

By the Committee on Regulated Industries and Senator Saunders

315-2083A-99

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 clarifying an attorney-client privilege;
22 revising requirements for financial reports;
23 requiring the disclosure of reserves; revising
24 requirements for financial statements;
25 requiring the disclosure of revenues and common
26 expenses; revising certain limitations on the
27 commingling of funds maintained in the name of
28 a condominium association or multicondominium;
29 amending s. 718.112, F.S.; revising
30 requirements for budget meetings; providing
31 conditions under which a multicondominium

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

1 notice requirements; providing for the merger
2 or consolidation of condominium associations
3 that are not controlled by a developer;
4 amending s. 718.5019, F.S.; providing for a
5 member's continued service until a replacement
6 has been appointed; amending s. 718.504, F.S.;
7 providing requirements for the prospectus or
8 offering circular for a condominium that is or
9 may become part of a multicondominium; amending
10 s. 624.462, F.S., relating to self-insurance
11 funds; conforming a cross-reference to changes
12 made by the act; requiring the Department of
13 Business and Professional Regulation to prepare
14 proposed legislation addressing master
15 condominium associations; providing criteria;
16 providing an effective date.

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

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

22 718.102 Purposes.--The purpose of this chapter is:

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

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

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

31

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

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

5 718.103 Definitions.--As used in this chapter, the
6 term:

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

10 (2) "Association" means, in addition to those entities
11 responsible for the operation of common elements owned in
12 undivided shares by unit owners, any entity which operates or
13 maintains other real property in which condominium unit owners
14 have use rights, where unit owner membership in the entity is
15 composed exclusively of condominium unit owners or their
16 elected or appointed representatives, and where membership in
17 the entity is a required condition of unit ownership.

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

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

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

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

30 (7) "Committee" means a group of board members, unit
31 owners, or board members and unit owners appointed by the

1 board or a member of the board to make recommendations to the
2 board regarding the association budget or take action on
3 behalf of the board.

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

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

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

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

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

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

28 (14) "Conspicuous type" means type in capital letters
29 no smaller than the largest type, exclusive of headings, on
30 the page on which it appears and, in all cases, at least
31 10-point type. Where conspicuous type is required, it must be

1 separated on all sides from other type and print. Conspicuous
2 type may be used in contracts for purchase or public offering
3 statements only where required by law.

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

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

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

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

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1 a parcel of real property and may mean any combination of the
2 foregoing, whether or not contiguous.

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

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

10 (21)~~(20)~~ "Operation" or "operation of the condominium"
11 includes the administration and management of the condominium
12 property.

13 (22)~~(21)~~ "Rental agreement" means any written
14 agreement, or oral agreement if for less duration than 1 year,
15 providing for use and occupancy of premises.

16 (23)~~(22)~~ "Residential condominium" means a condominium
17 consisting of condominium units, any of which are intended for
18 use as a private temporary or permanent residence, except that
19 a condominium is not a residential condominium if the use for
20 which the units are intended is primarily commercial or
21 industrial and not more than three units are intended to be
22 used for private residence, and are intended to be used as
23 housing for maintenance, managerial, janitorial, or other
24 operational staff of the condominium. With respect to a
25 condominium that is not a timeshare condominium, a residential
26 unit includes a unit intended as a private temporary or
27 permanent residence as well as a unit not intended for
28 commercial or industrial use. With respect to a timeshare
29 condominium, the timeshare instrument as defined in s.
30 721.05(30)~~s. 721.05(28)~~ shall govern the intended use of each
31 unit in the condominium. If a condominium is a residential

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

8 (24)~~(23)~~ "Special assessment" means any assessment
9 levied against unit owners other than the assessment required
10 by a budget adopted annually.

11 (25)~~(24)~~ "Timeshare estate" means any interest in a
12 unit under which the exclusive right of use, possession, or
13 occupancy of the unit circulates among the various purchasers
14 of a timeshare plan pursuant to chapter 721 on a recurring
15 basis for a period of time.

16 (26)~~(25)~~ "Timeshare unit" means a unit in which
17 timeshare estates have been created.

18 (27)~~(26)~~ "Unit" means a part of the condominium
19 property which is subject to exclusive ownership. A unit may
20 be in improvements, land, or land and improvements together,
21 as specified in the declaration.

22 (28)~~(27)~~ "Unit owner" or "owner of a unit" means a
23 record owner of legal title to a condominium parcel.

24 (29)~~(28)~~ "Voting certificate" means a document which
25 designates one of the record title owners, or the corporate,
26 partnership, or entity representative, who is authorized to
27 vote on behalf of a condominium unit that is owned by more
28 than one owner or by any entity.

29 (30)~~(29)~~ "Voting interest" means the voting rights
30 distributed to the association members pursuant to s.
31 718.104(4)(i). In a multicondominium association the voting

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

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

11 718.104 Creation of condominiums; contents of
12 declaration.--Every condominium created in this state shall be
13 created pursuant to this chapter.

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

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

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

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

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

21 718.106 Condominium parcels; appurtenances; possession
22 and enjoyment.--

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

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

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

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

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

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

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

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

19 718.110 Amendment of declaration; correction of error
20 or omission in declaration by circuit court.--

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

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

9 (9) If there is an omission or error in a declaration
10 of condominium, or in any other document required by law to
11 establish the condominium, the association may correct the
12 error or omission by an amendment to the declaration or to the
13 other document required to create a condominium in the manner
14 provided in the declaration to amend the declaration or, if
15 none is provided, by vote of a majority of the voting
16 interests of the condominium. The amendment is effective when
17 passed and approved and a certificate of the amendment is
18 executed and recorded as provided in subsection (2)~~s.~~

19 ~~718.104~~. This procedure for amendment cannot be used if such
20 an amendment would materially or adversely affect property
21 rights of unit owners, unless the affected unit owners consent
22 in writing. This subsection does not restrict the powers of
23 the association to otherwise amend the declaration, or other
24 documentation, but authorizes a simple process of amendment
25 requiring a lesser vote for the purpose of curing defects,
26 errors, or omissions when the property rights of unit owners
27 are not materially or adversely affected.

28 (12) Unless approval by a greater number is uniformly
29 required in the declarations of all condominiums comprising a
30 multicondominium development, an amendment may not change the
31 fractional or percentage share of liability for the common

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

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

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

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

24 718.111 The association.--

25 (12) OFFICIAL RECORDS.--

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

30 1. A copy of the plans, permits, warranties, and other
31 items provided by the developer pursuant to s. 718.301(4).

1 2. A photocopy of the recorded declaration of
2 condominium of each condominium operated by the association
3 and of each amendment to each declaration.

4 3. A photocopy of the recorded bylaws of the
5 association and of each amendment to the bylaws.

6 4. A certified copy of the articles of incorporation
7 of the association, or other documents creating the
8 association, and of each amendment thereto.

9 5. A copy of the current rules of the association.

10 6. A book or books which contain the minutes of all
11 meetings of the association, of the board of directors, and of
12 unit owners, which minutes shall be retained for a period of
13 not less than 7 years.

14 7. A current roster of all unit owners and their
15 mailing addresses, unit identifications, voting
16 certifications, and, if known, telephone numbers.

17 8. All current insurance policies of the association
18 and condominiums operated by the association.

19 9. A current copy of any management agreement, lease,
20 or other contract to which the association is a party or under
21 which the association or the unit owners have an obligation or
22 responsibility.

23 10. Bills of sale or transfer for all property owned
24 by the association.

25 11. Accounting records for the association and
26 separate accounting records for each condominium which the
27 association operates, according to good accounting practices.
28 All accounting records shall be maintained for a period of not
29 less than 7 years. The accounting records shall include, but
30 are not limited to:

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1 a. Accurate, itemized, and detailed records of all
2 receipts and expenditures.

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

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

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

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

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

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

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

24 (c) The official records of the association are open
25 to inspection by any association member or the authorized
26 representative of such member at all reasonable times. The
27 right to inspect the records includes the right to make or
28 obtain copies, at the reasonable expense, if any, of the
29 association member. The association may adopt reasonable
30 rules regarding the frequency, time, location, notice, and
31 manner of record inspections and copying. The failure of an

1 association to provide the records within 10 working days
2 after receipt of a written request shall create a rebuttable
3 presumption that the association willfully failed to comply
4 with this paragraph. A unit owner who is denied access to
5 official records is entitled to the actual damages or minimum
6 damages for the association's willful failure to comply with
7 this paragraph. The minimum damages shall be \$50 per calendar
8 day up to 10 days, the calculation to begin on the 11th
9 working day after receipt of the written request. The failure
10 to permit inspection of the association records as provided
11 herein entitles any person prevailing in an enforcement action
12 to recover reasonable attorney's fees from the person in
13 control of the records who, directly or indirectly, knowingly
14 denied access to the records for inspection. The association
15 shall maintain an adequate number of copies of the
16 declaration, articles of incorporation, bylaws, and rules, and
17 all amendments to each of the foregoing, as well as the
18 question and answer sheet provided for in s. 718.504 and
19 year-end financial information required in this section on the
20 condominium property to ensure their availability to unit
21 owners and prospective purchasers, and may charge its actual
22 costs for preparing and furnishing these documents to those
23 requesting the same. Notwithstanding the provisions of this
24 paragraph, the following records shall not be accessible to
25 unit owners:

26 1. Any document protected by the attorney-client
27 privilege as described in s. 90.502, as well as material
28 protected by the work-product privilege which consists of any
29 record ~~A record which was~~ prepared by an association attorney
30 or prepared at the attorney's express direction, which
31 reflects a mental impression, conclusion, litigation strategy,

1 or legal theory of the attorney or the association, and which
2 was prepared exclusively for civil or criminal litigation or
3 for adversarial administrative proceedings, or which was
4 prepared in anticipation of imminent civil or criminal
5 litigation or imminent adversarial administrative proceedings
6 until the conclusion of the litigation or adversarial
7 administrative proceedings.

8 2. Information obtained by an association in
9 connection with the approval of the lease, sale, or other
10 transfer of a unit.

11 3. Medical records of unit owners.

12 (13) FINANCIAL REPORTS.--Within 90 ~~60~~ days following
13 the end of the fiscal ~~or calendar~~ year, or annually on such
14 other date as may be ~~is otherwise~~ provided in the bylaws of
15 ~~the association, the board of administration of the~~
16 association shall have prepared ~~mail or furnish by personal~~
17 ~~delivery to each unit owner~~ a complete financial report of
18 actual receipts and expenditures of the association for the
19 preceding fiscal year or the association may have prepared
20 ~~previous 12 months, or a complete set of financial statements~~
21 as provided in subsection (14), regardless of the number of
22 units operated by an association or the amount of revenues
23 earned by the association for the preceding fiscal year
24 ~~prepared in accordance with generally accepted accounting~~
25 ~~principles. Within 14 days after receiving the financial~~
26 report or financial statements, the association shall mail or
27 deliver a copy of the financial report or financial statements
28 to all of the unit owners, or notify each of the unit owners
29 that a copy of the report or financial statements is available
30 at no charge.The financial report must ~~shall~~ show the amounts
31 of receipts by accounts and receipt classifications and shall

1 show the amounts of expenses by accounts and expense
2 classifications for the association and each condominium
3 operated by a multicondominium association, including, if
4 applicable, but not limited to, the following:

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

22 (14) FINANCIAL STATEMENTS.--The division shall adopt
23 rules that, subject to the provisions of this section,
24 authorize which may require that the association to prepare,
25 within 90 days after the end of each fiscal year or annually
26 on the date provided in the bylaws deliver to the unit owners,
27 in lieu of the financial report required by subsection (13), a
28 complete set of financial statements for the preceding fiscal
29 year in lieu of the financial report required by subsection
30 (13). Within 14 days after the association's receipt of the
31 financial statements, the association shall mail or deliver a

1 copy of the financial statements to all of the unit owners or
2 notify each of the unit owners that a copy of the financial
3 statements is available at no charge.~~The financial statements~~
4 ~~shall be delivered within 90 days following the end of the~~
5 ~~previous fiscal year or annually on such other date as~~
6 ~~provided by the bylaws.~~The rules of the division may require
7 that the financial statements be compiled, reviewed, or
8 audited, based on the size of the association and the amount
9 of revenues earned by the association ~~and the rules shall take~~
10 ~~into consideration the criteria set forth in s. 718.501(1)(j).~~
11 The requirement to have the financial statements compiled,
12 reviewed, or audited does not apply to associations when a
13 majority of the voting interests of the association present at
14 a duly called meeting of the association have determined for a
15 fiscal year to waive this requirement. In an association in
16 which turnover of control by the developer has not occurred,
17 the developer may vote to waive the audit, review, or
18 compilation requirement for the first 2 fiscal years of the
19 operation of the association, beginning with the date the
20 initial declaration is recorded in the county records,after
21 which time waiver of an applicable audit, review, or
22 compilation requirement shall be by a majority of voting
23 interests of the association, excluding other than the
24 developer voting interests. The meeting shall be held prior
25 to the end of the fiscal year, and the waiver shall be
26 effective for only 1 fiscal year. This subsection does not
27 apply to an association that operates ~~a condominium which~~
28 ~~consists of 50 or fewer units.~~ For a multicondominium
29 association, the financial statements may be presented on a
30 combined basis if the notes or supplementary information
31 disclose the revenues, expenses, and changes in fund balances

1 for the association and for each condominium. In addition, the
2 financial statements, notes, or supplementary information must
3 disclose the revenues and common expenses of the association
4 and the method used to allocate the revenues, expenses, and
5 common surplus of the association to the unit owners.

6 (15) COMMINGLING OF FUNDS.--All funds shall be
7 maintained separately in the association's name. Reserve and
8 operating funds of the association shall not be commingled
9 unless combined for investment purposes. This subsection does
10 not ~~is not meant to~~ prohibit prudent investment of association
11 funds even if such investment involves combining ~~combined with~~
12 operating and ~~or other~~ reserve funds of the same association,
13 but the operating and reserve ~~such~~ funds must be accounted for
14 separately, and the combined account balance may not, at any
15 time, be less than the amount identified as reserve funds in
16 the combined account. With respect to a multicondominium
17 association, this subsection does not prohibit commingling of
18 the association's various operating funds or commingling of
19 the association's various reserve funds; however, each
20 operating fund that is commingled, and each reserve fund that
21 is commingled, must be accounted for separately. A ~~No~~ manager
22 or business entity required to be licensed or registered under
23 s. 468.432, and an ~~no~~ agent, employee, officer, or director of
24 a condominium association may not ~~shall~~ commingle any
25 association funds with his or her funds or with the funds of
26 any other condominium association or community association as
27 defined in s. 468.431.

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

31 718.112 Bylaws.--

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

4 (d) Unit owner meetings.--

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

27 2. The bylaws shall provide the method of calling
28 meetings of unit owners, including annual meetings. Written
29 notice, which notice must include an agenda, shall be mailed
30 or delivered to each unit owner at least 14 days prior to the
31 annual meeting and shall be posted in a conspicuous place on

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

25 3. The members of the board of administration shall be
26 elected by written ballot or voting machine. Proxies shall in
27 no event be used in electing the board of administration,
28 either in general elections or elections to fill vacancies
29 caused by recall, resignation, or otherwise, unless otherwise
30 provided in this chapter. Not less than 60 days before a
31 scheduled election, the association shall mail or deliver,

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

1 casting the ballot. Any unit owner violating this provision
2 may be fined by the association in accordance with s. 718.303.
3 The regular election shall occur on the date of the annual
4 meeting. The provisions of this subparagraph shall not apply
5 to timeshare condominium associations. Notwithstanding the
6 provisions of this subparagraph, an election and balloting are
7 not required unless more candidates file notices of intent to
8 run or are nominated than vacancies exist on the board.

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

20 5. Unit owners may waive notice of specific meetings
21 if allowed by the applicable bylaws or declaration or any
22 statute.

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

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

31

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

16
17 Notwithstanding subparagraphs (b)2. and (d)3., an association
18 may, by the affirmative vote of a majority of the total voting
19 interests, provide for different voting and election
20 procedures in its bylaws, which vote may be by a proxy
21 specifically delineating the different voting and election
22 procedures. The different voting and election procedures may
23 provide for elections to be conducted by limited or general
24 proxy.

25 (e) Budget meeting.--The board of administration shall
26 hand deliver to each unit owner, or mail to each unit owner at
27 the address last furnished to the association, a meeting
28 notice and copies of the proposed annual budget of common
29 expenses not less than 14 days prior to the meeting of the
30 unit owners or the board of administration at which the budget
31 will be considered. Evidence of compliance with this 14-day

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

1 condominium association which are not anticipated to be
2 incurred on a regular or annual basis, or assessments for
3 betterments to the condominium property must be excluded from
4 the computation. However, as long as the developer is in
5 control of the board of administration, the board may not
6 impose an assessment for any year greater than 115 percent of
7 the prior fiscal or calendar year's assessment without
8 approval of a majority of all the voting interests of units
9 subject to assessments under the budget. A multicondominium
10 association shall adopt a separate budget of common expenses
11 for each condominium it operates and shall adopt a separate
12 budget of common expenses for the association.

13 (f) Annual budget.--

14 1. The proposed annual budget of common expenses shall
15 be detailed and shall show the amounts budgeted by accounts
16 and expense classifications, including, if applicable, but not
17 limited to, those expenses listed in s. 718.504(21)~~s.~~
18 ~~718.504(20)~~. In addition, if the association maintains limited
19 common elements with the cost to be shared only by those
20 entitled to use the limited common elements as provided for in
21 s. 718.113(1), the budget or a schedule attached thereto shall
22 show amounts budgeted therefor. If, after turnover of control
23 of the association to the unit owners, any of the expenses
24 listed in s. 718.504(21)~~s. 718.504(20)~~ are not applicable,
25 they need not be listed.

26 2. In addition to annual operating expenses, the
27 budget shall include reserve accounts for capital expenditures
28 and deferred maintenance. These accounts shall include, but
29 are not limited to, roof replacement, building painting, and
30 pavement resurfacing, regardless of the amount of deferred
31 maintenance expense or replacement cost, and for any other

1 item for which the deferred maintenance expense or replacement
2 cost exceeds \$10,000. The amount to be reserved shall be
3 computed by means of a formula which is based upon estimated
4 remaining useful life and estimated replacement cost or
5 deferred maintenance expense of each reserve item. The
6 association may adjust replacement reserve assessments
7 annually to take into account any changes in estimates or
8 extension of the useful life of a reserve item caused by
9 deferred maintenance. This subsection does not apply to
10 budgets in which the members of an association have, by a
11 majority vote at a duly called meeting of the association, and
12 voting determined for a fiscal year to provide no reserves or
13 reserves less adequate than required by this subsection.
14 However, prior to turnover of control of an association by a
15 developer to unit owners other than a developer pursuant to s.
16 718.301, the developer may vote to waive the reserves or
17 reduce the funding of reserves for the first 2 fiscal years of
18 the operation of the association, beginning with the date the
19 initial declaration is recorded in the county records, after
20 which time reserves may be waived or reduced only upon the
21 vote of a majority of all nondeveloper voting interests voting
22 in person or by limited proxy at a duly called meeting of the
23 association. If a meeting of the unit owners has been called
24 to determine to provide no reserves or reserves less adequate
25 than required, and such result is not attained or a quorum is
26 not attained, the reserves as included in the budget shall go
27 into effect. After the turnover, the developer may vote its
28 voting interest to waive or reduce the funding of reserves.

29 3. Reserve funds and any interest accruing thereon
30 shall remain in the reserve account or accounts, and shall be
31 used only for authorized reserve expenditures unless their use

1 for other purposes is approved in advance by a majority vote
2 at a duly called meeting of the association. Prior to turnover
3 of control of an association by a developer to unit owners
4 other than the developer pursuant to s. 718.301, the
5 developer-controlled association shall not vote to use
6 reserves for purposes other than that for which they were
7 intended without the approval of a majority of all
8 nondeveloper voting interests, voting in person or by limited
9 proxy at a duly called meeting of the association.

10 4. In a multicondominium association, the only voting
11 interests of the association which are eligible to vote on
12 questions that involve waiving or reducing the funding of
13 reserves or using existing reserve funds for other purposes
14 are the voting interests of the units that are subject to
15 assessment to fund the reserves in question.

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

18 718.113 Maintenance; limitation upon improvement;
19 display of flag; hurricane shutters.--

20 (2)(a) Except as otherwise provided in this section,
21 there shall be no material alteration or substantial additions
22 to the common elements or to real property which is
23 association property, except in a manner provided in the
24 declaration. If the declaration does not specify the
25 procedure for approval of alterations or additions, 75 percent
26 of the total voting interests of the association must approve
27 the alterations or additions.

28 (b) There shall not be any material alteration or
29 substantial addition made to the common elements of a
30 condominium or condominiums operated by a multicondominium
31 association unless approved in a manner provided in the

1 declaration of the affected condominium or condominiums. If a
2 declaration does not specify a procedure for approving a
3 material alteration or substantial addition, the approval of
4 75 percent of the total voting interests of each affected
5 condominium is required. This subsection does not prohibit a
6 provision in any condominium document requiring the approval
7 of unit owners in other condominiums or requiring the approval
8 of the board of directors before a material alteration or
9 substantial addition to the common elements is permitted.

10 (c) There shall not be any material alteration or
11 substantial addition made to association real property
12 operated by a multicondominium association, except as provided
13 in the articles of incorporation or bylaws. If the articles of
14 incorporation or bylaws do not specify the procedure for
15 approving a material alteration or substantial addition to
16 association real property, the approval of 75 percent of the
17 total voting interests of the association is required.

18 Section 9. Section 718.115, Florida Statutes, 1998
19 Supplement, is amended to read:

20 718.115 Common expenses and common surplus.--

21 (1)(a) Common expenses include the expenses of the
22 operation, maintenance, repair, replacement, or protection of
23 the common elements and association property, costs of
24 carrying out the powers and duties of the association, and any
25 other expense, whether or not included in the foregoing,
26 designated as common expense by this chapter, the declaration,
27 the documents creating the association, or the bylaws. Common
28 expenses also include reasonable transportation services,
29 insurance for directors and officers, road maintenance and
30 operation expenses, in-house communications, and security
31 services, which are reasonably related to the general benefit

1 of the unit owners even if such expenses do not attach to the
2 common elements or property of the condominium. However, such
3 common expenses must either have been services or items
4 provided from the date the control of the board of
5 administration of the association was transferred from the
6 developer to the unit owners or must be services or items
7 provided for in the condominium documents or bylaws. With
8 respect to a multicondominium association, the common expenses
9 of the association are the common expenses that are not
10 directly attributable to the operation of a specific
11 condominium or condominiums, and common expenses of the
12 condominium are the common expenses that are directly
13 attributable to the operation of a specific condominium or
14 condominiums. The common expenses of the association may
15 include categories of expenses related to the property or
16 common elements within a specific condominium or condominiums
17 if such property or common elements are within areas that all
18 members of the association have use rights or receive other
19 tangible economic benefits. Such common expenses of the
20 association must be identified in the declaration or bylaws.

21 (b) If provided for in the declaration or bylaws, the
22 actual cost of registration or tuition, and reimbursement for
23 mileage at the rate allowed by the Internal Revenue Service at
24 the time the expense is incurred, is a permissible common
25 expense to pay for participation by officers or directors of
26 the condominium in educational courses offered within the
27 state which relate to the provisions of this chapter and the
28 administrative regulations adopted under this chapter. Such
29 reimbursement is limited to participation in educational
30 programs while serving as an officer or director. The
31 declaration or bylaws may provide a limit on such educational

1 expenditures. All expenses incurred must be documented by
2 contemporaneous receipts, which must be kept as part of the
3 official records of the association. When an educational
4 program is offered in multiple locations, course cost and
5 mileage reimbursement may only be made for the location
6 closest to the condominium association or to the location
7 closest to the attending officer or director.

8 (c)~~(b)~~ If so provided in the declaration, the cost of
9 a master antenna television system or duly franchised cable
10 television service obtained pursuant to a bulk contract shall
11 be deemed a common expense. If the declaration does not
12 provide for the cost of a master antenna television system or
13 duly franchised cable television service obtained under a bulk
14 contract as a common expense, the board of administration may
15 enter into such a contract, and the cost of the service will
16 be a common expense but allocated on a per-unit basis rather
17 than a percentage basis if the declaration provides for other
18 than an equal sharing of common expenses, and any contract
19 entered into before July 1, 1998, in which the cost of the
20 service is not equally divided among all unit owners, may be
21 changed by vote of a majority of the voting interests present
22 at a regular or special meeting of the association, to
23 allocate the cost equally among all units. The contract shall
24 be for a term of not less than 2 years.

25 1. Any contract made by the board after the effective
26 date hereof for a community antenna system or duly franchised
27 cable television service may be canceled by a majority of the
28 voting interests present at the next regular or special
29 meeting of the association. Any member may make a motion to
30 cancel said contract, but if no motion is made or if such
31 motion fails to obtain the required majority at the next

1 regular or special meeting, whichever is sooner, following the
2 making of the contract, then such contract shall be deemed
3 ratified for the term therein expressed.

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

17 (d)~~(c)~~ The expense of installation, replacement,
18 operation, repair, and maintenance of hurricane shutters by
19 the board pursuant to s. 718.113(5) shall constitute a common
20 expense as defined herein and shall be collected as provided
21 in this section. Notwithstanding the provisions of s.
22 718.116(9), a unit owner who has previously installed
23 hurricane shutters in accordance with s. 718.113(5) or
24 laminated glass architecturally designed to function as
25 hurricane protection which complies with the applicable
26 building code shall receive a credit equal to the pro rata
27 portion of the assessed installation cost assigned to each
28 unit. However, such unit owner shall remain responsible for
29 the pro rata share of expenses for hurricane shutters
30 installed on common elements and association property by the
31 board pursuant to s. 718.113(5), and shall remain responsible

1 for a pro rata share of the expense of the replacement,
2 operation, repair, and maintenance of such shutters.

3 (e)~~(d)~~ If any unpaid share of common expenses or
4 assessments is extinguished by foreclosure of a superior lien
5 or by a deed in lieu of foreclosure thereof, the unpaid share
6 of common expenses or assessments are common expenses
7 collectible from all the unit owners in the condominium in
8 which the unit is located.

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

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

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

27 718.116 Assessments; liability; lien and priority;
28 interest; collection.--

29 (9)(a) A ~~No~~ unit owner may not be excused from the
30 payment of the unit's ~~his or her~~ share of the common expenses
31 ~~expense of a condominium~~ unless all unit owners are likewise

1 proportionately excused from payment, except as provided in
2 subsection (1) and in the following cases:

3 1. If the declaration so provides, a developer ~~or~~
4 ~~other person~~ who is offering ~~owns~~ condominium units ~~offered~~
5 for sale may elect to be excused from the payment of the share
6 of the common expenses and assessments related to those units
7 for a stated period of time subsequent to the recording of the
8 declaration of condominium. The period must terminate no
9 later than the first day of the fourth calendar month
10 following the month in which the first closing of the purchase
11 and sale of a unit in that ~~the first~~ condominium ~~unit~~ occurs.
12 However, the developer must pay those common expenses incurred
13 during that period which exceed the amount assessed against
14 other unit owners. Notwithstanding this limitation, if a
15 developer-controlled association has maintained all insurance
16 coverages required by s. 718.111(11)(a), the common expenses
17 incurred during the foregoing period resulting from a natural
18 disaster or an act of God, which are not covered by insurance
19 proceeds from the insurance maintained by the association, may
20 be assessed ~~assigned~~ against all ~~unit~~ owners of ~~owning~~ units
21 on the date of such natural disaster or act of God, and their
22 successors and assigns, including the developer with respect
23 to units owned by the developer. In the event of such an
24 assessment, all units shall be assessed in accordance with
25 their ownership interest in the common elements as required by
26 s. 718.115(2).

27 2. A developer or other person who owns condominium
28 units and is offering the units for sale or who has an
29 obligation to pay common ~~condominium~~ expenses may be excused
30 from paying the ~~payment of his or her~~ share of the common
31 expenses ~~expense~~ which would otherwise be ~~have been~~ assessed

1 against those units during the period of time that such person
2 ~~he or she~~ has guaranteed to each purchaser in the purchase
3 contract, declaration, ~~or~~ prospectus, or by agreement between
4 the developer and a majority of the unit owners other than the
5 developer, that assessments ~~the assessment~~ for common expenses
6 ~~of the condominium~~ imposed upon the unit owners would not
7 increase over a stated dollar amount, and such person has
8 obligated himself or herself to pay any amount of common
9 expenses incurred during that period and not produced by the
10 assessments at the guaranteed level receivable from other unit
11 owners in the same condominium. Notwithstanding this
12 limitation, if a developer-controlled association has
13 maintained all insurance coverages required by s.
14 718.111(11)(a), the common expenses incurred during the
15 guarantee period resulting from a natural disaster or an act
16 of God, which are not covered by insurance proceeds from the
17 insurance maintained by the association, may be assessed
18 against all ~~unit~~ owners of owning units on the date of such
19 natural disaster or act of God, and their successors and
20 assigns, including the developer with respect to units owned
21 by the developer. In the event of such an assessment, all
22 units shall be assessed in accordance with their ownership
23 interest in the common elements as required by s. 718.115(2).
24 The guarantee may provide that after an initial stated period,
25 the developer has an option or options to extend the guarantee
26 for one or more additional stated periods.

27 (b) If the purchase contract, declaration, prospectus,
28 or agreement between the developer and a majority of unit
29 owners other than the developer provides for the developer or
30 another person to be excused from the payment of assessments
31 pursuant to paragraph (a), no funds which are receivable from

1 unit purchasers or owners and payable to the association or
2 collected by the developer on behalf of the association, other
3 than regular periodic assessments for common expenses as
4 provided in the declaration and disclosed in the estimated
5 operating budget pursuant to s. 718.503(1)(b)6. or s.
6 718.504(21)(b)~~s. 718.504(20)(b)~~, shall be used for payment of
7 common expenses prior to the expiration of the period during
8 which the developer or other person is so excused. This
9 restriction applies to funds including, but not limited to,
10 capital contributions or startup funds collected from unit
11 purchasers at closing.

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

16 1. The developer shall pay those common expenses of
17 the condominium affected by the guarantee, including the
18 funding of reserves as included in the adopted budget of that
19 condominium, in excess of the amount assessed against the
20 nondeveloper units within that condominium through regular
21 periodic assessments related to the adopted budget of that
22 condominium.

23 2. The developer shall pay the portion of the common
24 expenses of the association, including the funding of reserves
25 as included in the adopted budget of the association,
26 allocated to the units within the condominium affected by the
27 guarantee which is in excess of the amount assessed against
28 the nondeveloper units within that condominium through regular
29 periodic assessments related to the adopted budget of the
30 association.

31

1 Section 11. Subsection (11) is added to section
2 718.117, Florida Statutes, 1998 Supplement, to read:

3 718.117 Termination.--

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

7 Section 12. Section 718.405, Florida Statutes, is
8 created to read:

9 718.405 Multicondominiums.--

10 (1) An association may operate more than one
11 condominium if the declaration of condominium for each
12 condominium to be operated by that association provides for
13 multicondominium development, in conformity with this section,
14 and discloses or describes:

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

19 (b) Whether unit owners in other condominiums, or any
20 other persons, will or may have the right to use recreational
21 areas or any other facilities or amenities that are common
22 elements of the condominium, and, if so, the specific formula
23 by which the other users will share the common expenses
24 related to those facilities or amenities.

25 (c) The recreational and other commonly used
26 facilities or amenities that the developer has committed to
27 provide and that are owned or leased by the association but
28 are not included within any condominium. The developer may
29 reserve the right to add additional facilities or amenities if
30 the prospectus for each condominium to be operated by the
31 association contains the following statement in conspicuous

1 type and in substantially the following form: RECREATIONAL
2 FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF UNIT
3 OWNERS OR THE ASSOCIATION.

4 (d) The voting rights of the owners of each unit in
5 the election of directors and in other association affairs
6 when a vote of the owners is taken, including, but not limited
7 to, a statement as to whether each unit owner will have a
8 right to personally cast his or her own vote in all matters
9 voted upon.

10 (2) If any declaration requires a developer to convey
11 any additional lands or facilities to the association and the
12 developer fails to do so within the time specified, or within
13 a reasonable time if none is specified, any owner of a unit or
14 the association may enforce such obligation against the
15 developer or bring an action against the developer for
16 specific performance or for damages that result from the
17 developer's failure or refusal to convey such additional lands
18 or facilities.

19 (3) The declaration that creates each condominium to
20 be operated by the association may not, at the time of its
21 initial recording, contain any provision with respect to the
22 allocation of the assets, liabilities, or common expenses of
23 the association which is inconsistent with this chapter or the
24 provisions of the declaration of condominium for any other
25 condominium then being operated by the association.

26 (4) This section does not prevent or restrict the
27 formation of a multicondominium development by the merger or
28 consolidation of two or more condominium associations. Such
29 mergers or consolidations shall be accomplished in accordance
30 with the condominium documents of the condominiums involved
31 and in accordance with chapter 617, which governs the merger

1 or consolidation of corporations, as applicable. Section
2 718.110(4) does not apply to amendments to the declarations of
3 condominium necessary to effect the merger or consolidation.

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

6 718.5019 Advisory council; membership; functions.--

7 (1) There is created the Advisory Council on
8 Condominiums. The council shall consist of seven members. Two
9 shall be appointed by the Speaker of the House of
10 Representatives, two shall be appointed by the President of
11 the Senate, and three members shall be appointed by the
12 Governor. At least one member shall represent timeshare
13 condominiums. Members shall be appointed to 2-year terms.
14 Members shall continue to serve until their replacement has
15 been appointed.In addition to these appointed members, the
16 director of the Division of Florida Land Sales, Condominiums,
17 and Mobile Homes shall serve as an ex officio member of the
18 council. It is the intent of the Legislature that the
19 appointments to this council be geographically distributed
20 across the state and represent a cross section of persons
21 interested in condominium issues and include unit-owner and
22 board representatives and a representative from at least one
23 association with less than 100 units. For administrative
24 purposes, the commission shall be located in the Division of
25 Florida Land Sales, Condominiums, and Mobile Homes of the
26 Department of Business and Professional Regulation. Members of
27 the council shall serve without compensation, but shall be
28 entitled to receive per diem and travel expenses pursuant to
29 s. 112.061 while on official business.

30 Section 14. Present subsections (15) through (27) of
31 section 718.504, Florida Statutes, 1998 Supplement, are

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

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

11 (15) If the condominium is or may become part of a
12 multicondominium development, the following information must
13 be provided:

14 (a) A statement in conspicuous type in substantially
15 the following form: THIS CONDOMINIUM IS (MAY BE) PART OF A
16 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL
17 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately
18 following this statement, the location in the prospectus or
19 offering circular and its exhibits where the multicondominium
20 aspects of the offering are described must be stated.

21 (b) A summary of the provisions in the declaration and
22 bylaws which establish and provide for the operation of the
23 multicondominium development, including a statement as to
24 whether unit owners in the condominium will have the right to
25 use recreational or other facilities located or planned to be
26 located in other condominiums operated by the same
27 association, and the manner of sharing the common expenses
28 related to such facilities.

29 (c) A statement of the minimum and maximum number of
30 condominiums, and the minimum and maximum number of units in
31 each of those condominiums, which will or may be operated by

1 the association, and the latest date by which the exact
2 numbers will be finally determined.

3 (d) A statement as to whether any of the condominiums
4 may include units intended to be used for nonresidential
5 purposes, and, if so, the purpose or purposes permitted for
6 such use.

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

10 Section 15. Paragraph (a) of subsection (2) of section
11 624.462, Florida Statutes, is amended to read:

12 624.462 Commercial self-insurance funds.--

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

17 (a) Established by:

18 1. A not-for-profit trade association, industry
19 association, or professional association of employers or
20 professionals which has a constitution or bylaws, which is
21 incorporated under the laws of this state, and which has been
22 organized for purposes other than that of obtaining or
23 providing insurance and operated in good faith for a
24 continuous period of 1 year;

25 2. A self-insurance trust fund organized pursuant to
26 s. 627.357 and maintained in good faith for a continuous
27 period of 1 year for purposes other than that of obtaining or
28 providing insurance pursuant to this section. Each member of
29 a commercial self-insurance trust fund established pursuant to
30 this subsection must maintain membership in the self-insurance
31 trust fund organized pursuant to s. 627.357; or

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

9 Section 16. The Department of Business and
10 Professional Regulation shall prepare legislation for
11 consideration at the 2000 Regular Session of the Legislature
12 regarding master condominium associations. Such legislation
13 may address the powers and duties of a master condominium
14 association; requirements regarding association meetings,
15 membership, voting, records, elections, documents, merger,
16 assessments, financial reporting, budget, and turnover; basic
17 rights and obligations of members and affected persons;
18 definitions; powers and duties as well as regulatory and
19 rulemaking responsibilities of the department; and such other
20 matters as the department deems necessary to address master
21 condominium association concerns. Such draft legislation
22 shall be presented to the President of the Senate and the
23 Speaker of the House of Representatives on or before November
24 15, 1999.

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

26
27 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
28 COMMITTEE SUBSTITUTE FOR
29 SB 2274

30 Deletes all provisions relating to master associations.
31