

STORAGE NAME: h2171a.rpp
DATE: May 10, 1999

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
committee
FINAL ANALYSIS**

BILL #: HB 2171 (PCB RPP 99-01)
RELATING TO: Condominium associations
SPONSOR(S): Committee on Real Property and Probate
COMPANION BILL(S): SB 2274 (s)
ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) Real Property and Probate 8 YEAS 0 NAYS
(2)
(3)
(4)
(5)

I. FINAL ACTION STATUS:

On April 30, 1999, HB 2171 died in the Senate Committee on Regulated Industries.

II. SUMMARY:

This bill amends certain provisions in Chapter 718, F.S., relating to condominiums, and creates one new section, to provide more tailored requirements with respect to multicondominium associations. "Multicondominium" is defined to mean "a real estate development that contains more than one condominium operated by one condominium association."

The original proposed committee bill addresses master condominium associations¹. These provisions were, however, removed from the bill because certain affected parties had concerns regarding various aspects of the provisions and because the Department of Business and Professional Regulation requested additional time within which to study the issues.

Master condominium associations have been subject to the provisions of Chapter 718, F.S., since 1991 and thus within the jurisdiction of the Department of Business and Professional Regulation, Division of Land Sales, Condominiums, and Mobile Homes. However, the current provisions of Chapter 718, F.S., fit "traditional associations" and are not tailored to meet the needs of master condominium associations.

Accordingly, this bill instructs the Department of Business and Professional Regulation to prepare legislation, with regard to master condominium associations, to be presented to the President of the Senate and the Speaker of the House of Representatives on or before November 15, 1999.

This bill does not appear to have a fiscal impact on state or local governments.

¹ A "master condominium association" is an entity that is primarily responsible for the operation of real property or facilities that do not constitute the common elements of a condominium or association property of a condominium association; in which condominium unit owners have use rights; where voting membership will be composed exclusively of condominium unit owners or their agents or representatives; where membership either directly by a condominium unit owner or through an agent or representative is a required condition of condominium unit ownership; where the entity may assess its members or affected owners for the costs of shared expenses; and where any unpaid assessment may ultimately become a lien on a condominium parcel or on the common elements of a condominium.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Master Associations

The term “master association” is not defined in Chapter 718, F.S., the “Condominium Act”². However, s. 718.103, F.S., does define “association” to mean:

in addition to those entities responsible for the operation of common elements owned in undivided shares by unit owners, *any entity which operates or maintains other real property in which condominium unit owners have use rights, where unit owner membership in the entity is composed exclusively of condominium unit owners or their elected or appointed representatives, and where membership in the entity is required condition of unit ownership.* (emphasis added)

The italicized portion of the definition of “association” is commonly used to describe a master condominium association. The italicized portion of the definition was added by the Legislature in 1991, ch. 91-103, L.O.F., pursuant to a 1988 court holding that a recreation association operating real property used by condominium unit owners but not made a part of a condominium constituted a condominium association regulated by Chapter 718, F.S. *Downey v. Jungle Den Villas Recreation Association, Inc.*, 525 So.2d 438 (Fla. 5th DCA).

It is important to note, however, that not all associations described as “masters” fall within the definition of “association”:

- ✓ First, to meet the definition of “association”, condominium unit owners must have use rights in the real property operated or maintained by the association.
- ✓ Second, a master association’s membership must consist **exclusively** of condominium unit owners or their elected or appointed representatives.³
- ✓ Third, membership in the master association is mandatory; condominium unit owners or their representatives may not “opt” out of the association at any time.

Furthermore, it is important to understand the differences between a “traditional” condominium association and “master association”. Unlike a traditional condominium association, which derives its authority from a recorded declaration of condominium, a master association derives its authority from a recorded declaration of covenants. The declaration of covenants usually pertains to a large tract of land on which the declarant intends to construct multiple projects that will benefit from one or more facilities (e.g., roads, club houses, sewer plants) operated by the master association. In some cases, the declaration of covenants may explicitly provide that all projects constructed must be condominiums, but in most cases the declaration merely limits future construction to residential use, and, in some cases the declaration of covenants provides for both residential and commercial development, at the developer’s discretion. Thus, in a majority of cases, one cannot determine whether a master association will end up being a master association falling under the definition of “association” until completion of all construction within the development.⁴

The determination whether a master association falls within the jurisdiction of Chapter, 718, F.S., and thus the jurisdiction of the Bureau of Condominiums within the Division of Land Sales,

² “Condominium” means that form of ownership of real property which is created pursuant to the provisions of Chapter 718, F.S., which is comprised of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements. s. 718.103(10), F.S.

³ Some master associations are homeowners’ associations whose membership includes representatives of all projects in the development; for example, single family homes, condominiums, life care facilities and commercial entities. **If a master association includes non-condominium unit owners in its membership, it is not an “association” as defined above and therefore is not governed by Chapter 718, F.S.**

⁴ Memorandum, 1/12/98, M. Barrera, Esq., DBPR, regarding “Master Associations”.

Condominiums, and Mobile Homes within the Department of Business and Professional Regulation, must be made on a case by case basis after examination of numerous factors. Because the Bureau's jurisdiction over master associations is often unclear, the Bureau spends valuable investigative resources reviewing complaints that ultimately cannot be resolved under the Condominium Act.⁵

Furthermore, the Bureau has created materials to educate condominium owners on the differences between master associations and traditional condominium associations. However, the ambiguities associated with the jurisdiction issue makes that effort difficult.⁶

The Office of Program Policy Analysis and Government Accountability (OPPAGA) recommends that the legislature clarify the Bureau's jurisdiction by removing master associations from the Condominium Act.⁷ Two primary options are available with regard to removing master associations from Chapter 718, F.S.:

- (1) Place "master condominium associations" under Part III of Chapter 617, F.S.; or
- (2) Create a new part in Chapter 718, F.S., (Part VII) to specifically deal with the unique nature of master condominium associations.⁸

With regard to option 1, placing "master condominium associations" under Chapter 617, F.S., would eliminate the many consumer protection provisions found in the Chapter 718, F.S., which are not found in Chapter 617, F.S. (the "Homeowners' Association Act").

⁵ *Id.* "When the bureau receives a complaint involving a master association, staff must make an extensive review of the legal documents governing the association to determine jurisdiction and the applicability of Chapter 718, F.S. Even when the bureau determines that the master association falls under the statutory provisions of Chapter 718, F.S., it may be unable to resolve the complaint because the problem may not be covered by the current wording of condominium statutes. Thus, staff spend valuable investigative resources reviewing complaints related to master associations that they are unable to resolve." OPPAGA Report No. 97-62, Review of the Bureau of Condominiums Complaint Investigation Process, March 1998, at 4.

⁶ Some of the ambiguities identified by the Bureau are: "Is the association subject to Chapter 718 as long as the membership at the moment is exclusively unit owners or is application of the statute determined only when the development is complete? Can an association be subject to the requirements of Chapter 718 at one time but not another? If it is initially exempt but later included, what effect does this have on past financial and other operations?" Furthermore, when it is determined that a master association is subject to Chapter 718, F.S., difficulties ensue in applying its various provisions. For example, "common expenses," "common elements," "condominium property," "declaration," and "common surplus" are all defined in terms of the condominium and not other forms of real property. Therefore, any provision in the statute that uses these terms, as specifically defined, usually cannot be applied to the master association because it does not operate a condominium. Furthermore, the elections provisions of s. 718.112(2)(d)3., F.S., provide for unit owners to serve on the board and to vote for the election of directors. This process works well in condominium associations but not in master associations. The membership of master associations may consist of the individual associations they serve rather than individual unit owners, thus avoiding unduly large meetings and quorum requirements that are difficult to obtain. In these instances, the association documents usually do not provide for direct unit owner election of members to the master association board. Such documents also may provide that unit owners are not eligible for positions on the board unless they have been elected to their individual association boards. Master associations may be organized in a variety of ways as provided by their documents, which are often in conflict with the statute. Condominium and Cooperative Study, A Report by the Division of Florida Land Sales, Condominiums and Mobile Homes, January 1996, at 69-69.

⁷ See OPPAGA Report No. 97-62, Review of the Bureau of Condominiums Complaint Investigation Process, March 1998.

⁸ Memorandum, 8/11/98, at 9, To: Division of Florida Land Sales, Condominiums and Mobile Homes; From: J. Adams'; Re: Master Association/Multi-condominium Association Issues. "[T]here is little debate amongst Florida community association legal practitioners, community association managers, volunteer board members, unit owners, accountants, insurance professionals, developers, industry coalition groups, columnists, and the Division of Florida Land Sales, Condominiums, and Mobile Homes ... that the "master association issue: is a vexatious one. The primary "problem" is that Section 718, Florida Statutes, ... does not neatly fit actual operational practices nor the practicalities of operating many 'condominium master associations.'" *Id.* at 1.

Among the most important protections are: construction warranty rights; post-turnover audit requirements; clearer turnover guidelines [from the developer to the homeowners]; and the right to cancel onerous pre-turnover contracts made by the developer-controlled board. Along with these consumer protections inuring to the benefit of the Association as a whole, there are also heightened protections for individual unit owners, that do not apply to the HOA [homeowners' association] context. Included in this category are: the right to speak at Board meetings; right to receipt of substantive response to complaint/inquiries; and entitlement to more thorough year-end financial reports.⁹

Creating a new part in Chapter 718, F.S., could allow the above-described protections to exist with respect to "master condominium associations", and would serve as a compromise position between ad-hoc amendments to the Condominium Act and placing master condominium associations in the Homeowners' Association Act. "This idea appears to warrant serious discussion."¹⁰

In 1998, the Bureau of Condominiums agreed to organize and facilitate meetings at which knowledgeable and interested parties could discuss and draft legislative language that would resolve many of the concerns relating to the regulation of master condominium associations. Six such meetings were held and the original proposed committee bill in large part reflected the work product of that group, although not all parties agreed with the master condominium provisions.¹¹

Multicondominium Associations

Although "multicondominium association" is not a defined term in Chapter 718, F.S., it has come to mean an association that contains more than one condominium operated by that association. By and large, many of the issues identified above with regard to master condominium associations are also applicable to some multicondominium associations.

Existing statutory language regarding condominiums, in certain instances, is confusing at best to try and apply to multicondominium associations; for example, whether the year-end financial reporting requirements should be geared solely to the income of the individual condominiums; whether consolidated financial statements are appropriate; and whether the operating funds of a multicondominium association can be commingled or whether the reserve funds of the multicondominium association can be commingled.

As previously stated with regard to the master condominium associations, the Bureau of Condominiums organized and facilitated meetings of affected parties wherein amendatory language to Chapter 718, F.S., was drafted to remedy concerns regarding multicondominium associations. This bill reflects the consensus work product of that group.

B. EFFECT OF PROPOSED CHANGES:

This bill amends certain existing provisions in Chapter 718, F.S., and creates one new section, to provide more tailored requirements with respect to multicondominium associations. "Multicondominium" is defined to mean "a real estate development that contains more than one condominium operated by one condominium association."

This bill instructs the Department of Business and Professional Regulation to prepare legislation, with regard to master condominium associations, to be presented to the President of the Senate and the Speaker of the House of Representatives on or before November 15, 1999.

See the "Section-By-Section Analysis" herein for further detail regarding this bill's provisions.

⁹ *Id.* at 9-10.

¹⁰ *Id.* at 10.

¹¹ See OPPAGA Report No. 97-62, Finding 2.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No

(3) any entitlement to a government service or benefit?

No

b. If an agency or program is eliminated or reduced:

An agency or program is not eliminated or reduced.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No

b. Does the bill require or authorize an increase in any fees?

No

c. Does the bill reduce total taxes, both rates and revenues?

No

d. Does the bill reduce total fees, both rates and revenues?

No

e. Does the bill authorize any fee or tax increase by any local government?

No

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Because this bill clarifies the law regarding multicondominium associations, use of this type of association may be encouraged.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

This bill does not purport to provide services to families or children.

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

This bill does not create or change a program providing services to families or children.

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends ss. 718.102, .103, .104, .106, .110, .111, .112, .113, .115, .116, .117, .5019, .504, and 624.462.
Creates s. 718.405.

E. SECTION-BY-SECTION ANALYSIS:

Section 1 -- Amends s. 718.102, F.S., stating an additional purpose for the Condominium Act which is to provide information to condominium unit owners and condominium association board members regarding their rights and responsibilities.

Section 2 -- Amends s. 718.103, F.S., adding the definition for "multicondominium"; amending the definition of "common expense" to cross-reference s. 718.115; amending the definition of "voting interest" definition to add multicondominium association provisions; and correcting cross-references.

Section 3 -- Amends s. 718.104, F.S., regarding the creation of condominiums and the contents of a declaration; restating more clearly the requirement that the declaration of condominium specify the undivided share of ownership of the common surplus as a percent or fraction of the whole; changing "proportions or percentages" to "percentage or fractional shares of liability" with regard to the common expenses of the condominium and of ownership of the common surplus which must be the same as the undivided share of ownership in the common elements "and common surplus appurtenant to each unit"; and requiring that if a developer has reserved the right in a declaration of condominium recorded on or after July 1, 1999, to create a multicondominium development, then the declaration of condominium for the first such condominium must provide a specific formula for determining the fractional or percentage shares of liability for common expenses and of ownership of the common surplus to be allocated to the units in each condominium to be operated by the association, and if not so provided, providing that the share of liability for the common expenses of the association and of ownership of the common surplus of the association allocated to each unit shall be a fraction of the whole, the numerator being "one" and the denominator being the total number of units in all condominiums operated by the association.

Section 4 -- Amends s. 718.106, F.S., relating to condominium parcels, appurtenances, possession and enjoyment; providing for the right to transfer exclusive use rights to other units or unit owners to the extent authorized by the original declaration or amendments thereto, which amendments may be adopted in the manner required for regular amendments to the declaration and not pursuant to the percentage vote required to modify unit appurtenances, and stating that "this paragraph is intended to clarify existing law"; and providing the right to seek election to the board in a manner consistent with s. 718.112(2)(d).

Section 5 -- Amends s. 718.110, F.S., regarding amendment of a declaration; making editorial changes; providing that unless approval by a greater number is uniformly required in the declarations of all condominiums comprising a multicondominium development, an amendment may not change the fractional or percentage share of liability for the

common expenses and of ownership of the common surplus, unless certain requirements are met; authorizing the amendment of a declaration to set forth a formula already in use, but not previously stated in the declaration, for sharing common expenses and common surplus; and, allowing the creation or enlargement of a multicondominium development by the merger or consolidation of two or more condominium associations.

Section 6 -- Amends s. 718.111, F.S., regarding a condominium association and its official records:

- ✓ adding the right of an association member to obtain association records by mail; providing that an association, upon written request, must copy and deliver the requested official record and may charge its actual costs to comply with the request; providing that a postmark, when applicable, is evidence of the date of delivery; and adding a penalty of \$100 per calendar day for up to 10 days for a *subsequent* [willful] failure of the association to provide access to records [The current penalty is \$50 per calendar day for up to 10 days.];
- ✓ adding to the condominium association records *not* available to the unit owners "any document protected by the attorney-client privilege as described in s. 90.502, as well as the material protected by the work-product privilege", which is already described in current law;
- ✓ extending from 60 days to 90 days the time within which the board must have prepared a complete financial report and requiring the association within 14 days after the receipt of the report or statements to either mail or deliver a copy of the financial report or financial statements to all unit owners, or, notify each unit owner that a copy of the report or statements is available at no charge;
- ✓ requiring the financial report to show receipts and expenses for the association and each condominium operated by a multicondominium association;
- ✓ requiring, for a multicondominium association, that the reserve disclosures must separately show reserves accumulated and expended on behalf of the unit owners and by the unit owners of specific condominiums;
- ✓ requiring preparation of financial statements within 90 days after the end of each fiscal year, or annually on the date provided in the bylaws, and requiring the association, within 14 days of receipt of same, to mail or deliver a copy of the financial statements, or, notify unit owners that a copy of the financial statements is available at no charge;
- ✓ authorizing presentation of multicondominium association financial statements on a combined basis if certain information is disclosed for the association and for each condominium and requiring disclosure of the revenues and common expenses of the association and the method used to allocate the revenues, expenses, and common surplus of the association to the unit owners; and
- ✓ providing that a multicondominium association is not prohibited from commingling its various operating funds of the condominiums it operates, or commingling its various reserve funds; however, each operating fund that is commingled, and each reserve fund that is commingled must be accounted for separately.

Section 7 -- Amends s. 718.112(2), F.S., regarding "bylaws":

- ✓ striking the following sentence in paragraph (d)1.: "In order to be eligible for board membership a person must meet the requirements set forth in the declaration."

This sentence was added in 1998 pursuant to CS/CS/HB 3321, ch. 98-322, L.O.F., and has been construed to allow a residency requirement in a condominium declaration. DBPR, In re: Petition for Declaratory Statement, Harry Starr, Golden Lakes Village Condominium Association "A", Inc. DS 98-029, at 10. That sentence was not intended to open the door to a residency requirement; it was simply

intended to support other requirements set forth in the declaration. It is clear from the previous sentence in that sub-subparagraph that any "unit owner desiring to be a candidate" is eligible, without any residency requirement. The pertinent provision in the 1998 legislation added language that was simply intended to prevent convicted felons from being eligible for board membership. See *generally*, House Committee on Real Estate & Probate, Final ANALYSIS Economic Impact Statement, CS/HB 3321, June 3, 1998. Accordingly, this sentence is stricken in order to once again close the door to residency requirements.];

- ✓ requiring a multicondominium association to adopt a separate budget of common expenses for each condominium it operates and a separate budget of common expenses for the association;
- ✓ correcting cross-references;
- ✓ clarifying budget requirements, more specifically: current law provides that the developer may vote to waive the reserves or reduce the funding of reserves for the first 2 years of the operation of the association -- the amendment specifies that the 2 "fiscal" years begins with the date the initial declaration is recorded in the county records, and providing that "after the turnover, the developer may vote its voting interest to waive or reduce the funding of reserves"; and
- ✓ providing that in a multicondominium association, the only voting interests regarding waiving or reducing the funding of reserves or using existing reserve funds for other purposes are the voting interests of the units subject to the assessment to fund such reserves.

Section 8 -- Amends s. 718.113, F.S., disallowing certain material alterations or substantial additions made to the common elements by a multicondominium association unless approved in a manner provided in the declaration of the affected condominium(s) and providing an approval procedure if the declaration does not address same; disallowing certain alterations or additions to association real property by a multicondominium association, except as provided in the articles of incorporation or bylaws, and providing an approval procedure if not otherwise addressed in the articles of incorporation or bylaws.

Section 9 -- Amends s. 718.115, F.S., regarding common expenses and common surplus; providing that the common expenses of a multicondominium association are those not directly attributable to the operation of a specific condominium, but may include categories of expenses related to property within a specific condominium if all members of the association have use rights therein or receive other tangible economic benefits, and requiring that such common expenses be identified in the declaration or bylaws; providing for certain educational expenses within the declaration or bylaws; and providing that in a multicondominium association, the total common surplus owned by a unit owner consists of the unit owner's share of the common surplus of the multicondominium association and that owner's share of the common surplus of the condominium in which the owner's unit is located.

Section 10-- Amends s. 718.116, F.S., making editorial and cross-reference changes; providing that, in a multicondominium situation, if a developer is excused from paying assessments pursuant to the provisions in s. 718.116(9), then the developer must pay those common expenses of the condominium affected by the guarantee, including funding of reserves, and the developer must pay the portion of the common expenses of the association, including funding of reserves, allocated to the units within the condominium affected by the guarantee which is in excess of the amount assessed against the nondeveloper units within that condominium through regular periodic assessments related to the adopted budget of the association.

Section 11-- Creates subsection (11) of s. 718.117, F.S., regarding termination, stating that s. 718.117, F.S., does not apply to the termination of a condominium incident to a merger of a condominium with another condominium, as otherwise provided.

Section 12-- Creates s. 718.405, F.S., regarding multicondominiums, providing that

- ✓ an association may operate more than one condominium if the declarations of affected condominiums so provide and disclose or describe the following:
 - the manner or formula by which assets, liabilities, and common expenses will be apportioned;
 - the land on which any additional condominiums to be operated may be located;
 - whether unit owners in other condominiums, or any other persons, will have use rights to recreational areas, facilities, or amenities, and the formula by which other users will share the common expenses related thereto;
 - the recreational facilities or amenities the developer has committed to provide that are owned or leased by the association but are not included within any condominium; and requiring, if applicable, the prospectus for each condominium, to conspicuously state: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF UNIT OWNERS OF THE ASSOCIATION;
 - the voting rights of the owners of each unit in the election of directors and other matters; and
 - whether timeshare estates will or may be created and, if so, the degree, quantity, nature, and extent of such estates.
- ✓ an owner of a unit or the association may enforce a declaration requirement that the developer convey lands or facilities, pursuant to a cause of action for specific performance or for damages; and
- ✓ this section does not prevent or restrict the formation of a multicondominium development by the merger or consolidation of two or more condominium associations.

Section 13-- Amends s. 718.5019, regarding advisory council membership and functions; adding that council members will continue to serve until their replacement has been appointed

Section 14-- Amends s. 781.504, F.S., regarding a prospectus or offering circular:

Creating a new subsection (15), requiring that if a condominium is or may become part of a multicondominium development, certain information must be provided in the prospectus or offering circular:

- ✓ A conspicuous statement providing: THIS CONDOMINIUM IS (MAY BE) PART OF A MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL (MAY) BE OPERATED BY THE SAME ASSOCIATION;
- ✓ A summary of the provisions in the declaration and bylaws which establish and provide for the operation of the multicondominium development;

- ✓ The minimum and maximum number of condominiums and number of units therein, which will or may be operated by the association, and the latest date by which the exact numbers will be finally determined;
- ✓ Whether any of the condominiums may include nonresidential units, and the permitted purpose of such units; and
- ✓ A general description of the land on which any additional condominiums to be operated by the association may be located.

Section 15-- Amends s. 624.462, F.S., regarding commercial self-insurance funds, correcting a cross-reference.

Section 16-- Providing an effective date of July 1, 1999.

IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

“Associations may experience a cost savings related to the delivery of association financial statements and reports.” Department of Business and Professional Regulation, Legislative Affairs Office Bill Analysis Form, SB 2274, July 1, 1999, at 6.

3. Effects on Competition, Private Enterprise and Employment Markets:

None

D. FISCAL COMMENTS:

None

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill will not reduce the authority of municipalities and counties to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill will not reduce the state tax shared with counties and municipalities.

VI. COMMENTS:

None

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The original proposed committee bill includes provisions regarding master condominium associations. On April 5, 1999, the Committee on Real Property and Probate adopted a “remove everything after the enacting clause” amendment, by Representative Sublette, which removed all provisions regarding master condominium associations. In addition, that amendment incorporated numerous technical amendments adopted by the committee as well as amendments adopted, which were offered by Representative Valdes, requiring, upon request, the mailing of condominium records and setting forth additional penalties for repeated willful failure to provide access to records; i.e., \$100 a day fine for up to 10 days.

VIII. SIGNATURES:

COMMITTEE ON Real Property and Probate:

Prepared by:

J. Marleen Ahearn, Ph.D., J.D.

Staff Director:

J. Marleen Ahearn, Ph.D., J.D.

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON committee:

Prepared by:

J. Marleen Ahearn, Ph.D., J.D.

Staff Director:

J. Marleen Ahearn, Ph.D., J.D.