

By the Committee on Real Property & Probate and
Representative Goodlette

1 A bill to be entitled
2 An act relating to condominium associations;
3 amending s. 718.102, F.S.; providing an
4 additional purpose of ch. 718, F.S.; amending
5 s. 718.103, F.S.; revising definitions;
6 providing an additional definition; amending s.
7 718.104, F.S.; providing additional
8 requirements for a declaration of condominium;
9 providing for determining the percentage share
10 of liability for common expenses and ownership;
11 amending s. 718.106, F.S.; providing for the
12 right to assign exclusive use; providing for
13 the right to seek election; amending s.
14 718.110, F.S.; clarifying requirements for
15 amending and recording the declaration of
16 condominium; providing for determining the
17 percentage share of liability for common
18 expenses and ownership for purposes of
19 condominiums comprising a multicondominium
20 development; amending s. 718.111, F.S.;
21 providing additional mailing requirements and
22 additional penalties for denying access to
23 certain records; clarifying an attorney-client
24 privilege; revising requirements for financial
25 reports; requiring the disclosure of reserves;
26 revising requirements for financial statements;
27 requiring the disclosure of revenues and common
28 expenses; revising certain limitations on the
29 commingling of funds maintained in the name of
30 a condominium association or multicondominium;
31 amending s. 718.112, F.S.; revising

1 requirements for budget meetings; providing
2 conditions under which a multicondominium
3 association may waive or reduce its funding of
4 reserves; amending s. 718.113, F.S.; providing
5 certain limitations on making material
6 alterations or additions to multicondominiums;
7 providing a procedure for approving an
8 alteration or addition if not provided for in
9 the bylaws; revising requirements for
10 condominium boards with respect to installing
11 and maintaining hurricane shutters; specifying
12 expenses that constitute common expenses of a
13 multicondominium association; providing for an
14 association's bylaws to allow certain
15 educational expenses of the officers or
16 directors to be a permitted common expense;
17 amending s. 718.115, F.S.; providing for
18 determining the common surplus owned by a unit
19 owner of a multicondominium; amending s.
20 718.116, F.S.; revising circumstances under
21 which a developer may be excused from paying
22 certain common expenses and assessments;
23 providing for the developer's obligation for
24 such expenses with respect to a
25 multicondominium association; amending s.
26 718.117, F.S.; providing that certain
27 requirements governing the termination of a
28 condominium are inapplicable to the merger of a
29 condominium with one or more other
30 condominiums; creating s. 718.405, F.S.;

31 providing for the creation of

1 multicondominiums; providing requirements for
2 the declaration of condominium; providing for
3 the merger or consolidation of condominium
4 associations; amending s. 718.5019, F.S.;
5 providing for a member's continued service
6 until a replacement has been appointed;
7 amending s. 718.504, F.S.; providing
8 requirements for the prospectus or offering
9 circular for a condominium that is or may
10 become part of a multicondominium; amending s.
11 624.462, F.S., relating to self-insurance
12 funds; conforming a cross-reference to changes
13 made by the act; requiring the Department of
14 Business and Professional Regulation to prepare
15 proposed legislation addressing master
16 condominium associations; providing criteria;
17 providing an effective date.

18

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

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21 Section 1. Section 718.102, Florida Statutes, is
22 amended to read:

23 718.102 Purposes.--The purpose of this chapter is:

24 (1) To give statutory recognition to the condominium
25 form of ownership of real property.

26 (2) To establish procedures for the creation, sale,
27 and operation of condominiums.

28 (3) To provide information to condominium association
29 board members and unit owners to foster a better understanding
30 of their rights and responsibilities in the operation of their
31 condominium association.

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Every condominium created and existing in this state shall be subject to the provisions of this chapter.

Section 2. Section 718.103, Florida Statutes, 1998 Supplement, is amended to read:

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

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

(2) "Association" means, 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 a required condition of unit ownership.

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

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

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

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

1 (7) "Committee" means a group of board members, unit
2 owners, or board members and unit owners appointed by the
3 board or a member of the board to make recommendations to the
4 board regarding the association budget or take action on
5 behalf of the board.

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

8 (9) "Common expenses" means all expenses that and
9 ~~assessments which~~ are properly incurred by the association in
10 the performance of its duties, as further defined in s.
11 718.115 for the condominium.

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

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

22 (12) "Condominium parcel" means a unit, together with
23 the undivided share in the common elements which is
24 appurtenant to the unit.

25 (13) "Condominium property" means the lands,
26 leaseholds, and personal property that are subjected to
27 condominium ownership, whether or not contiguous, and all
28 improvements thereon and all easements and rights appurtenant
29 thereto intended for use in connection with the condominium.

30 (14) "Conspicuous type" means type in capital letters
31 no smaller than the largest type, exclusive of headings, on

1 the page on which it appears and, in all cases, at least
2 10-point type. Where conspicuous type is required, it must be
3 separated on all sides from other type and print. Conspicuous
4 type may be used in contracts for purchase or public offering
5 statements only where required by law.

6 (15) "Declaration" or "declaration of condominium"
7 means the instrument or instruments by which a condominium is
8 created, as they are from time to time amended.

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

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

24 (18) "Land" means, unless otherwise defined in the
25 declaration as hereinafter provided, the surface of a legally
26 described parcel of real property and includes, unless
27 otherwise specified in the declaration and whether separate
28 from or including such surface, airspace lying above and
29 subterranean space lying below such surface. However, if so
30 defined in the declaration, the term "land" may mean all or
31 any portion of the airspace or subterranean space between two

1 legally identifiable elevations and may exclude the surface of
2 a parcel of real property and may mean any combination of the
3 foregoing, whether or not contiguous.

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

8 (20) "Multicondominium" means a real estate
9 development that contains more than one condominium operated
10 by one condominium association.

11 (21)~~(20)~~ "Operation" or "operation of the condominium"
12 includes the administration and management of the condominium
13 property.

14 (22)~~(21)~~ "Rental agreement" means any written
15 agreement, or oral agreement if for less duration than 1 year,
16 providing for use and occupancy of premises.

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

1 unit in the condominium. If a condominium is a residential
2 condominium but contains units intended to be used for
3 commercial or industrial purposes, then, with respect to those
4 units which are not intended for or used as private
5 residences, the condominium is not a residential condominium.
6 A condominium which contains both commercial and residential
7 units is a mixed-use condominium subject to the requirements
8 of s. 718.404.

9 (24)~~(23)~~ "Special assessment" means any assessment
10 levied against unit owners other than the assessment required
11 by a budget adopted annually.

12 (25)~~(24)~~ "Timeshare estate" means any interest in a
13 unit under which the exclusive right of use, possession, or
14 occupancy of the unit circulates among the various purchasers
15 of a timeshare plan pursuant to chapter 721 on a recurring
16 basis for a period of time.

17 (26)~~(25)~~ "Timeshare unit" means a unit in which
18 timeshare estates have been created.

19 (27)~~(26)~~ "Unit" means a part of the condominium
20 property which is subject to exclusive ownership. A unit may
21 be in improvements, land, or land and improvements together,
22 as specified in the declaration.

23 (28)~~(27)~~ "Unit owner" or "owner of a unit" means a
24 record owner of legal title to a condominium parcel.

25 (29)~~(28)~~ "Voting certificate" means a document which
26 designates one of the record title owners, or the corporate,
27 partnership, or entity representative, who is authorized to
28 vote on behalf of a condominium unit that is owned by more
29 than one owner or by any entity.

30 (30)~~(29)~~ "Voting interest" means the voting rights
31 distributed to the association members pursuant to s.

1 718.104(4)(i). In a multicondominium association the voting
2 interest of the association means the total votes in
3 association affairs distributed to the owners of all units in
4 all condominiums operated by the association. When a vote of
5 the owners in any specific condominium on matters related to
6 that condominium is required or permitted, the voting interest
7 of the condominium means the total votes distributed to the
8 owners of units in that condominium.

9 Section 3. Paragraphs (f) and (g) of subsection (4) of
10 section 718.104, Florida Statutes, 1998 Supplement, are
11 amended to read:

12 718.104 Creation of condominiums; contents of
13 declaration.--Every condominium created in this state shall be
14 created pursuant to this chapter.

15 (4) The declaration must contain or provide for the
16 following matters:

17 (f) The undivided share of ownership of in the common
18 elements and common surplus of the condominium that is
19 appurtenant to each unit stated as a percentage or a fraction
20 of percentages or fractions, which, in the aggregate, must
21 equal the whole. In the declaration of condominium for
22 residential condominiums created after April 1, 1992, the
23 ownership share of the common elements assigned to each
24 residential unit shall be based either upon the total square
25 footage of each residential unit in uniform relationship to
26 the total square footage of each other residential unit in the
27 condominium or on an equal fractional basis.

28 (g) The percentage or fractional shares of liability
29 for the proportions or percentages of and manner of sharing
30 common expenses of the condominium and of ownership of the
31 owning common surplus, which, for all a residential units

1 ~~condominium~~, must be the same as the undivided shares of
2 ownership in the common elements and common surplus
3 appurtenant to each unit under paragraph (f). If a developer
4 has reserved the right in a declaration recorded on or after
5 July 1, 1999, to create a multicondominium development, the
6 declaration of condominium for the first such condominium to
7 be created must state, or provide a specific formula for
8 determining, the fractional or percentage shares of liability
9 for the common expenses of the association and of ownership of
10 the common surplus of the association to be allocated to the
11 units in each condominium to be operated by the association.
12 If the first declaration as originally recorded fails to so
13 provide, the share of liability for the common expenses of the
14 association and of ownership of the common surplus of the
15 association allocated to each unit in each condominium
16 operated by the association shall be a fraction of the whole,
17 the numerator of which is the number "one" and the denominator
18 of which is the total number of units in all condominiums
19 operated by the association.

20 Section 4. Subsection (2) of section 718.106, Florida
21 Statutes, is amended to read:

22 718.106 Condominium parcels; appurtenances; possession
23 and enjoyment.--

24 (2) There shall pass with a unit, as appurtenances
25 thereto:

26 (a) An undivided share in the common elements and
27 common surplus.

28 (b) The exclusive right to use such portion of the
29 common elements as may be provided by the declaration,
30 including the right to transfer such exclusive use rights to
31 other units or unit owners to the extent authorized by the

1 original declaration or amendments to such declaration, which
2 amendments may be adopted in the manner required for regular
3 amendments to the declaration of condominium and not pursuant
4 to the percentage vote required to modify unit appurtenances.
5 This paragraph is intended to clarify existing law.

6 (c) An exclusive easement for the use of the airspace
7 occupied by the unit as it exists at any particular time and
8 as the unit may lawfully be altered or reconstructed from time
9 to time. An easement in airspace which is vacated shall be
10 terminated automatically.

11 (d) Membership in the association designated in the
12 declaration, with the full voting rights appertaining thereto
13 and the right to seek election to the board in a manner
14 consistent with s. 718.112(2)(d).

15 (e) Other appurtenances as may be provided in the
16 declaration.

17 Section 5. Subsections (4) and (9) of section 718.110,
18 Florida Statutes, are amended, and subsection (12) is added to
19 that section, to read:

20 718.110 Amendment of declaration; correction of error
21 or omission in declaration by circuit court.--

22 (4) Unless otherwise provided in the declaration as
23 originally recorded, no amendment may change the configuration
24 or size of any ~~condominium~~ unit in any material fashion,
25 materially alter or modify the appurtenances to the unit, or
26 change the proportion or percentage by which the owner of the
27 unit ~~parcel~~ shares the common expenses and owns the common
28 surplus unless the record owner of the unit and all record
29 owners of liens on it join in the execution of the amendment
30 and unless all the record owners of all other units in the
31 same condominium approve the amendment. The acquisition of

1 property by the association, and material alterations or
2 substantial additions to such property or the common elements
3 by the association in accordance with s. 718.111(7) or s.
4 718.113, shall not be deemed to constitute a material
5 alteration or modification of the appurtenances to the units.
6 A declaration recorded after April 1, 1992, may not require
7 the approval of less than a majority of total voting interests
8 of the condominium for amendments under this subsection,
9 unless otherwise required by a ~~any~~ governmental entity.

10 (9) If there is an omission or error in a declaration
11 of condominium, or in any other document required by law to
12 establish the condominium, the association may correct the
13 error or omission by an amendment to the declaration or to the
14 other document required to create a condominium in the manner
15 provided in the declaration to amend the declaration or, if
16 none is provided, by vote of a majority of the voting
17 interests of the condominium. The amendment is effective when
18 passed and approved and a certificate of the amendment is
19 executed and recorded as provided in subsection (2)~~s.~~
20 ~~718.104~~. This procedure for amendment cannot be used if such
21 an amendment would materially or adversely affect property
22 rights of unit owners, unless the affected unit owners consent
23 in writing. This subsection does not restrict the powers of
24 the association to otherwise amend the declaration, or other
25 documentation, but authorizes a simple process of amendment
26 requiring a lesser vote for the purpose of curing defects,
27 errors, or omissions when the property rights of unit owners
28 are not materially or adversely affected.

29 (12) Unless approval by a greater number is uniformly
30 required in the declarations of all condominiums comprising a
31 multicondominium development, an amendment may not change the

1 fractional or percentage share of liability for the common
2 expenses of the association and of ownership of the common
3 surplus of the association allocated to each unit as provided
4 in s. 718.104(4)(g) without the approval of at least a
5 majority of the total voting interests of each condominium
6 operated by the association. Unless a greater number is
7 expressly required in the declaration, the declaration of
8 condominium for any existing condominium may be amended upon
9 the approval of at least a majority of the total voting
10 interests of each condominium operated by the association, for
11 the purpose of causing it to conform to the requirements of s.
12 718.104(4)(f) as reasonably necessary to:

13 (a) Set forth in a declaration a formula that is
14 already in use, but not previously stated in the declaration,
15 for the sharing of common expenses and common surplus of the
16 association within an existing multicondominium development;
17 or

18 (b) Allow the creation or enlargement of a
19 multicondominium development by the merger or consolidation of
20 two or more condominium associations and change the name of
21 the association, as applicable.

22 Section 6. Paragraphs (a) and (c) of subsection (12)
23 and subsections (13), (14), and (15) of section 718.111,
24 Florida Statutes, 1998 Supplement, are amended to read:

25 718.111 The association.--

26 (12) OFFICIAL RECORDS.--

27 (a) From the inception of the association, the
28 association shall maintain each of the following items, when
29 applicable, which shall constitute the official records of the
30 association:

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- 1 1. A copy of the plans, permits, warranties, and other
2 items provided by the developer pursuant to s. 718.301(4).
- 3 2. A photocopy of the recorded declaration of
4 condominium of each condominium operated by the association
5 and of each amendment to each declaration.
- 6 3. A photocopy of the recorded bylaws of the
7 association and of each amendment to the bylaws.
- 8 4. A certified copy of the articles of incorporation
9 of the association, or other documents creating the
10 association, and of each amendment thereto.
- 11 5. A copy of the current rules of the association.
- 12 6. A book or books which contain the minutes of all
13 meetings of the association, of the board of directors, and of
14 unit owners, which minutes shall be retained for a period of
15 not less than 7 years.
- 16 7. A current roster of all unit owners and their
17 mailing addresses, unit identifications, voting
18 certifications, and, if known, telephone numbers.
- 19 8. All current insurance policies of the association
20 and condominiums operated by the association.
- 21 9. A current copy of any management agreement, lease,
22 or other contract to which the association is a party or under
23 which the association or the unit owners have an obligation or
24 responsibility.
- 25 10. Bills of sale or transfer for all property owned
26 by the association.
- 27 11. Accounting records for the association and
28 separate accounting records for each condominium which the
29 association operates, according to good accounting practices.
30 All accounting records shall be maintained for a period of not
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1 less than 7 years. The accounting records shall include, but
2 are not limited to:

3 a. Accurate, itemized, and detailed records of all
4 receipts and expenditures.

5 b. A current account and a monthly, bimonthly, or
6 quarterly statement of the account for each unit designating
7 the name of the unit owner, the due date and amount of each
8 assessment, the amount paid upon the account, and the balance
9 due.

10 c. All audits, reviews, accounting statements, and
11 financial reports of the association or condominium.

12 d. All contracts for work to be performed. Bids for
13 work to be performed shall also be considered official records
14 and shall be maintained for a period of 1 year.

15 12. Ballots, sign-in sheets, voting proxies, and all
16 other papers relating to voting by unit owners, which shall be
17 maintained for a period of 1 year from the date of the
18 election, vote, or meeting to which the document relates.

19 13. All rental records, when the association is acting
20 as agent for the rental of condominium units.

21 14. A copy of the current question and answer sheet as
22 described by s. 718.504.

23 15. All other records of the association not
24 specifically included in the foregoing which are related to
25 the operation of the association.

26 (c) The official records of the association are open
27 to inspection by any association member or the authorized
28 representative of such member at all reasonable times. The
29 right to inspect the records includes the right to make or
30 obtain copies, in person or by mail, at the reasonable
31 expense, if any, of the association member. The association

1 may adopt reasonable rules regarding the frequency, time,
2 location, notice, and manner of record inspections and
3 delivery ~~copying~~. However, an association, upon written
4 request, must copy and deliver the requested official record,
5 and may charge its actual costs to comply with said request.
6 For purposes of this section, a postmark, when applicable,
7 shall evidence the date of delivery.The failure of an
8 association to provide the records within 10 working days
9 after receipt of a written request shall create a rebuttable
10 presumption that the association willfully failed to comply
11 with this paragraph. A unit owner who is denied access to
12 official records is entitled to the actual damages or minimum
13 damages for the association's willful failure to comply with
14 this paragraph. The minimum damages shall be \$50 per calendar
15 day up to 10 days, or \$100 per calendar day up to 10 days for
16 any subsequent willful failure to comply,the calculation to
17 begin on the 11th working day after receipt of the written
18 request. The failure to permit inspection of the association
19 records as provided herein entitles any person prevailing in
20 an enforcement action to recover reasonable attorney's fees
21 from the person in control of the records who, directly or
22 indirectly, knowingly denied access to the records for
23 inspection. The association shall maintain an adequate number
24 of copies of the declaration, articles of incorporation,
25 bylaws, and rules, and all amendments to each of the
26 foregoing, as well as the question and answer sheet provided
27 for in s. 718.504 and year-end financial information required
28 in this section on the condominium property to ensure their
29 availability to unit owners and prospective purchasers, and
30 may charge its actual costs of mailing,~~for~~ preparing, and
31 furnishing these documents to those requesting the same.

1 Notwithstanding the provisions of this paragraph, the
2 following records shall not be accessible to unit owners:
3 1. Any document protected by the attorney-client
4 privilege as described in s. 90.502, as well as material
5 protected by the work-product privilege which consists of any
6 record ~~A record which was~~ prepared by an association attorney
7 or prepared at the attorney's express direction, which
8 reflects a mental impression, conclusion, litigation strategy,
9 or legal theory of the attorney or the association, and which
10 was prepared exclusively for civil or criminal litigation or
11 for adversarial administrative proceedings, or which was
12 prepared in anticipation of imminent civil or criminal
13 litigation or imminent adversarial administrative proceedings
14 until the conclusion of the litigation or adversarial
15 administrative proceedings.
16 2. Information obtained by an association in
17 connection with the approval of the lease, sale, or other
18 transfer of a unit.
19 3. Medical records of unit owners.
20 (13) FINANCIAL REPORTS.--Within 90 ~~60~~ days following
21 the end of the fiscal ~~or calendar~~ year, or annually on such
22 other date as may be ~~is otherwise~~ provided in the bylaws of
23 ~~the association, the board of administration of the~~
24 ~~association shall~~ have prepared ~~mail or furnish by personal~~
25 ~~delivery to each unit owner~~ a complete financial report of
26 actual receipts and expenditures of the association for the
27 preceding fiscal year or the association may have prepared
28 ~~previous 12 months, or~~ a complete set of financial statements
29 as provided in subsection (14), regardless of the number of
30 units operated by an association or the amount of revenues
31 earned by the association for the preceding fiscal year

1 ~~prepared in accordance with generally accepted accounting~~
2 ~~principles. Within 14 days after receiving the financial~~
3 ~~report or financial statements, the association shall mail or~~
4 ~~deliver a copy of the financial report or financial statements~~
5 ~~to all of the unit owners, or notify each of the unit owners~~
6 ~~that a copy of the report or financial statements is available~~
7 ~~at no charge.~~The financial report ~~must~~ ~~shall~~ show the amounts
8 of receipts by accounts and receipt classifications and shall
9 show the amounts of expenses by accounts and expense
10 classifications for the association and each condominium
11 operated by a multicondominium association, including, if
12 applicable, but not limited to, the following:

- 13 (a) Costs for security;
- 14 (b) Professional and management fees and expenses;
- 15 (c) Taxes;
- 16 (d) Costs for recreation facilities;
- 17 (e) Expenses for refuse collection and utility
18 services;
- 19 (f) Expenses for lawn care;
- 20 (g) Costs for building maintenance and repair;
- 21 (h) Insurance costs;
- 22 (i) Administrative and salary expenses; and
- 23 (j) Reserves accumulated and expended for capital
24 expenditures, deferred maintenance, and any other category for
25 which the association maintains a reserve account or accounts.
26 For a multicondominium association, the reserve disclosures
27 must separately show reserves accumulated and expended on
28 behalf of the unit owners of all condominiums and by the unit
29 owners of specific condominiums.

30 (14) FINANCIAL STATEMENTS.--The division shall adopt
31 rules that, subject to the provisions of this section,

1 authorize ~~which may require that~~ the association to prepare,
2 within 90 days after the end of each fiscal year or annually
3 on the date provided in the bylaws ~~deliver to the unit owners,~~
4 ~~in lieu of the financial report required by subsection (13), a~~
5 complete set of financial statements for the preceding fiscal
6 year in lieu of the financial report required by subsection
7 (13). Within 14 days after the association's receipt of the
8 financial statements, the association shall mail or deliver a
9 copy of the financial statements to all of the unit owners or
10 notify each of the unit owners that a copy of the financial
11 statements is available at no charge. ~~The financial statements~~
12 ~~shall be delivered within 90 days following the end of the~~
13 ~~previous fiscal year or annually on such other date as~~
14 ~~provided by the bylaws.~~ The rules of the division may require
15 that the financial statements be compiled, reviewed, or
16 audited, based on the size of the association and the amount
17 of revenues earned by the association ~~and the rules shall take~~
18 ~~into consideration the criteria set forth in s. 718.501(1)(j).~~
19 The requirement to have the financial statements compiled,
20 reviewed, or audited does not apply to associations when a
21 majority of the voting interests of the association present at
22 a duly called meeting of the association have determined for a
23 fiscal year to waive this requirement. In an association in
24 which turnover of control by the developer has not occurred,
25 the developer may vote to waive the audit, review, or
26 compilation requirement for the first 2 fiscal years of the
27 operation of the association, beginning with the date the
28 initial declaration is recorded in the county records, after
29 which time waiver of an applicable audit, review, or
30 compilation requirement shall be by a majority of voting
31 interests of the association, excluding other than the

1 developer voting interests. The meeting shall be held prior
2 to the end of the fiscal year, and the waiver shall be
3 effective for only 1 fiscal year. This subsection does not
4 apply to an association that operates ~~a condominium which~~
5 ~~consists of~~ 50 or fewer units. For a multicondominium
6 association, the financial statements may be presented on a
7 combined basis if the notes or supplementary information
8 disclose the revenues, expenses, and changes in fund balances
9 for the association and for each condominium. In addition, the
10 financial statements, notes, or supplementary information must
11 disclose the revenues and common expenses of the association
12 and the method used to allocate the revenues, expenses, and
13 common surplus of the association to the unit owners.

14 (15) COMMINGLING OF FUNDS.--All funds shall be
15 maintained separately in the association's name. Reserve and
16 operating funds of the association shall not be commingled
17 unless combined for investment purposes. This subsection does
18 not ~~is not meant to~~ prohibit prudent investment of association
19 funds even if such investment involves combining ~~combined with~~
20 operating and ~~or other~~ reserve funds of the same association,
21 but the operating and reserve ~~such~~ funds must be accounted for
22 separately, and the combined account balance may not, at any
23 time, be less than the amount identified as reserve funds in
24 the combined account. With respect to a multicondominium
25 association, this subsection does not prohibit commingling of
26 the association's various operating funds or commingling of
27 the association's various reserve funds; however, each
28 operating fund that is commingled, and each reserve fund that
29 is commingled, must be accounted for separately. ~~A No~~ manager
30 or business entity required to be licensed or registered under
31 s. 468.432, and an ~~no~~ agent, employee, officer, or director of

1 a condominium association may not ~~shall~~ commingle any
2 association funds with his or her funds or with the funds of
3 any other condominium association or community association as
4 defined in s. 468.431.

5 Section 7. Paragraphs (d), (e), and (f) of subsection
6 (2) of section 718.112, Florida Statutes, 1998 Supplement, are
7 amended to read:

8 718.112 Bylaws.--

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

12 (d) Unit owner meetings.--

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

1 affected if it is later determined that a member of the board
2 is ineligible for board membership due to having been
3 convicted of a felony.

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

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

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

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

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

29 5. Unit owners may waive notice of specific meetings
30 if allowed by the applicable bylaws or declaration or any
31 statute.

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

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

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

24
25 Notwithstanding subparagraphs (b)2. and (d)3., an association
26 may, by the affirmative vote of a majority of the total voting
27 interests, provide for different voting and election
28 procedures in its bylaws, which vote may be by a proxy
29 specifically delineating the different voting and election
30 procedures. The different voting and election procedures may
31

1 provide for elections to be conducted by limited or general
2 proxy.

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

1 at the meeting or ~~by a majority of all the voting interests~~ in
2 writing, the budget is adopted. If a meeting of the unit
3 owners has been called and a quorum is not attained or a
4 substitute budget is not adopted by the unit owners, the
5 budget adopted by the board of directors goes into effect as
6 scheduled. In determining whether assessments exceed 115
7 percent of similar assessments in prior years, any authorized
8 provisions for reasonable reserves for repair or replacement
9 of the condominium property, anticipated expenses by the
10 condominium association which are not anticipated to be
11 incurred on a regular or annual basis, or assessments for
12 betterments to the condominium property must be excluded from
13 the computation. However, as long as the developer is in
14 control of the board of administration, the board may not
15 impose an assessment for any year greater than 115 percent of
16 the prior fiscal or calendar year's assessment without
17 approval of a majority of all the voting interests of units
18 subject to assessments under the budget. A multicondominium
19 association shall adopt a separate budget of common expenses
20 for each condominium it operates and shall adopt a separate
21 budget of common expenses for the association.

22 (f) Annual budget.--

23 1. The proposed annual budget of common expenses shall
24 be detailed and shall show the amounts budgeted by accounts
25 and expense classifications, including, if applicable, but not
26 limited to, those expenses listed in s. 718.504(21)~~s.~~
27 ~~718.504(20)~~. In addition, if the association maintains limited
28 common elements with the cost to be shared only by those
29 entitled to use the limited common elements as provided for in
30 s. 718.113(1), the budget or a schedule attached thereto shall
31 show amounts budgeted therefor. If, after turnover of control

1 of the association to the unit owners, any of the expenses
2 listed in s. 718.504(21)~~s. 718.504(20)~~ are not applicable,
3 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 fiscal years of
27 the operation of the association, beginning with the date the
28 initial declaration is recorded in the county records, after
29 which time reserves may be waived or reduced only upon the
30 vote of a majority of all nondeveloper voting interests voting
31 in person or by limited proxy at a duly called meeting of the

1 association. If a meeting of the unit owners has been called
2 to determine to provide no reserves or reserves less adequate
3 than required, and such result is not attained or a quorum is
4 not attained, the reserves as included in the budget shall go
5 into effect. After the turnover, the developer may vote its
6 voting interest to waive or reduce the funding of reserves.

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

19 4. In a multicondominium association, the only voting
20 interests of the association which are eligible to vote on
21 questions that involve waiving or reducing the funding of
22 reserves or using existing reserve funds for other purposes
23 are the voting interests of the units that are subject to
24 assessment to fund the reserves in question.

25 Section 8. Subsection (2) of section 718.113, Florida
26 Statutes, is amended to read:

27 718.113 Maintenance; limitation upon improvement;
28 display of flag; hurricane shutters.--

29 (2)(a) Except as otherwise provided in this section,
30 there shall be no material alteration or substantial additions
31 to the common elements or to real property which is

1 association property, except in a manner provided in the
2 declaration. If the declaration does not specify the
3 procedure for approval of alterations or additions, 75 percent
4 of the total voting interests of the association must approve
5 the alterations or additions.

6 (b) There shall not be any material alteration or
7 substantial addition made to the common elements of a
8 condominium or condominiums operated by a multicondominium
9 association unless approved in a manner provided in the
10 declaration of the affected condominium or condominiums. If a
11 declaration does not specify a procedure for approving an
12 alteration or addition, the approval of 75 percent of the
13 total voting interests of each affected condominium is
14 required. This subsection does not prohibit a provision in any
15 condominium document requiring the approval of unit owners in
16 other condominiums or requiring the approval of the board of
17 directors before a material alteration or substantial addition
18 to the common elements is permitted.

19 (c) There shall not be any material alteration or
20 substantial addition made to association real property
21 operated by a multicondominium association, except as provided
22 in the articles of incorporation or bylaws. If the articles of
23 incorporation or bylaws do not specify the procedure for
24 approving an alteration or addition to association real
25 property, the approval of 75 percent of the total voting
26 interests of the association is required.

27 Section 9. Section 718.115, Florida Statutes, 1998
28 Supplement, is amended to read:

29 718.115 Common expenses and common surplus.--

30 (1)(a) Common expenses include the expenses of the
31 operation, maintenance, repair, replacement, or protection of

1 the common elements and association property, costs of
2 carrying out the powers and duties of the association, and any
3 other expense, whether or not included in the foregoing,
4 designated as common expense by this chapter, the declaration,
5 the documents creating the association, or the bylaws. Common
6 expenses also include reasonable transportation services,
7 insurance for directors and officers, road maintenance and
8 operation expenses, in-house communications, and security
9 services, which are reasonably related to the general benefit
10 of the unit owners even if such expenses do not attach to the
11 common elements or property of the condominium. However, such
12 common expenses must either have been services or items
13 provided from the date the control of the board of
14 administration of the association was transferred from the
15 developer to the unit owners or must be services or items
16 provided for in the condominium documents or bylaws. With
17 respect to a multicondominium association, the common expenses
18 of the association are the common expenses that are not
19 directly attributable to the operation of a specific
20 condominium or condominiums, and common expenses of the
21 condominium are the common expenses that are directly
22 attributable to the operation of a specific condominium or
23 condominiums. The common expenses of the association may
24 include categories of expenses related to the property or
25 common elements within a specific condominium or condominiums
26 if such property or common elements are within areas that all
27 members of the association have use rights or receive other
28 tangible economic benefits. Such common expenses of the
29 association must be identified in the declaration or bylaws.
30 (b) If provided for in the declaration or bylaws, the
31 actual cost of registration or tuition, and reimbursement for

1 mileage at the rate allowed by the Internal Revenue Service at
2 the time the expense is incurred, is a permissible common
3 expense to pay for participation by officers or directors of
4 the condominium in educational courses offered within the
5 state which relate to the provisions of this chapter and the
6 administrative regulations adopted under this chapter. Such
7 reimbursement is limited to participation in educational
8 programs while serving as an officer or director. The
9 declaration or bylaws may provide a limit on such educational
10 expenditures. All expenses incurred must be documented by
11 contemporaneous receipts, which must be kept as part of the
12 official records of the association. When an educational
13 program is offered in multiple locations, course cost and
14 mileage reimbursement may only be made for the location
15 closest to the condominium association or to the location
16 closest to the attending officer or director.

17 (c)~~(b)~~ If so provided in the declaration, the cost of
18 a master antenna television system or duly franchised cable
19 television service obtained pursuant to a bulk contract shall
20 be deemed a common expense. If the declaration does not
21 provide for the cost of a master antenna television system or
22 duly franchised cable television service obtained under a bulk
23 contract as a common expense, the board of administration may
24 enter into such a contract, and the cost of the service will
25 be a common expense but allocated on a per-unit basis rather
26 than a percentage basis if the declaration provides for other
27 than an equal sharing of common expenses, and any contract
28 entered into before July 1, 1998, in which the cost of the
29 service is not equally divided among all unit owners, may be
30 changed by vote of a majority of the voting interests present
31 at a regular or special meeting of the association, to

1 allocate the cost equally among all units. The contract shall
2 be for a term of not less than 2 years.

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

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

26 (d)~~(e)~~ The expense of installation, replacement,
27 operation, repair, and maintenance of hurricane shutters by
28 the board pursuant to s. 718.113(5) shall constitute a common
29 expense as defined herein and shall be collected as provided
30 in this section. Notwithstanding the provisions of s.
31 718.116(9), a unit owner who has previously installed

1 hurricane shutters in accordance with s. 718.113(5) or
2 laminated glass architecturally designed to function as
3 hurricane protection which complies with the applicable
4 building code shall receive a credit equal to the pro rata
5 portion of the assessed installation cost assigned to each
6 unit. However, such unit owner shall remain responsible for
7 the pro rata share of expenses for hurricane shutters
8 installed on common elements and association property by the
9 board pursuant to s. 718.113(5), and shall remain responsible
10 for a pro rata share of the expense of the replacement,
11 operation, repair, and maintenance of such shutters.

12 (e)~~(d)~~ If any unpaid share of common expenses or
13 assessments is extinguished by foreclosure of a superior lien
14 or by a deed in lieu of foreclosure thereof, the unpaid share
15 of common expenses or assessments are common expenses
16 collectible from all the unit owners in the condominium in
17 which the unit is located.

18 (2) Except as otherwise provided by this chapter,
19 funds for the payment of common expenses of each condominium
20 shall be collected by assessments against the units in that
21 condominium ~~unit owners~~ in the proportions or percentages
22 provided in the declaration. In a residential condominium, or
23 mixed-use condominium created after January 1, 1996, each
24 unit's share of ~~unit owners' shares of~~ common expenses and
25 common surplus shall be the same as the ~~in the same~~
26 ~~proportions as their~~ ownership interest in the common
27 elements. In a multicondominium association, the total common
28 surplus owned by a unit owner consists of that unit owner's
29 share of the common surplus of the association as provided in
30 s. 718.104(4)(g) and that owner's share of the common surplus
31 of the condominium in which the owner's unit is located.

1 (3) Common surplus is owned by unit owners in the same
2 shares as their ownership interest in the common elements.

3 Section 10. Subsection (9) of section 718.116, Florida
4 Statutes, 1998 Supplement, is amended to read:

5 718.116 Assessments; liability; lien and priority;
6 interest; collection.--

7 (9)(a) A ~~No~~ unit owner may not be excused from the
8 payment of the unit's ~~his or her~~ share of the common expenses
9 ~~expense of a condominium~~ unless all unit owners are likewise
10 proportionately excused from payment, except as provided in
11 subsection (1) and in the following cases:

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

1 to units owned by the developer. In the event of such an
2 assessment, all units shall be assessed in accordance with
3 their ownership interest in the common elements as required by
4 s. 718.115(2).

5 2. A developer or other person who owns condominium
6 units and is offering the units for sale or who has an
7 obligation to pay common ~~condominium~~ expenses may be excused
8 from paying the ~~payment of his or her~~ share of the common
9 expenses ~~expense~~ which would otherwise be ~~have been~~ assessed
10 against those units during the period of time that such person
11 ~~he or she~~ has guaranteed to each purchaser in the purchase
12 contract, declaration, ~~or~~ prospectus, or by agreement between
13 the developer and a majority of the unit owners other than the
14 developer, that assessments ~~the assessment~~ for common expenses
15 ~~of the condominium~~ imposed upon the unit owners would not
16 increase over a stated dollar amount, and such person has
17 obligated himself or herself to pay any amount of common
18 expenses incurred during that period and not produced by the
19 assessments at the guaranteed level receivable from other unit
20 owners in the same condominium. Notwithstanding this
21 limitation, if a developer-controlled association has
22 maintained all insurance coverages required by s.

23 718.111(11)(a), the common expenses incurred during the
24 guarantee period resulting from a natural disaster or an act
25 of God, which are not covered by insurance proceeds from the
26 insurance maintained by the association, may be assessed
27 against all ~~unit~~ owners of owning units on the date of such
28 natural disaster or act of God, and their successors and
29 assigns, including the developer with respect to units owned
30 by the developer. In the event of such an assessment, all
31 units shall be assessed in accordance with their ownership

1 interest in the common elements as required by s. 718.115(2).
2 The guarantee may provide that after an initial stated period,
3 the developer has an option or options to extend the guarantee
4 for one or more additional stated periods.

5 (b) If the purchase contract, declaration, prospectus,
6 or agreement between the developer and a majority of unit
7 owners other than the developer provides for the developer or
8 another person to be excused from the payment of assessments
9 pursuant to paragraph (a), no funds which are receivable from
10 unit purchasers or owners and payable to the association or
11 collected by the developer on behalf of the association, other
12 than regular periodic assessments for common expenses as
13 provided in the declaration and disclosed in the estimated
14 operating budget pursuant to s. 718.503(1)(b)6. or s.
15 718.504(21)(b)~~s. 718.504(20)(b)~~, shall be used for payment of
16 common expenses prior to the expiration of the period during
17 which the developer or other person is so excused. This
18 restriction applies to funds including, but not limited to,
19 capital contributions or startup funds collected from unit
20 purchasers at closing.

21 (c) In a multicondominium situation, if a developer is
22 excused from paying assessments under paragraph (a), the
23 developer's financial obligation to the multicondominium
24 association shall consist of two parts as follows:

25 1. The developer shall pay those common expenses of
26 the condominium affected by the guarantee, including the
27 funding of reserves as included in the adopted budget of that
28 condominium, in excess of the amount assessed against the
29 nondeveloper units within that condominium through regular
30 periodic assessments related to the adopted budget of that
31 condominium.

1 2. The developer shall pay the portion of the common
2 expenses of the association, including the funding of reserves
3 as included in the adopted budget of the association,
4 allocated to the units within the condominium affected by the
5 guarantee which is in excess of the amount assessed against
6 the nondeveloper units within that condominium through regular
7 periodic assessments related to the adopted budget of the
8 association.

9 Section 11. Subsection (11) is added to section
10 718.117, Florida Statutes, 1998 Supplement, to read:

11 718.117 Termination.--

12 (11) This section does not apply to the termination of
13 a condominium incident to a merger of that condominium with
14 one or more other condominiums under s. 718.110(7).

15 Section 12. Section 718.405, Florida Statutes, is
16 created to read:

17 718.405 Multicondominiums.--

18 (1) An association may operate more than one
19 condominium if the declaration of condominium for each
20 condominium to be operated by that association provides for
21 multicondominium development, in conformity with this section,
22 and discloses or describes:

23 (a) The manner or formula by which the assets,
24 liabilities, and the common expenses of the association will
25 be apportioned among the various units within the condominiums
26 operated by the association, consistent with s. 718.104(4)(g).

27 (b) Whether unit owners in other condominiums, or any
28 other persons, will or may have the right to use recreational
29 areas or any other facilities or amenities that are common
30 elements of the condominium, and, if so, the specific formula
31

1 by which the other users will share the common expenses
2 related to those facilities or amenities.

3 (c) The recreational and other commonly used
4 facilities or amenities that the developer has committed to
5 provide and that are owned or leased by the association but
6 are not included within any condominium. The developer may
7 reserve the right to add additional facilities or amenities if
8 the prospectus for each condominium to be operated by the
9 association contains the following statement in conspicuous
10 type and in substantially the following form: RECREATIONAL
11 FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF UNIT
12 OWNERS OR THE ASSOCIATION.

13 (d) The voting rights of the owners of each unit in
14 the election of directors and in other association affairs
15 when a vote of the owners is taken, including, but not limited
16 to, a statement as to whether each unit owner will have a
17 right to personally cast his or her own vote in all matters
18 voted upon.

19 (2) If any declaration requires a developer to convey
20 any additional lands or facilities to the association and the
21 developer fails to do so within the time specified, or within
22 a reasonable time if none is specified, any owner of a unit or
23 the association may enforce such obligation against the
24 developer or bring an action against the developer for
25 specific performance or for damages that result from the
26 developer's failure or refusal to convey such additional lands
27 or facilities.

28 (3) The declaration that creates each condominium to
29 be operated by the association may not, at the time of its
30 initial recording, contain any provision with respect to the
31 allocation of the assets, liabilities, or common expenses of

1 the association which is inconsistent with this chapter or the
2 provisions of the declaration of condominium for any other
3 condominium then being operated by the association.

4 (4) This section does not prevent or restrict the
5 formation of a multicondominium development by the merger or
6 consolidation of two or more condominium associations. Such
7 mergers or consolidations shall be accomplished in accordance
8 with the condominium documents of the condominiums involved
9 and in accordance with chapter 617, which governs the merger
10 or consolidation of corporations, as applicable. Section
11 718.110(4) does not apply to amendments to the declarations of
12 condominium necessary to effect the merger or consolidation.

13 Section 13. Subsection (1) of section 718.5019,
14 Florida Statutes, is amended to read:

15 718.5019 Advisory council; membership; functions.--

16 (1) There is created the Advisory Council on
17 Condominiums. The council shall consist of seven members. Two
18 shall be appointed by the Speaker of the House of
19 Representatives, two shall be appointed by the President of
20 the Senate, and three members shall be appointed by the
21 Governor. At least one member shall represent timeshare
22 condominiums. Members shall be appointed to 2-year terms.
23 Members shall continue to serve until their replacement has
24 been appointed.In addition to these appointed members, the
25 director of the Division of Florida Land Sales, Condominiums,
26 and Mobile Homes shall serve as an ex officio member of the
27 council. It is the intent of the Legislature that the
28 appointments to this council be geographically distributed
29 across the state and represent a cross section of persons
30 interested in condominium issues and include unit-owner and
31 board representatives and a representative from at least one

1 association with less than 100 units. For administrative
2 purposes, the commission shall be located in the Division of
3 Florida Land Sales, Condominiums, and Mobile Homes of the
4 Department of Business and Professional Regulation. Members of
5 the council shall serve without compensation, but shall be
6 entitled to receive per diem and travel expenses pursuant to
7 s. 112.061 while on official business.

8 Section 14. Present subsections (15) through (27) of
9 section 718.504, Florida Statutes, 1998 Supplement, are
10 redesignated as subsections (16) through (28), respectively,
11 and new subsections (15) and (29) are added to said section,
12 to read:

13 718.504 Prospectus or offering circular.--Every
14 developer of a residential condominium which contains more
15 than 20 residential units, or which is part of a group of
16 residential condominiums which will be served by property to
17 be used in common by unit owners of more than 20 residential
18 units, shall prepare a prospectus or offering circular and
19 file it with the Division of Florida Land Sales, Condominiums,
20 and Mobile Homes prior to entering into an enforceable
21 contract of purchase and sale of any unit or lease of a unit
22 for more than 5 years and shall furnish a copy of the
23 prospectus or offering circular to each buyer. In addition to
24 the prospectus or offering circular, each buyer shall be
25 furnished a separate page entitled "Frequently Asked Questions
26 and Answers," which shall be in accordance with a format
27 approved by the division and a copy of the financial
28 information required by s. 718.111. This page shall, in
29 readable language, inform prospective purchasers regarding
30 their voting rights and unit use restrictions, including
31 restrictions on the leasing of a unit; shall indicate whether

1 and in what amount the unit owners or the association is
2 obligated to pay rent or land use fees for recreational or
3 other commonly used facilities; shall contain a statement
4 identifying that amount of assessment which, pursuant to the
5 budget, would be levied upon each unit type, exclusive of any
6 special assessments, and which shall further identify the
7 basis upon which assessments are levied, whether monthly,
8 quarterly, or otherwise; shall state and identify any court
9 cases in which the association is currently a party of record
10 in which the association may face liability in excess of
11 \$100,000; and which shall further state whether membership in
12 a recreational facilities association is mandatory, and if so,
13 shall identify the fees currently charged per unit type. The
14 division shall by rule require such other disclosure as in its
15 judgment will assist prospective purchasers. The prospectus or
16 offering circular may include more than one condominium,
17 although not all such units are being offered for sale as of
18 the date of the prospectus or offering circular. The
19 prospectus or offering circular must contain the following
20 information:

21 (15) If the condominium is or may become part of a
22 multicondominium development, the following information must
23 be provided:

24 (a) A statement in conspicuous type in substantially
25 the following form: THIS CONDOMINIUM IS (MAY BE) PART OF A
26 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL
27 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately
28 following this statement, the location in the prospectus or
29 offering circular and its exhibits where the multicondominium
30 aspects of the offering are described must be stated.

31

1 (b) A summary of the provisions in the declaration and
2 bylaws which establish and provide for the operation of the
3 multicondominium development, including a statement as to
4 whether unit owners in the condominium will have the right to
5 use recreational or other facilities located or planned to be
6 located in other condominiums operated by the same
7 association, and the manner of sharing the common expenses
8 related to such facilities.

9 (c) A statement of the minimum and maximum number of
10 condominiums, and the minimum and maximum number of units in
11 each of those condominiums, which will or may be operated by
12 the association, and the latest date by which the exact
13 numbers will be finally determined.

14 (d) A statement as to whether any of the condominiums
15 may include units intended to be used for nonresidential
16 purposes, and, if so, the purpose or purposes permitted for
17 such use.

18 (e) A general description of the location and
19 approximate acreage of any land on which any additional
20 condominiums to be operated by the association may be located.

21 Section 15. Paragraph (a) of subsection (2) of section
22 624.462, Florida Statutes, is amended to read:

23 624.462 Commercial self-insurance funds.--

24 (2) As used in ss. 624.460-624.488, "commercial
25 self-insurance fund" or "fund" means a group of members,
26 operating individually and collectively through a trust or
27 corporation, that must be:

28 (a) Established by:

29 1. A not-for-profit trade association, industry
30 association, or professional association of employers or
31 professionals which has a constitution or bylaws, which is

1 incorporated under the laws of this state, and which has been
2 organized for purposes other than that of obtaining or
3 providing insurance and operated in good faith for a
4 continuous period of 1 year;

5 2. A self-insurance trust fund organized pursuant to
6 s. 627.357 and maintained in good faith for a continuous
7 period of 1 year for purposes other than that of obtaining or
8 providing insurance pursuant to this section. Each member of
9 a commercial self-insurance trust fund established pursuant to
10 this subsection must maintain membership in the self-insurance
11 trust fund organized pursuant to s. 627.357; or

12 3. A not-for-profit group composed ~~comprised~~ of no
13 fewer less than 10 condominium associations as defined in s.
14 718.103(11)~~s. 718.103(2)~~, which is incorporated under the
15 laws of this state, which restricts its membership to
16 condominium associations only, and which has been organized
17 and maintained in good faith for a continuous period of 1 year
18 for purposes other than that of obtaining or providing
19 insurance.

20 Section 16. The Department of Business and
21 Professional Regulation shall prepare legislation for
22 consideration at the 2000 Regular Session of the Legislature
23 regarding master condominium associations. Such legislation
24 may address the powers and duties of a master condominium
25 association; requirements regarding association meetings,
26 membership, voting, records, elections, documents, merger,
27 assessments, financial reporting, budget, and turnover; basic
28 rights and obligations of members and affected persons;
29 definitions; powers and duties as well as regulatory and
30 rulemaking responsibilities of the department; and such other
31 matters as the department deems necessary to address master

1 condominium association concerns. Such draft legislation
2 shall be presented to the President of the Senate and the
3 Speaker of the House of Representatives on or before November
4 15, 1999.

5 Section 17. This act shall take effect July 1, 1999.

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8 HOUSE SUMMARY

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10 Revises various provisions of part I of ch. 718, F.S.,
11 relating to general provisions governing condominium
12 associations. Authorizes the creation of
13 multicondominiums and conforms various provisions to such
14 authorization. Provides for determining the percentage
15 share of liability for common expenses and ownership in a
16 multicondominium. Provides certain limitations on making
17 material alterations or additions to multicondominiums.
18 Revises requirements for installing and maintaining
19 hurricane shutters. Provides for determining the common
20 surplus owned by a unit owner of a multicondominium.
21 Provides for merging or consolidating certain condominium
22 associations. See bill for details.
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