

By the Committee on Regulated Industries and Senator Dudley

315-1852A-98

1 A bill to be entitled
 2 An act relating to condominiums; amending s.
 3 718.111, F.S.; requiring adequate insurance or
 4 fidelity bonding to cover funds in the custody
 5 of an association; providing for financial
 6 reporting requirements; providing for the
 7 commingling of reserve and operating funds;
 8 amending s. 718.112, F.S.; amending procedures
 9 for elections; amending procedures for recall
 10 of board members; amending procedures for
 11 mailing of notices; amending procedures for
 12 annual budgets; eliminating a 2-year exemption
 13 for developers on reserve funds; deleting
 14 fidelity bonding requirements; amending s.
 15 718.115, F.S.; providing procedures that
 16 allocate cable television services as a common
 17 expense; amending ss. 718.503, 718.504, F.S.;
 18 requiring disclosure of financial information;
 19 providing an effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Paragraph (d) is added to subsection (11)
 24 of section 718.111, Florida Statutes, and paragraph (c) of
 25 subsection (12) and subsection (15) of that section are
 26 amended to read:

27 718.111 The association.--

28 (11) INSURANCE.--

29 (d) The association shall obtain and maintain adequate
 30 insurance or fidelity bonding of all persons who control or
 31 disburse funds of the association. The insurance policy or

1 fidelity bond must cover the lesser of \$1 million or the
2 maximum funds that will be in the custody of the association
3 or its management agent at any one time. As used in this
4 paragraph, the term "persons who control or disburse funds of
5 the association" includes, but is not limited to, those
6 individuals authorized to sign checks and the president,
7 secretary, and treasurer of the association. The association
8 shall bear the cost of bonding.

9 (12) OFFICIAL RECORDS.--

10 (c) The official records of the association are open
11 to inspection by any association member or the authorized
12 representative of such member at all reasonable times. The
13 right to inspect the records includes the right to make or
14 obtain copies, at the reasonable expense, if any, of the
15 association member. The association may adopt reasonable
16 rules regarding the frequency, time, location, notice, and
17 manner of record inspections and copying. The failure of an
18 association to provide the records within 10 working days
19 after receipt of a written request shall create a rebuttable
20 presumption that the association willfully failed to comply
21 with this paragraph. A unit owner who is denied access to
22 official records is entitled to the actual damages or minimum
23 damages for the association's willful failure to comply with
24 this paragraph. The minimum damages shall be \$50 per calendar
25 day up to 10 days, the calculation to begin on the 11th
26 working day after receipt of the written request. The failure
27 to permit inspection of the association records as provided
28 herein entitles any person prevailing in an enforcement action
29 to recover reasonable attorney's fees from the person in
30 control of the records who, directly or indirectly, knowingly
31 denied access to the records for inspection. The association

1 shall maintain an adequate number of copies of the
2 declaration, articles of incorporation, bylaws, and rules, and
3 all amendments to each of the foregoing, as well as the
4 question and answer sheet provided for in s. 718.504 and
5 year-end financial information required in this section on the
6 condominium property to ensure their availability to unit
7 owners and prospective purchasers, and may charge its actual
8 costs for preparing and furnishing these documents to those
9 requesting the same. Notwithstanding the provisions of this
10 paragraph, the following records shall not be accessible to
11 unit owners:

12 1. A record which was prepared by an association
13 attorney or prepared at the attorney's express direction,
14 which reflects a mental impression, conclusion, litigation
15 strategy, or legal theory of the attorney or the association,
16 and which was prepared exclusively for civil or criminal
17 litigation or for adversarial administrative proceedings, or
18 which was prepared in anticipation of imminent civil or
19 criminal litigation or imminent adversarial administrative
20 proceedings until the conclusion of the litigation or
21 adversarial administrative proceedings.

22 2. Information obtained by an association in
23 connection with the approval of the lease, sale, or other
24 transfer of a unit.

25 3. Medical records of unit owners.

26 (15) COMMINGLING.--All funds shall be maintained
27 separately in the association's name. Reserve and operating
28 funds of the association shall not be commingled unless
29 combined for investment purposes. This subsection is not meant
30 to prohibit prudent investment of association funds even if
31 combined with operating or other reserve funds of the same

1 association, but such funds must be accounted for separately,
2 and the combined account balance may not, at any time, be less
3 than the amount identified as reserve funds in the combined
4 account.No manager or business entity required to be licensed
5 or registered under s. 468.432, and no agent, employee,
6 officer, or director of a condominium association shall
7 commingle any association funds with his or her funds or with
8 the funds of any other condominium association or community
9 association as defined in s. 468.431.

10 Section 2. Subsection (2) of section 718.112, Florida
11 Statutes, is amended to read:

12 718.112 Bylaws.--

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

16 (a) Administration.--

17 1. The form of administration of the association shall
18 be described indicating the title of the officers and board of
19 administration and specifying the powers, duties, manner of
20 selection and removal, and compensation, if any, of officers
21 and boards. In the absence of such a provision, the board of
22 administration shall be composed of five members, except in
23 the case of a condominium which has five or fewer units, in
24 which case in a not-for-profit corporation the board shall
25 consist of not fewer than three members. In the absence of
26 provisions to the contrary in the bylaws, the board of
27 administration shall have a president, a secretary, and a
28 treasurer, who shall perform the duties of such officers
29 customarily performed by officers of corporations. Unless
30 prohibited in the bylaws, the board of administration may
31 appoint other officers and grant them the duties it deems

1 appropriate. Unless otherwise provided in the bylaws, the
2 officers shall serve without compensation and at the pleasure
3 of the board of administration. Unless otherwise provided in
4 the bylaws, the members of the board shall serve without
5 compensation.

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

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

31

1 1. Unless a lower number is provided in the bylaws,
2 the percentage of voting interests required to constitute a
3 quorum at a meeting of the members shall be a majority of the
4 voting interests. Unless otherwise provided in this chapter or
5 in the declaration, articles of incorporation, or bylaws, and
6 except as provided in subparagraph (d)3., decisions shall be
7 made by owners of a majority of the voting interests
8 represented at a meeting at which a quorum is present.

9 2. Except as specifically otherwise provided herein,
10 after January 1, 1992, unit owners may not vote by general
11 proxy, but may vote by limited proxies substantially
12 conforming to a limited proxy form adopted by the division.
13 Limited proxies and general proxies may be used to establish a
14 quorum. Limited proxies shall be used for votes taken to
15 waive or reduce reserves in accordance with subparagraph
16 (f)2.; for votes taken to waive financial statement
17 requirements as provided by s. 718.111(14); for votes taken to
18 amend the declaration pursuant to s. 718.110; for votes taken
19 to amend the articles of incorporation or bylaws pursuant to
20 this section; and for any other matter for which this chapter
21 requires or permits a vote of the unit owners. Except as
22 provided in paragraph (d), after January 1, 1992, no proxy,
23 limited or general, shall be used in the election of board
24 members. General proxies may be used for other matters for
25 which limited proxies are not required, and may also be used
26 in voting for nonsubstantive changes to items for which a
27 limited proxy is required and given. Notwithstanding the
28 provisions of this subparagraph, unit owners may vote in
29 person at unit owner meetings. Nothing contained herein shall
30 limit the use of general proxies or require the use of limited
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1 proxies for any agenda item or election at any meeting of a
2 timeshare condominium association.

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

10 (c) Board of administration meetings.--Meetings of the
11 board of administration at which a quorum of the members is
12 present shall be open to all unit owners. Any unit owner may
13 tape record or videotape meetings of the board of
14 administration. The right to attend such meetings includes
15 the right to speak at such meetings with reference to all
16 designated agenda items. The division shall adopt reasonable
17 rules governing the tape recording and videotaping of the
18 meeting. The association may adopt reasonable rules governing
19 the frequency, duration, and manner of unit owner statements.
20 Adequate notice of all meetings, which notice shall
21 specifically incorporate an identification of agenda items,
22 shall be posted conspicuously on the condominium property at
23 least 48 continuous hours preceding the meeting except in an
24 emergency. Any item not included on the notice may be taken
25 up on an emergency basis by at least a majority plus one of
26 the members of the board. Such emergency action shall be
27 noticed and ratified at the next regular meeting of the board.
28 However, written notice of any meeting at which nonemergency
29 special assessments, or at which amendment to rules regarding
30 unit use, will be considered shall be mailed or delivered to
31 the unit owners and posted conspicuously on the condominium

1 property not less than 14 days prior to the meeting. Evidence
2 of compliance with this 14-day notice shall be made by an
3 affidavit executed by the person providing the notice and
4 filed among the official records of the association. Upon
5 notice to the unit owners, the board shall by duly adopted
6 rule designate a specific location on the condominium property
7 or association property upon which all notices of board
8 meetings shall be posted. If there is no condominium property
9 or association property upon which notices can be posted,
10 notices of board meetings shall be mailed or delivered at
11 least 14 days before the meeting to the owner of each unit.
12 Notice of any meeting in which regular assessments against
13 unit owners are to be considered for any reason shall
14 specifically contain a statement that assessments will be
15 considered and the nature of any such assessments. Meetings of
16 a committee to take final action on behalf of the board or
17 make recommendations to the board regarding the association
18 budget are subject to the provisions of this paragraph.
19 Meetings of a committee that does not take final action on
20 behalf of the board or make recommendations to the board
21 regarding the association budget are subject to the provisions
22 of this section, unless those meetings are exempted from this
23 section by the bylaws of the association. Notwithstanding any
24 other law, the requirement that board meetings and committee
25 meetings be open to the unit owners is inapplicable to
26 meetings between the board or a committee and the
27 association's attorney, with respect to proposed or pending
28 litigation, when the meeting is held for the purpose of
29 seeking or rendering legal advice.

30 (d) Unit owner meetings.--

31

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

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

1 that one address which the developer initially identifies for
2 that purpose and thereafter as one or more of the owners of
3 the unit shall so advise the association in writing, or if no
4 address is given or the owners of the unit do not agree, to
5 the address provided on the deed of record. An officer of the
6 association, or the manager or other person providing notice
7 of the association meeting, shall provide an affidavit or
8 United States Postal Service certificate of mailing, to be
9 included in the official records of the association affirming
10 that the notice was mailed or hand delivered, in accordance
11 with this provision, to each unit owner at the address last
12 furnished to the association.

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

1 association shall include an information sheet, no larger than
2 8 1/2 inches by 11 inches, which must be furnished by the
3 candidate not less than 35 days before the election, to be
4 included with the mailing of the ballot, with the costs of
5 mailing or delivery and copying to be borne by the
6 association. However, the association has no liability for the
7 contents of the information sheets prepared by the candidates.
8 In order to reduce costs, the association may print or
9 duplicate the information sheets on both sides of the paper.
10 The division shall by rule establish voting procedures
11 consistent with the provisions contained herein, including
12 rules providing for the secrecy of ballots. Elections shall
13 be decided by a plurality of those ballots cast. There shall
14 be no quorum requirement; however, at least 20 percent of the
15 eligible voters must cast a ballot in order to have a valid
16 election of members of the board of administration. No unit
17 owner shall permit any other person to vote his or her ballot,
18 and any such ballots improperly cast shall be deemed invalid.
19 A unit owner who needs assistance in casting the ballot for
20 the reasons stated in s. 101.051 may obtain assistance in
21 casting the ballot. Any unit owner violating this provision
22 may be fined by the association in accordance with s. 718.303.
23 The regular election shall occur on the date of the annual
24 meeting. The provisions of this subparagraph shall not apply
25 to timeshare condominium associations. Notwithstanding the
26 provisions of this subparagraph, an election and balloting are
27 not required unless more candidates file notices of intent to
28 run or are nominated than vacancies exist on the board.
29 4. Any approval by unit owners called for by this
30 chapter or the applicable declaration or bylaws, including,
31 but not limited to, the approval requirement in s. 718.111(8),

1 shall be made at a duly noticed meeting of unit owners and
2 shall be subject to all requirements of this chapter or the
3 applicable condominium documents relating to unit owner
4 decisionmaking, except that unit owners may take action by
5 written agreement, without meetings, on matters for which
6 action by written agreement without meetings is expressly
7 allowed by the applicable bylaws or declaration or any statute
8 that ~~which~~ provides for such action.

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

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

17 7. Any unit owner may tape record or videotape a
18 meeting of the unit owners subject to reasonable rules adopted
19 by the division.

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

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

1 bylaws require a larger vote, the adoption of the budget
2 requires a vote of not less than a majority vote of all the
3 voting interests. The board of administration may propose a
4 budget to the unit owners at a meeting of members or in
5 writing, and if the budget or proposed budget is approved by
6 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.

23 (f) Annual budget.--

24 1. The proposed annual budget of common expenses shall
25 be detailed and shall show the amounts budgeted by accounts
26 and expense classifications, including, if applicable, but not
27 limited to, those expenses listed in s. 718.504(20). In
28 addition, if the association maintains limited common elements
29 with the cost to be shared only by those entitled to use the
30 limited common elements as provided for in s. 718.113(1), the
31 budget or a schedule attached thereto shall show amounts

1 | budgeted therefor. If, after turnover of control of the
2 | association to the unit owners, any of the expenses listed in
3 | s. 718.504(20) are not applicable, they need not be listed.

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

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

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

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

31 (h) Amendment of bylaws.--

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

6 2. No bylaw shall be revised or amended by reference
7 to its title or number only. Proposals to amend existing
8 bylaws shall contain the full text of the bylaws to be
9 amended; new words shall be inserted in the text underlined,
10 and words to be deleted shall be lined through with hyphens.
11 However, if the proposed change is so extensive that this
12 procedure would hinder, rather than assist, the understanding
13 of the proposed amendment, it is not necessary to use
14 underlining and hyphens as indicators of words added or
15 deleted, but, instead, a notation must be inserted immediately
16 preceding the proposed amendment in substantially the
17 following language: "Substantial rewording of bylaw. See
18 bylaw for present text."

19 3. Nonmaterial errors or omissions in the bylaw
20 process will not invalidate an otherwise properly promulgated
21 amendment.

22 (i) Transfer fees.--No charge shall be made by the
23 association or any body thereof in connection with the sale,
24 mortgage, lease, sublease, or other transfer of a unit unless
25 the association is required to approve such transfer and a fee
26 for such approval is provided for in the declaration,
27 articles, or bylaws. Any such fee may be preset, but in no
28 event may such fee exceed \$100 per applicant other than
29 husband/wife or parent/dependent child, which are considered
30 one applicant. However, if the lease or sublease is a renewal
31 of a lease or sublease with the same lessee or sublessee, no

1 charge shall be made. The foregoing notwithstanding, an
2 association may, if the authority to do so appears in the
3 declaration or bylaws, require that a prospective lessee place
4 a security deposit, in an amount not to exceed the equivalent
5 of 1 month's rent, into an escrow account maintained by the
6 association. The security deposit shall protect against
7 damages to the common elements or association property.
8 Payment of interest, claims against the deposit, refunds, and
9 disputes under this paragraph shall be handled in the same
10 fashion as provided in part II of chapter 83.

11 ~~(j) Fidelity bonds.--The association shall obtain and~~
12 ~~maintain adequate fidelity bonding of all persons who control~~
13 ~~or disburse funds of the association. As used in this~~
14 ~~section, the term "persons who control or disburse funds of~~
15 ~~the association" means those individuals authorized to sign~~
16 ~~checks, and the president, secretary, and treasurer of the~~
17 ~~association. If an association's annual gross receipts do not~~
18 ~~exceed \$100,000, the bond shall be in the principal sum of not~~
19 ~~less than \$10,000 for each such person. If an association's~~
20 ~~annual gross receipts exceed \$100,000, but do not exceed~~
21 ~~\$300,000, the bond shall be in the principal sum of \$30,000~~
22 ~~for each such person. If an association's annual gross~~
23 ~~receipts exceed \$300,000, the bond shall be in the principal~~
24 ~~sum of not less than \$50,000 for each such person. The~~
25 ~~association shall bear the cost of bonding.~~

26 (j)~~(k)~~ Recall of board members.--Subject to the
27 provisions of s. 718.301, any member of the board of
28 administration may be recalled and removed from office with or
29 without cause by the vote or agreement in writing by a
30 majority of all the voting interests. A special meeting of the
31 unit owners to recall a member or members of the board of

1 administration may be called by 10 percent of the voting
2 interests giving notice of the meeting as required for a
3 meeting of unit owners, and the notice shall state the purpose
4 of the meeting.

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

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

30 3. If the board determines not to certify the written
31 agreement to recall a member or members of the board, or does

1 not certify the recall by a vote at a meeting, the board
2 shall, within 5 full business days after the meeting, file
3 with the division a petition for arbitration pursuant to the
4 procedures in s. 718.1255. For the purposes of this section,
5 the unit owners who voted at the meeting or who executed the
6 agreement in writing shall constitute one party under the
7 petition for arbitration. If the arbitrator certifies the
8 recall as to any member or members of the board, the recall
9 will be effective upon mailing of the final order of
10 arbitration to the association. If the association fails to
11 comply with the order of the arbitrator, the division may take
12 action pursuant to s. 718.501. Any member or members so
13 recalled shall deliver to the board any and all records of the
14 association in their possession within 5 full business days of
15 the effective date of the recall.

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

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

1 consistent with this subsection. The rules must provide
2 procedures governing the conduct of the recall election as
3 well as the operation of the association during the period
4 after a recall but prior to the recall election.

5 (k)~~(l)~~ Arbitration.--There shall be a provision for
6 mandatory nonbinding arbitration as provided for in s.
7 718.1255.

8 (l)~~(m)~~ Certificate of compliance.--There shall be a
9 provision that a certificate of compliance from a licensed
10 electrical contractor or electrician may be accepted by the
11 association's board as evidence of compliance of the
12 condominium units to the applicable fire and life safety code.

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

14 1. With respect to condominiums created on or after
15 October 1, 1994, the bylaws shall include a provision granting
16 the association a limited power to convey a portion of the
17 common elements to a condemning authority for the purpose of
18 providing utility easements, right-of-way expansion, or other
19 public purposes, whether negotiated or as a result of eminent
20 domain proceedings.

21 2. In any case where the bylaws are silent as to the
22 association's power to convey common elements as described in
23 subparagraph 1., the bylaws shall be deemed to include the
24 provision described in subparagraph 1.

25 Section 3. Paragraph (b) of subsection (1) of section
26 718.115, Florida Statutes, is amended to read:

27 718.115 Common expenses and common surplus.--

28 (1)

29 (b) If so provided in the declaration, the cost of a
30 master antenna television system or duly franchised cable
31 television service obtained pursuant to a bulk contract shall

1 be deemed a common expense. If the declaration does not
2 provide for the cost of a master antenna television system or
3 duly franchised cable television service obtained under a bulk
4 contract as a common expense, the board of administration may
5 enter into such a contract and the cost of the service will be
6 a common expense but allocated on a per-unit basis rather than
7 a percentage basis if the declaration provides for other than
8 an equal sharing of common expenses and any contract entered
9 into before July 1, 1998, in which the cost of the service is
10 not equally divided among all unit owners, may be changed by
11 vote of a majority of the voting interests present at a
12 regular or special meeting of the association, to allocate the
13 cost equally among all units., and if not, such cost shall be
14 considered common expense if it is designated as such in a
15 written contract between the board of administration and the
16 company providing the master television antenna system or the
17 cable television service.The contract shall be for a term of
18 not less than 2 years.

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

29 2. Any such contract shall provide, and shall be
30 deemed to provide if not expressly set forth, that any hearing
31 impaired or legally blind unit owner who does not occupy the

1 unit with a non-hearing-impaired ~~nonhearing-impaired~~ or
2 sighted person may discontinue the service without incurring
3 disconnect fees, penalties, or subsequent service charges, and
4 as to such units, the owners shall not be required to pay any
5 common expenses charge related to such service. If less than
6 all members of an association share the expenses of cable
7 television, the expense shall be shared equally by all
8 participating unit owners. The association may use the
9 provisions of s. 718.116 to enforce payment of the shares of
10 such costs by the unit owners receiving cable television.

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

13 718.503 Developer disclosure prior to sale;
14 nondeveloper unit owner disclosure prior to sale;
15 voidability.--

16 (2) NONDEVELOPER DISCLOSURE.--

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

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

31

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

4 1. A clause which states: THE BUYER HEREBY
5 ACKNOWLEDGES THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF
6 THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION OF
7 THE ASSOCIATION, BYLAWS, RULES OF THE ASSOCIATION, A COPY OF
8 THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND THE
9 QUESTION AND ANSWER SHEET MORE THAN 3 DAYS, EXCLUDING
10 SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, PRIOR TO EXECUTION OF
11 THIS CONTRACT; or

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

28
29 A contract that does not conform to the requirements of this
30 paragraph is voidable at the option of the purchaser prior to
31 closing.

1 Section 5. Section 718.504, Florida Statutes, is
2 amended to read:

3 718.504 Prospectus or offering circular.--Every
4 developer of a residential condominium which contains more
5 than 20 residential units, or which is part of a group of
6 residential condominiums which will be served by property to
7 be used in common by unit owners of more than 20 residential
8 units, shall prepare a prospectus or offering circular and
9 file it with the Division of Florida Land Sales, Condominiums,
10 and Mobile Homes prior to entering into an enforceable
11 contract of purchase and sale of any unit or lease of a unit
12 for more than 5 years and shall furnish a copy of the
13 prospectus or offering circular to each buyer. In addition to
14 the prospectus or offering circular, each buyer shall be
15 furnished a separate page entitled "Frequently Asked Questions
16 and Answers," which shall be in accordance with a format
17 approved by the division and a copy of the financial
18 information required by s. 718.111. This page shall, in
19 readable language, inform prospective purchasers regarding
20 their voting rights and unit use restrictions, including
21 restrictions on the leasing of a unit; shall indicate whether
22 and in what amount the unit owners or the association is
23 obligated to pay rent or land use fees for recreational or
24 other commonly used facilities; shall contain a statement
25 identifying that amount of assessment which, pursuant to the
26 budget, would be levied upon each unit type, exclusive of any
27 special assessments, and which shall further identify the
28 basis upon which assessments are levied, whether monthly,
29 quarterly, or otherwise; shall state and identify any court
30 cases in which the association is currently a party of record
31 in which the association may face liability in excess of

1 \$100,000; and which shall further state whether membership in
2 a recreational facilities association is mandatory, and if so,
3 shall identify the fees currently charged per unit type. The
4 division shall by rule require such other disclosure as in its
5 judgment will assist prospective purchasers. The prospectus or
6 offering circular may include more than one condominium,
7 although not all such units are being offered for sale as of
8 the date of the prospectus or offering circular. The
9 prospectus or offering circular must contain the following
10 information:

11 (1) The front cover or the first page must contain
12 only:

13 (a) The name of the condominium.

14 (b) The following statements in conspicuous type:

15 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS
16 IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM
17 UNIT.

18 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN
19 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL
20 REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND
21 SALES MATERIALS.

22 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS
23 CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER
24 TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR
25 CORRECT REPRESENTATIONS.

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

29 (3) A separate index of the contents and exhibits of
30 the prospectus.

31

1 (4) Beginning on the first page of the text (not
2 including the summary and index), a description of the
3 condominium, including, but not limited to, the following
4 information:

5 (a) Its name and location.

6 (b) A description of the condominium property,
7 including, without limitation:

8 1. The number of buildings, the number of units in
9 each building, the number of bathrooms and bedrooms in each
10 unit, and the total number of units, if the condominium is not
11 a phase condominium, or the maximum number of buildings that
12 may be contained within the condominium, the minimum and
13 maximum numbers of units in each building, the minimum and
14 maximum numbers of bathrooms and bedrooms that may be
15 contained in each unit, and the maximum number of units that
16 may be contained within the condominium, if the condominium is
17 a phase condominium.

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

20 3. The estimated latest date of completion of
21 constructing, finishing, and equipping. In lieu of a date,
22 the description shall include a statement that the estimated
23 date of completion of the condominium is in the purchase
24 agreement and a reference to the article or paragraph
25 containing that information.

26 (c) The maximum number of units that will use
27 facilities in common with the condominium. If the maximum
28 number of units will vary, a description of the basis for
29 variation and the minimum amount of dollars per unit to be
30 spent for additional recreational facilities or enlargement of
31 such facilities. If the addition or enlargement of facilities

1 will result in a material increase of a unit owner's
2 maintenance expense or rental expense, if any, the maximum
3 increase and limitations thereon shall be stated.

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

9 (b) If timeshare estates are or may be created with
10 respect to any unit in the condominium, a statement in
11 conspicuous type stating that timeshare estates are created
12 and being sold in units in the condominium.

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

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

19 (b) Each swimming pool, as to its general location,
20 approximate size and depths, approximate deck size and
21 capacity, and whether heated.

22 (c) Additional facilities, as to the number of each
23 facility, its approximate location, approximate size, and
24 approximate capacity.

25 (d) A general description of the items of personal
26 property and the approximate number of each item of personal
27 property that the developer is committing to furnish for each
28 room or other facility or, in the alternative, a
29 representation as to the minimum amount of expenditure that
30 will be made to purchase the personal property for the
31 facility.

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

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

6 2. A reference to the location in the disclosure
7 materials of the lease or other agreements providing for the
8 use of those facilities; and

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

19 (g) A statement as to whether the developer may
20 provide additional facilities not described above; their
21 general locations and types; improvements or changes that may
22 be made; the approximate dollar amount to be expended; and the
23 maximum additional common expense or cost to the individual
24 unit owners that may be charged during the first annual period
25 of operation of the modified or added facilities.

26
27 Descriptions as to locations, areas, capacities, numbers,
28 volumes, or sizes may be stated as approximations or minimums.

29 (7) A description of the recreational and other
30 facilities that will be used in common with other
31 condominiums, community associations, or planned developments

1 | which require the payment of the maintenance and expenses of
2 | such facilities, either directly or indirectly, by the unit
3 | owners. The description shall include, but not be limited to,
4 | the following:

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

6 | (b) Facilities not committed to be built except under
7 | certain conditions, and a statement of those conditions or
8 | contingencies.

9 | (c) As to each facility committed to be built, or
10 | which will be committed to be built upon the happening of one
11 | of the conditions in paragraph (b), a statement of whether it
12 | will be owned by the unit owners having the use thereof or by
13 | an association or other entity which will be controlled by
14 | them, or others, and the location in the exhibits of the lease
15 | or other document providing for use of those facilities.

16 | (d) The year in which each facility will be available
17 | for use by the unit owners or, in the alternative, the maximum
18 | number of unit owners in the project at the time each of all
19 | of the facilities is committed to be completed.

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

27 | (f) If there are leases, a description thereof,
28 | including the length of the term, the rent payable, and a
29 | description of any option to purchase.

30 |
31 |

1 Descriptions shall include location, areas, capacities,
2 numbers, volumes, or sizes and may be stated as approximations
3 or minimums.

4 (8) Recreation lease or associated club membership:

5 (a) If any recreational facilities or other facilities
6 offered by the developer and available to, or to be used by,
7 unit owners are to be leased or have club membership
8 associated, the following statement in conspicuous type shall
9 be included: THERE IS A RECREATIONAL FACILITIES LEASE
10 ASSOCIATED WITH THIS CONDOMINIUM; or, THERE IS A CLUB
11 MEMBERSHIP ASSOCIATED WITH THIS CONDOMINIUM. There shall be a
12 reference to the location in the disclosure materials where
13 the recreation lease or club membership is described in
14 detail.

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

19 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
20 MANDATORY FOR UNIT OWNERS; or

21 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF
22 OWNERSHIP, TO BE LESSEES UNDER THE RECREATIONAL FACILITIES
23 LEASE; or

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

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

31

1 Immediately following the applicable statement, the location
2 in the disclosure materials where the development is described
3 in detail shall be stated.

4 (c) If the developer, or any other person other than
5 the unit owners and other persons having use rights in the
6 facilities, reserves, or is entitled to receive, any rent,
7 fee, or other payment for the use of the facilities, then
8 there shall be the following statement in conspicuous type:
9 THE UNIT OWNERS OR THE ASSOCIATION(S) MUST PAY RENT OR LAND
10 USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES.

11 Immediately following this statement, the location in the
12 disclosure materials where the rent or land use fees are
13 described in detail shall be stated.

14 (d) If, in any recreation format, whether leasehold,
15 club, or other, any person other than the association has the
16 right to a lien on the units to secure the payment of
17 assessments, rent, or other exactions, there shall appear a
18 statement in conspicuous type in substantially the following
19 form:

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

24 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
25 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING
26 DUE FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE
27 RECREATIONAL OR COMMONLY USED FACILITIES. THE UNIT OWNER'S
28 FAILURE TO MAKE THESE PAYMENTS MAY RESULT IN FORECLOSURE OF
29 THE LIEN.

30
31

1 Immediately following the applicable statement, the location
2 in the disclosure materials where the lien or lien right is
3 described in detail shall be stated.

4 (9) If the developer or any other person has the right
5 to increase or add to the recreational facilities at any time
6 after the establishment of the condominium whose unit owners
7 have use rights therein, without the consent of the unit
8 owners or associations being required, there shall appear a
9 statement in conspicuous type in substantially the following
10 form: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED
11 WITHOUT CONSENT OF UNIT OWNERS OR THE ASSOCIATION(S).

12 Immediately following this statement, the location in the
13 disclosure materials where such reserved rights are described
14 shall be stated.

15 (10) A statement of whether the developer's plan
16 includes a program of leasing units rather than selling them,
17 or leasing units and selling them subject to such leases. If
18 so, there shall be a description of the plan, including the
19 number and identification of the units and the provisions and
20 term of the proposed leases, and a statement in boldfaced type
21 that: THE UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

22 (11) The arrangements for management of the
23 association and maintenance and operation of the condominium
24 property and of other property that will serve the unit owners
25 of the condominium property, and a description of the
26 management contract and all other contracts for these purposes
27 having a term in excess of 1 year, including the following:

- 28 (a) The names of contracting parties.
29 (b) The term of the contract.
30 (c) The nature of the services included.

31

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

3 (e) A reference to the volumes and pages of the
4 condominium documents and of the exhibits containing copies of
5 such contracts.

6
7 Copies of all described contracts shall be attached as
8 exhibits. If there is a contract for the management of the
9 condominium property, then a statement in conspicuous type in
10 substantially the following form shall appear, identifying the
11 proposed or existing contract manager: THERE IS (IS TO BE) A
12 CONTRACT FOR THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH
13 (NAME OF THE CONTRACT MANAGER). Immediately following this
14 statement, the location in the disclosure materials of the
15 contract for management of the condominium property shall be
16 stated.

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

29 (13) If there are any restrictions upon the sale,
30 transfer, conveyance, or leasing of a unit, then a statement
31 in conspicuous type in substantially the following form shall

1 be included: THE SALE, LEASE, OR TRANSFER OF UNITS IS
2 RESTRICTED OR CONTROLLED. Immediately following this
3 statement, the location in the disclosure materials where the
4 restriction, limitation, or control on the sale, lease, or
5 transfer of units is described in detail shall be stated.

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

8 (a) A statement in conspicuous type in substantially
9 the following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL
10 LAND AND UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately
11 following this statement, the location in the disclosure
12 materials where the phasing is described shall be stated.

13 (b) A summary of the provisions of the declaration
14 which provide for the phasing.

15 (c) A statement as to whether or not residential
16 buildings and units which are added to the condominium may be
17 substantially different from the residential buildings and
18 units originally in the condominium. If the added residential
19 buildings and units may be substantially different, there
20 shall be a general description of the extent to which such
21 added residential buildings and units may differ, and a
22 statement in conspicuous type in substantially the following
23 form shall be included: BUILDINGS AND UNITS WHICH ARE ADDED TO
24 THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER
25 BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately following
26 this statement, the location in the disclosure materials where
27 the extent to which added residential buildings and units may
28 substantially differ is described shall be stated.

29 (d) A statement of the maximum number of buildings
30 containing units, the maximum and minimum numbers of units in
31 each building, the maximum number of units, and the minimum

1 and maximum square footage of the units that may be contained
2 within each parcel of land which may be added to the
3 condominium.

4 (15) If the condominium is created by conversion of
5 existing improvements, the following information shall be
6 stated:

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

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

10 (16) A summary of the restrictions, if any, to be
11 imposed on units concerning the use of any of the condominium
12 property, including statements as to whether there are
13 restrictions upon children and pets, and reference to the
14 volumes and pages of the condominium documents where such
15 restrictions are found, or if such restrictions are contained
16 elsewhere, then a copy of the documents containing the
17 restrictions shall be attached as an exhibit.

18 (17) If there is any land that is offered by the
19 developer for use by the unit owners and that is neither owned
20 by them nor leased to them, the association, or any entity
21 controlled by unit owners and other persons having the use
22 rights to such land, a statement shall be made as to how such
23 land will serve the condominium. If any part of such land
24 will serve the condominium, the statement shall describe the
25 land and the nature and term of service, and the declaration
26 or other instrument creating such servitude shall be included
27 as an exhibit.

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

1 (19) An explanation of the manner in which the
2 apportionment of common expenses and ownership of the common
3 elements has been determined.

4 (20) An estimated operating budget for the condominium
5 and the association, and a schedule of the unit owner's
6 expenses shall be attached as an exhibit and shall contain the
7 following information:

8 (a) The estimated monthly and annual expenses of the
9 condominium and the association that are collected from unit
10 owners by assessments.

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

31

1 (c) The estimated items of expenses of the condominium
2 and the association, except as excluded under paragraph (b),
3 including, but not limited to, the following items, which
4 shall be stated either as an association expense collectible
5 by assessments or as unit owners' expenses payable to persons
6 other than the association:

- 7 1. Expenses for the association and condominium:
8 a. Administration of the association.
9 b. Management fees.
10 c. Maintenance.
11 d. Rent for recreational and other commonly used
12 facilities.
13 e. Taxes upon association property.
14 f. Taxes upon leased areas.
15 g. Insurance.
16 h. Security provisions.
17 i. Other expenses.
18 j. Operating capital.
19 k. Reserves.
20 l. Fees payable to the division.
21 2. Expenses for a unit owner:
22 a. Rent for the unit, if subject to a lease.
23 b. Rent payable by the unit owner directly to the
24 lessor or agent under any recreational lease or lease for the
25 use of commonly used facilities, which use and payment is a
26 mandatory condition of ownership and is not included in the
27 common expense or assessments for common maintenance paid by
28 the unit owners to the association.

29 (d) The estimated amounts shall be stated for a period
30 of at least 12 months and may distinguish between the period
31 prior to the time unit owners other than the developer elect a

1 majority of the board of administration and the period after
2 that date.

3 (21) A schedule of estimated closing expenses to be
4 paid by a buyer or lessee of a unit and a statement of whether
5 title opinion or title insurance policy is available to the
6 buyer and, if so, at whose expense.

7 (22) The identity of the developer and the chief
8 operating officer or principal directing the creation and sale
9 of the condominium and a statement of its and his or her
10 experience in this field.

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

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

15 (b) The articles of incorporation creating the
16 association.

17 (c) The bylaws of the association.

18 (d) The ground lease or other underlying lease of the
19 condominium.

20 (e) The management agreement and all maintenance and
21 other contracts for management of the association and
22 operation of the condominium and facilities used by the unit
23 owners having a service term in excess of 1 year.

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

26 (g) A copy of the floor plan of the unit and the plot
27 plan showing the location of the residential buildings and the
28 recreation and other common areas.

29 (h) The lease of recreational and other facilities
30 that will be used only by unit owners of the subject
31 condominium.

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

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

4 (k) A declaration of servitude of properties serving
5 the condominium but not owned by unit owners or leased to them
6 or the association.

7 (l) The statement of condition of the existing
8 building or buildings, if the offering is of units in an
9 operation being converted to condominium ownership.

10 (m) The statement of inspection for termite damage and
11 treatment of the existing improvements, if the condominium is
12 a conversion.

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

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

16 (p) A copy of the documents containing any
17 restrictions on use of the property required by subsection
18 (16).

19 (24) Any prospectus or offering circular complying,
20 prior to the effective date of this act, with the provisions
21 of former ss. 711.69 and 711.802 may continue to be used
22 without amendment or may be amended to comply with the
23 provisions of this chapter.

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

28 (26) If the developer is required by state or local
29 authorities to obtain acceptance or approval of any dock or
30 marina facilities intended to serve the condominium, a copy of
31 any such acceptance or approval acquired by the time of filing

1 with the division under s. 718.502(1) or a statement that such
2 acceptance or approval has not been acquired or received.

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

6 Section 6. This act shall take effect July 1, 1998.

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8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
9 COMMITTEE SUBSTITUTE FOR
10 SB 972

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11 Provides for minimum insurance coverage instead of fidelity
12 bonding.

13 Provides that a developer, in order to waive the reserves or
14 reduce the funding of reserves during the first 2 years of
15 operation of the association, must obtain the approval of a
16 majority of the nondeveloper voting interests.

17 Allows for the commingling of reserve funds and operating
18 funds for investment purposes.

19 Requires financial disclosure of year-end information.

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