alleviate any
5 actual harm caused by the violation.

6 2. The division may not levy a fine or civil penalty
7 against an association controlled by unit owners other than
8 the developer for a first time finding of violation of any
9 provision of this chapter or the division's rules. The
10 division shall, in connection with allegations of a first time
11 violation, send written notice to the association advising of
12 the violation, together with written remedial educational
13 materials to the association addressing the substantive areas
14 of violation. Such notice and materials shall become official
15 records of the association. The notice must be posted in the
16 conspicuous locations established for the posting of notices
17 under s. 718.112(2)(c) and (2)(d)2. for a continuous period of
18 at least 14 days.

19 3. In connection with violations by unit owner
20 controlled associations of the same provisions of this chapter
21 or division rule occurring subsequent to providing the notice
22 set forth in subparagraph 2., and in the absence of proof that
23 the violations were committed willfully and knowingly, the
24 division may levy penalties or fines against associations for
25 purposes of deterrence and punishment not to exceed \$1,000 per
26 offense, and not to exceed an aggregate total of \$5,000 for
27 multiple offenses arising from the same transaction or
28 occurrence. If the violations were knowing and willful, the
29 division may levy fines of \$5,000 per offense. The total fines
30 arising from an investigation involving any violation or
31 series of violations may not exceed the lesser of \$20,000 or

1 \$300 per-unit per-condominium affected by the violation. This
2 section does not preclude the division from taking other
3 remedies available by law to protect the health, safety, and
4 welfare of the condominium or the association.

5 4. When the division has levied a fine in accordance
6 with subparagraph 3., the division shall also offer the
7 association the option of avoiding the imposition of the fine
8 by completing an appropriate educational program approved by
9 the division. The division shall adopt rules prescribing the
10 materials to be used, the qualifications of educational
11 providers, and the conduct of the program. It is permissible
12 to use programs and materials approved for education of
13 licensed community association managers. The costs and
14 expenses of appropriate educational programs constitute a
15 permissible common expense, and such programs must be open to
16 all members of the association who wish to attend. The
17 division need not offer an educational alternative in the case
18 of knowing and willful violations.

19 (b) The division may require or permit any person to
20 file a statement in writing, under oath or otherwise, as the
21 division determines, as to the facts and circumstances
22 concerning a matter to be investigated.

23 (c) For the purpose of any investigation under this
24 chapter, the division director or any officer or employee
25 designated by the division director may administer oaths or
26 affirmations, subpoena witnesses and compel their attendance,
27 take evidence, and require the production of any matter which
28 is relevant to the investigation, including the existence,
29 description, nature, custody, condition, and location of any
30 books, documents, or other tangible things and the identity
31 and location of persons having knowledge of relevant facts or

1 any other matter reasonably calculated to lead to the
2 discovery of material evidence. Upon the failure by a person
3 to obey a subpoena or to answer questions propounded by the
4 investigating officer and upon reasonable notice to all
5 persons affected thereby, the division may apply to the
6 circuit court for an order compelling compliance.

7 (d) Notwithstanding any remedies available to unit
8 owners and associations, if the division has reasonable cause
9 to believe that a violation of any provision of this chapter
10 or rule promulgated pursuant hereto has occurred, the division
11 may institute enforcement proceedings in its own name against
12 any developer, association, officer, or member of the board of
13 administration, or its assignees or agents, as follows:

14 1. The division may permit a person whose conduct or
15 actions may be under investigation to waive formal proceedings
16 and enter into a consent proceeding whereby orders, rules, or
17 letters of censure or warning, whether formal or informal, may
18 be entered against the person. Proceedings to enforce orders
19 and agreements entered into in consent proceedings must be
20 brought in the county where the condominium is located.

21 2. The division may issue an order requiring the
22 developer, association, officer, or member of the board of
23 administration, or its assignees or agents, to cease and
24 desist from the unlawful practice and take such affirmative
25 action as in the judgment of the division will carry out the
26 purposes of this chapter. Such affirmative action may include,
27 but is not limited to, an order requiring a developer to pay
28 moneys determined to be owed to a condominium association.

29 3. The division may bring an action in circuit court
30 on behalf of a class of unit owners, lessees, or purchasers
31 for declaratory relief, injunctive relief, or restitution.

1 4. Subject to the limitations in paragraph (1)(a),the
2 division may impose a civil penalty against a developer or
3 association, or its assignee or agent, for any violation of
4 this chapter or a rule promulgated pursuant hereto. The
5 division may impose a civil penalty individually against any
6 officer or board member who willfully and knowingly violates a
7 provision of this chapter, a rule adopted pursuant hereto, or
8 a final order of the division. The term "willfully and
9 knowingly" means that the division informed the officer or
10 board member that his or her action or intended action
11 violates this chapter, a rule adopted under this chapter, or a
12 final order of the division and that the officer or board
13 member refused to comply with the requirements of this
14 chapter, a rule adopted under this chapter, or a final order
15 of the division. Persons receiving only the notice and
16 educational materials specified in paragraph (1)(a) are not
17 considered to have been so informed.The division, prior to
18 initiating formal agency action under chapter 120, shall
19 afford the officer or board member an opportunity to
20 voluntarily comply with this chapter, a rule adopted under
21 this chapter, or a final order of the division. An officer or
22 board member who complies within 10 days is not subject to a
23 civil penalty. A penalty may be imposed on the basis of each
24 day of continuing willful and knowing violation, but in no
25 event shall the penalty for any offense exceed \$5,000. By
26 January 1, 1998, the division shall adopt, by rule, penalty
27 guidelines applicable to possible violations or to categories
28 of violations of this chapter or rules adopted by the
29 division. The guidelines are subject to the limitations of
30 paragraph (1)(a) and must specify a meaningful range of civil
31 penalties for each such violation of the statute and rules and

1 must be based upon the harm caused by the violation, the
2 repetition of the violation, and upon such other factors
3 deemed relevant by the division. For example, the division may
4 consider whether the violations were committed by a developer
5 or owner-controlled association, the size of the association,
6 and other factors. The guidelines must designate the possible
7 mitigating or aggravating circumstances that justify a
8 departure from the range of penalties provided by the rules.
9 It is the legislative intent that minor violations be
10 distinguished from those which endanger the health, safety, or
11 welfare of the condominium residents or other persons and that
12 such guidelines provide reasonable and meaningful notice to
13 the public of likely penalties that may be imposed for
14 proscribed conduct. This subsection does not limit the ability
15 of the division to informally dispose of administrative
16 actions or complaints by stipulation, agreed settlement, or
17 consent order. All amounts collected shall be deposited with
18 the Treasurer to the credit of the Division of Florida Land
19 Sales, Condominiums, and Mobile Homes Trust Fund. If a
20 developer fails to pay the civil penalty, the division shall
21 thereupon issue an order directing that such developer cease
22 and desist from further operation until such time as the civil
23 penalty is paid or may pursue enforcement of the penalty in a
24 court of competent jurisdiction. If an association fails to
25 pay the civil penalty, the division shall thereupon pursue
26 enforcement in a court of competent jurisdiction, and the
27 order imposing the civil penalty or the cease and desist order
28 will not become effective until 20 days after the date of such
29 order. Any action commenced by the division shall be brought
30 in the county in which the division has its executive offices
31 or in the county where the violation occurred.

1 (e) The division is authorized to prepare and
2 disseminate a prospectus and other information to assist
3 prospective owners, purchasers, lessees, and developers of
4 residential condominiums in assessing the rights, privileges,
5 and duties pertaining thereto.

6 (f) The division is authorized to promulgate rules,
7 pursuant to chapter 120, necessary to implement, enforce, and
8 interpret this chapter.

9 (g) The division shall establish procedures for
10 providing notice to an association when the division is
11 considering the issuance of a declaratory statement with
12 respect to the declaration of condominium or any related
13 document governing in such condominium community.

14 (h) The division shall furnish each association which
15 pays the fees required by paragraph (2)(a) a copy of this act,
16 subsequent changes to this act on an annual basis, an amended
17 version of this act as it becomes available from the Secretary
18 of State's office on a biennial basis, and the rules
19 promulgated pursuant thereto on an annual basis.

20 (i) The division shall annually provide each
21 association with a summary of declaratory statements and
22 formal legal opinions relating to the operations of
23 condominiums which were rendered by the division during the
24 previous year.

25 (j) The division shall adopt uniform accounting
26 principles, policies, and standards to be used by all
27 associations in the preparation and presentation of all
28 financial statements required by this chapter. The principles,
29 policies, and standards shall take into consideration the size
30 of the association and the total revenue collected by the
31 association.

1 (k) The division shall provide training programs for
2 condominium association board members and unit owners as an
3 integral part of any enforcement program in which
4 investigations are undertaken and fines are levied.

5 (l) The division shall maintain a toll-free telephone
6 number accessible to condominium unit owners.

7 (m) The division shall develop a program to certify
8 both volunteer and paid mediators to provide mediation of
9 condominium disputes. The division shall provide, upon
10 request, a list of such mediators to any association, unit
11 owner, or other participant in arbitration proceedings under
12 s. 718.1255 requesting a copy of the list. The division shall
13 include on the list of volunteer mediators only the names of
14 persons who have received at least 20 hours of training in
15 mediation techniques or who have mediated at least 20
16 disputes. In order to become initially certified by the
17 division, paid mediators must be certified by the Supreme
18 Court to mediate court cases in either county or circuit
19 courts. However, the division may adopt, by rule, additional
20 factors for the certification of paid mediators, which factors
21 must be related to experience, education, or background. Any
22 person initially certified as a paid mediator by the division
23 must, in order to continue to be certified, comply with the
24 factors or requirements imposed by rules adopted by the
25 division.

26 (n) When a complaint is made, the division shall
27 conduct its inquiry with due regard to the interests of the
28 affected parties. Within 30 days after receipt of a complaint,
29 the division shall acknowledge the complaint in writing and
30 notify the complainant whether the complaint is within the
31 jurisdiction of the division and whether additional

1 information is needed by the division from the complainant.
2 The division shall conduct its investigation and shall, within
3 90 days after receipt of the original complaint or of timely
4 requested additional information, take action upon the
5 complaint. However, the failure to complete the investigation
6 within 90 days does not prevent the division from continuing
7 the investigation, accepting or considering evidence obtained
8 or received after 90 days, or taking administrative action if
9 reasonable cause exists to believe that a violation of this
10 chapter or a rule of the division has occurred. If an
11 investigation is not completed within the time limits
12 established in this paragraph, the division shall, on a
13 monthly basis, notify the complainant in writing of the status
14 of the investigation. When reporting its action to the
15 complainant, the division shall inform the complainant of any
16 right to a hearing pursuant to ss. 120.569 and 120.57.

17 (2)(a) Effective January 1, 1992, each condominium
18 association which operates more than two units shall pay to
19 the division an annual fee in the amount of \$4 for each
20 residential unit in condominiums operated by the association.
21 If the fee is not paid by March 1, then the association shall
22 be assessed a penalty of 10 percent of the amount due, and the
23 association will not have standing to maintain or defend any
24 action in the courts of this state until the amount due, plus
25 any penalty, is paid. The division does not have the power to
26 levy a fine or penalty in addition to the penalty specified in
27 this subsection for failure to timely pay the annual fee.

28 (b) All fees shall be deposited in the Division of
29 Florida Land Sales, Condominiums, and Mobile Homes Trust Fund
30 as provided by law.

31

1 Section 9. 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)~~s.~~
10 ~~718.103(22)~~.

11 Section 10. This act shall take effect July 1, 1998.

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

SENATE SUMMARY

Amends various sections of chapter 718, F.S., to provide that the creation, sale, and operation of condominiums may be accomplished through a master declaration, declaration of condominium, articles of incorporation, or bylaws. Provides procedures for the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation to investigate violations of the law and to impose fines.