

Bill No. CS/HB 475, 1st Eng.

Amendment No.     

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Saunders moved the following amendment:		
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13	<b>Senate Amendment (with title amendment)</b>		
14	On page 4, between lines 5 and 6,		
15			
16	insert:		
17	Section 3. Section 718.102, Florida Statutes, is		
18	amended to read:		
19	718.102 Purposes.--The purpose of this chapter is:		
20	(1) To give statutory recognition to the condominium		
21	form of ownership of real property.		
22	(2) To establish procedures for the creation, sale,		
23	and operation of condominiums.		
24	(3) <u>To provide information to condominium association</u>		
25	<u>board members and unit owners to foster a better understanding</u>		
26	<u>of their rights and responsibilities in the operation of their</u>		
27	<u>condominium association.</u>		
28			
29	Every condominium created and existing in this state shall be		
30	subject to the provisions of this chapter.		
31	Section 4. Section 718.103, Florida Statutes, 1998		

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1 Supplement, is amended to read:

2 718.103 Definitions.--As used in this chapter, the  
3 term:

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

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

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

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

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

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

27 (7) "Committee" means a group of board members, unit  
28 owners, or board members and unit owners appointed by the  
29 board or a member of the board to make recommendations to the  
30 board regarding the association budget or take action on  
31 behalf of the board.

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

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

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

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

17           (12) "Condominium parcel" means a unit, together with  
18 the undivided share in the common elements which is  
19 appurtenant to the unit.

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

25           (14) "Conspicuous type" means type in capital letters  
26 no smaller than the largest type, exclusive of headings, on  
27 the page on which it appears and, in all cases, at least  
28 10-point type. Where conspicuous type is required, it must be  
29 separated on all sides from other type and print. Conspicuous  
30 type may be used in contracts for purchase or public offering  
31 statements only where required by law.

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

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

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

19           (18) "Land" means, unless otherwise defined in the  
20 declaration as hereinafter provided, the surface of a legally  
21 described parcel of real property and includes, unless  
22 otherwise specified in the declaration and whether separate  
23 from or including such surface, airspace lying above and  
24 subterranean space lying below such surface. However, if so  
25 defined in the declaration, the term "land" may mean all or  
26 any portion of the airspace or subterranean space between two  
27 legally identifiable elevations and may exclude the surface of  
28 a parcel of real property and may mean any combination of the  
29 foregoing, whether or not contiguous.

30           (19) "Limited common elements" means those common  
31 elements which are reserved for the use of a certain

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1 condominium unit or units to the exclusion of other units, as  
2 specified in the declaration of condominium.

3 (20) "Multicondominium" means a real estate  
4 development that contains more than one condominium operated  
5 by one condominium association.

6 (21)~~(20)~~ "Operation" or "operation of the condominium"  
7 includes the administration and management of the condominium  
8 property.

9 (22)~~(21)~~ "Rental agreement" means any written  
10 agreement, or oral agreement if for less duration than 1 year,  
11 providing for use and occupancy of premises.

12 (23)~~(22)~~ "Residential condominium" means a condominium  
13 consisting of condominium units, any of which are intended for  
14 use as a private temporary or permanent residence, except that  
15 a condominium is not a residential condominium if the use for  
16 which the units are intended is primarily commercial or  
17 industrial and not more than three units are intended to be  
18 used for private residence, and are intended to be used as  
19 housing for maintenance, managerial, janitorial, or other  
20 operational staff of the condominium. With respect to a  
21 condominium that is not a timeshare condominium, a residential  
22 unit includes a unit intended as a private temporary or  
23 permanent residence as well as a unit not intended for  
24 commercial or industrial use. With respect to a timeshare  
25 condominium, the timeshare instrument as defined in s.  
26 721.05(30)~~s. 721.05(28)~~ shall govern the intended use of each  
27 unit in the condominium. If a condominium is a residential  
28 condominium but contains units intended to be used for  
29 commercial or industrial purposes, then, with respect to those  
30 units which are not intended for or used as private  
31 residences, the condominium is not a residential condominium.

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1 A condominium which contains both commercial and residential  
2 units is a mixed-use condominium subject to the requirements  
3 of s. 718.404.

4 ~~(24)(23)~~ "Special assessment" means any assessment  
5 levied against unit owners other than the assessment required  
6 by a budget adopted annually.

7 ~~(25)(24)~~ "Timeshare estate" means any interest in a  
8 unit under which the exclusive right of use, possession, or  
9 occupancy of the unit circulates among the various purchasers  
10 of a timeshare plan pursuant to chapter 721 on a recurring  
11 basis for a period of time.

12 ~~(26)(25)~~ "Timeshare unit" means a unit in which  
13 timeshare estates have been created.

14 ~~(27)(26)~~ "Unit" means a part of the condominium  
15 property which is subject to exclusive ownership. A unit may  
16 be in improvements, land, or land and improvements together,  
17 as specified in the declaration.

18 ~~(28)(27)~~ "Unit owner" or "owner of a unit" means a  
19 record owner of legal title to a condominium parcel.

20 ~~(29)(28)~~ "Voting certificate" means a document which  
21 designates one of the record title owners, or the corporate,  
22 partnership, or entity representative, who is authorized to  
23 vote on behalf of a condominium unit that is owned by more  
24 than one owner or by any entity.

25 ~~(30)(29)~~ "Voting interest" means the voting rights  
26 distributed to the association members pursuant to s.  
27 718.104(4)(i). In a multicondominium association the voting  
28 interest of the association means the total votes in  
29 association affairs distributed to the owners of all units in  
30 all condominiums operated by the association. When a vote of  
31 the owners in any specific condominium on matters related to

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1 that condominium is required or permitted, the voting interest  
2 of the condominium means the total votes distributed to the  
3 owners of units in that condominium.

4 Section 5. Paragraphs (f) and (g) of subsection (4) of  
5 section 718.104, Florida Statutes, 1998 Supplement, are  
6 amended to read:

7 718.104 Creation of condominiums; contents of  
8 declaration.--Every condominium created in this state shall be  
9 created pursuant to this chapter.

10 (4) The declaration must contain or provide for the  
11 following matters:

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

23 (g) The percentage or fractional shares of liability  
24 for the proportions or percentages of and manner of sharing  
25 common expenses of the condominium and of ownership of the  
26 owning common surplus, which, for all a residential units  
27 condominium, must be the same as the undivided shares of  
28 ownership in the common elements and common surplus  
29 appurtenant to each unit under paragraph (f). If a developer  
30 has reserved the right in a declaration recorded on or after  
31 July 1, 1999, to create a multicondominium development, the

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1 declaration of condominium for the first such condominium to  
2 be created must state, or provide a specific formula for  
3 determining, the fractional or percentage shares of liability  
4 for the common expenses of the association and of ownership of  
5 the common surplus of the association to be allocated to the  
6 units in each condominium to be operated by the association.  
7 If the first declaration as originally recorded fails to so  
8 provide, the share of liability for the common expenses of the  
9 association and of ownership of the common surplus of the  
10 association allocated to each unit in each condominium  
11 operated by the association shall be a fraction of the whole,  
12 the numerator of which is the number "one" and the denominator  
13 of which is the total number of units in all condominiums  
14 operated by the association.

15 Section 6. Subsection (2) of section 718.106, Florida  
16 Statutes, is amended to read:

17 718.106 Condominium parcels; appurtenances; possession  
18 and enjoyment.--

19 (2) There shall pass with a unit, as appurtenances  
20 thereto:

21 (a) An undivided share in the common elements and  
22 common surplus.

23 (b) The exclusive right to use such portion of the  
24 common elements as may be provided by the declaration,  
25 including the right to transfer such exclusive use rights to  
26 other units or unit owners to the extent authorized by the  
27 original declaration or amendments to such declaration, which  
28 amendments may be adopted in the manner required for regular  
29 amendments to the declaration of condominium and not pursuant  
30 to the percentage vote required to modify unit appurtenances.

31 This paragraph is intended to clarify existing law.



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

6           (d) Membership in the association designated in the  
7 declaration, with the full voting rights appertaining thereto  
8 and the right to seek election to the board in a manner  
9 consistent with s. 718.112(2)(d).

10           (e) Other appurtenances as may be provided in the  
11 declaration.

12           Section 7. Subsections (4) and (9) of section 718.110,  
13 Florida Statutes, are amended, and subsection (12) is added to  
14 that section, to read:

15           718.110 Amendment of declaration; correction of error  
16 or omission in declaration by circuit court.--

17           (4) Unless otherwise provided in the declaration as  
18 originally recorded, no amendment may change the configuration  
19 or size of any ~~condominium~~ unit in any material fashion,  
20 materially alter or modify the appurtenances to the unit, or  
21 change the proportion or percentage by which the owner of the  
22 unit parcel shares the common expenses and owns the common  
23 surplus unless the record owner of the unit and all record  
24 owners of liens on it join in the execution of the amendment  
25 and unless all the record owners of all other units in the  
26 same condominium approve the amendment. The acquisition of  
27 property by the association, and material alterations or  
28 substantial additions to such property or the common elements  
29 by the association in accordance with s. 718.111(7) or s.  
30 718.113, shall not be deemed to constitute a material  
31 alteration or modification of the appurtenances to the units.

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1 A declaration recorded after April 1, 1992, may not require  
2 the approval of less than a majority of total voting interests  
3 of the condominium for amendments under this subsection,  
4 unless otherwise required by a ~~any~~ governmental entity.

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

15 ~~718.104~~. This procedure for amendment cannot be used if such  
16 an amendment would materially or adversely affect property  
17 rights of unit owners, unless the affected unit owners consent  
18 in writing. This subsection does not restrict the powers of  
19 the association to otherwise amend the declaration, or other  
20 documentation, but authorizes a simple process of amendment  
21 requiring a lesser vote for the purpose of curing defects,  
22 errors, or omissions when the property rights of unit owners  
23 are not materially or adversely affected.

24 (12) Unless approval by a greater number is uniformly  
25 required in the declarations of all condominiums comprising a  
26 multicondominium development, an amendment may not change the  
27 fractional or percentage share of liability for the common  
28 expenses of the association and of ownership of the common  
29 surplus of the association allocated to each unit as provided  
30 in s. 718.104(4)(g) without the approval of at least a  
31 majority of the total voting interests of each condominium

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1 operated by the association. Unless a greater number is  
2 expressly required in the declaration, the declaration of  
3 condominium for any existing condominium may be amended upon  
4 the approval of at least a majority of the total voting  
5 interests of each condominium operated by the association, for  
6 the purpose of causing it to conform to the requirements of s.  
7 718.104(4)(f) as reasonably necessary to:

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

13 (b) Allow the creation or enlargement of a  
14 multicondominium development by the merger or consolidation of  
15 two or more condominium associations and change the name of  
16 the association, as applicable.

17 Section 8. Paragraphs (a) and (c) of subsection (12)  
18 and subsections (13), (14), and (15) of section 718.111,  
19 Florida Statutes, 1998 Supplement, are amended to read:

20 718.111 The association.--

21 (12) OFFICIAL RECORDS.--

22 (a) From the inception of the association, the  
23 association shall maintain each of the following items, when  
24 applicable, which shall constitute the official records of the  
25 association:

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

28 2. A photocopy of the recorded declaration of  
29 condominium of each condominium operated by the association  
30 and of each amendment to each declaration.

31 3. A photocopy of the recorded bylaws of the

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1 association and of each amendment to the bylaws.

2 4. A certified copy of the articles of incorporation  
3 of the association, or other documents creating the  
4 association, and of each amendment thereto.

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

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

10 7. A current roster of all unit owners and their  
11 mailing addresses, unit identifications, voting  
12 certifications, and, if known, telephone numbers.

13 8. All current insurance policies of the association  
14 and condominiums operated by the association.

15 9. A current copy of any management agreement, lease,  
16 or other contract to which the association is a party or under  
17 which the association or the unit owners have an obligation or  
18 responsibility.

19 10. Bills of sale or transfer for all property owned  
20 by the association.

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

27 a. Accurate, itemized, and detailed records of all  
28 receipts and expenditures.

29 b. A current account and a monthly, bimonthly, or  
30 quarterly statement of the account for each unit designating  
31 the name of the unit owner, the due date and amount of each

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1 assessment, the amount paid upon the account, and the balance  
2 due.

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

5 d. All contracts for work to be performed. Bids for  
6 work to be performed shall also be considered official records  
7 and shall be maintained for a period of 1 year.

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

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

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

16 15. All other records of the association not  
17 specifically included in the foregoing which are related to  
18 the operation of the association.

19 (c) The official records of the association are open  
20 to inspection by any association member or the authorized  
21 representative of such member at all reasonable times. The  
22 right to inspect the records includes the right to make or  
23 obtain copies, at the reasonable expense, if any, of the  
24 association member. The association may adopt reasonable  
25 rules regarding the frequency, time, location, notice, and  
26 manner of record inspections and copying. The failure of an  
27 association to provide the records within 10 working days  
28 after receipt of a written request shall create a rebuttable  
29 presumption that the association willfully failed to comply  
30 with this paragraph. A unit owner who is denied access to  
31 official records is entitled to the actual damages or minimum

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

21       1. Any document protected by the attorney-client  
22 privilege as described in s. 90.502, as well as material  
23 protected by the work-product privilege which consists of any  
24 record ~~A record which was~~ prepared by an association attorney  
25 or prepared at the attorney's express direction, which  
26 reflects a mental impression, conclusion, litigation strategy,  
27 or legal theory of the attorney or the association, and which  
28 was prepared exclusively for civil or criminal litigation or  
29 for adversarial administrative proceedings, or which was  
30 prepared in anticipation of imminent civil or criminal  
31 litigation or imminent adversarial administrative proceedings

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1 until the conclusion of the litigation or adversarial  
2 administrative proceedings.

3           2. Information obtained by an association in  
4 connection with the approval of the lease, sale, or other  
5 transfer of a unit.

6           3. Medical records of unit owners.

7           (13) FINANCIAL REPORTS.--Within 90 ~~60~~ days following  
8 the end of the fiscal ~~or calendar~~ year, or annually on such  
9 other date as may be ~~is otherwise~~ provided in the bylaws of  
10 ~~the association, the board of administration of the~~  
11 ~~association shall have prepared mail or furnish by personal~~  
12 ~~delivery to each unit owner a complete financial report of~~  
13 ~~actual receipts and expenditures of the association for the~~  
14 ~~preceding fiscal year or the association may have prepared~~  
15 ~~previous 12 months, or a complete set of financial statements~~  
16 ~~as provided in subsection (14), regardless of the number of~~  
17 ~~units operated by an association or the amount of revenues~~  
18 ~~earned by the association for the preceding fiscal year~~  
19 ~~prepared in accordance with generally accepted accounting~~  
20 ~~principles. Within 14 days after receiving the financial~~  
21 ~~report or financial statements, the association shall mail or~~  
22 ~~deliver a copy of the financial report or financial statements~~  
23 ~~to all of the unit owners, or notify each of the unit owners~~  
24 ~~that a copy of the report or financial statements is available~~  
25 ~~at no charge. The financial report must shall~~ show the amounts  
26 of receipts by accounts and receipt classifications and shall  
27 show the amounts of expenses by accounts and expense  
28 classifications for the association and each condominium  
29 operated by a multicondominium association, including, if  
30 applicable, but not limited to, the following:

31           (a) Costs for security;

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

17 (14) FINANCIAL STATEMENTS.--The division shall adopt

18 rules that, subject to the provisions of this section,

19 authorize which may require that the association to prepare,

20 within 90 days after the end of each fiscal year or annually

21 on the date provided in the bylaws deliver to the unit owners,

22 in lieu of the financial report required by subsection (13), a

23 complete set of financial statements for the preceding fiscal

24 year in lieu of the financial report required by subsection

25 (13). Within 14 days after the association's receipt of the

26 financial statements, the association shall mail or deliver a

27 copy of the financial statements to all of the unit owners or

28 notify each of the unit owners that a copy of the financial

29 statements is available at no charge.~~The financial statements~~

30 ~~shall be delivered within 90 days following the end of the~~

31 ~~previous fiscal year or annually on such other date as~~



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1 ~~provided by the bylaws.~~The rules of the division may require  
2 that the financial statements be compiled, reviewed, or  
3 audited, based on the size of the association and the amount  
4 of revenues earned by the association ~~and the rules shall take~~  
5 ~~into consideration the criteria set forth in s. 718.501(1)(j).~~  
6 The requirement to have the financial statements compiled,  
7 reviewed, or audited does not apply to associations when a  
8 majority of the voting interests of the association present at  
9 a duly called meeting of the association have determined for a  
10 fiscal year to waive this requirement. In an association in  
11 which turnover of control by the developer has not occurred,  
12 the developer may vote to waive the audit, review, or  
13 compilation requirement for the first 2 fiscal years of the  
14 operation of the association, beginning with the date the  
15 initial declaration is recorded in the county records,after  
16 which time waiver of an applicable audit, review, or  
17 compilation requirement shall be by a majority of voting  
18 interests of the association, excluding other than the  
19 developer voting interests. The meeting shall be held prior  
20 to the end of the fiscal year, and the waiver shall be  
21 effective for only 1 fiscal year. This subsection does not  
22 apply to an association that operates a condominium which  
23 ~~consists of~~ 50 or fewer units. For a multicondominium  
24 association, the financial statements may be presented on a  
25 combined basis if the notes or supplementary information  
26 disclose the revenues, expenses, and changes in fund balances  
27 for the association and for each condominium. In addition, the  
28 financial statements, notes, or supplementary information must  
29 disclose the revenues and common expenses of the association  
30 and the method used to allocate the revenues, expenses, and  
31 common surplus of the association to the unit owners.

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

23           Section 9. Paragraphs (d), (e), and (f) of subsection  
 24 (2) of section 718.112, Florida Statutes, 1998 Supplement, are  
 25 amended to read:

26           718.112 Bylaws.--

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

30           (d) Unit owner meetings.--

31           1. There shall be an annual meeting of the unit

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

22         2. The bylaws shall provide the method of calling  
23 meetings of unit owners, including annual meetings. Written  
24 notice, which notice must include an agenda, shall be mailed  
25 or delivered to each unit owner at least 14 days prior to the  
26 annual meeting and shall be posted in a conspicuous place on  
27 the condominium property at least 14 continuous days preceding  
28 the annual meeting. Upon notice to the unit owners, the board  
29 shall by duly adopted rule designate a specific location on  
30 the condominium property or association property upon which  
31 all notices of unit owner meetings shall be posted; however,

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

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

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

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1 provisions of this subparagraph, an election and balloting are  
2 not required unless more candidates file notices of intent to  
3 run or are nominated than vacancies exist on the board.

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

15           5. Unit owners may waive notice of specific meetings  
16 if allowed by the applicable bylaws or declaration or any  
17 statute.

18           6. Unit owners shall have the right to participate in  
19 meetings of unit owners with reference to all designated  
20 agenda items. However, the association may adopt reasonable  
21 rules governing the frequency, duration, and manner of unit  
22 owner participation.

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

26           8. Unless otherwise provided in the bylaws, any  
27 vacancy occurring on the board before the expiration of a term  
28 may be filled by the affirmative vote of the majority of the  
29 remaining directors, even if the remaining directors  
30 constitute less than a quorum, or by the sole remaining  
31 director. In the alternative, a board may hold an election to

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1 fill the vacancy, in which case the election procedures must  
2 conform to the requirements of subparagraph 3. unless the  
3 association has opted out of the statutory election process,  
4 in which case the bylaws of the association control. Unless  
5 otherwise provided in the bylaws, a board member appointed or  
6 elected under this section shall fill the vacancy for the  
7 unexpired term of the seat being filled. Filling vacancies  
8 created by recall is governed by paragraph (j) and rules  
9 adopted by the division.

10

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

19 (e) Budget meeting.--The board of administration shall  
20 hand deliver to each unit owner, or mail to each unit owner at  
21 the address last furnished to the association, a meeting  
22 notice and copies of the proposed annual budget of common  
23 expenses not less than 14 days prior to the meeting of the  
24 unit owners or the board of administration at which the budget  
25 will be considered. Evidence of compliance with this 14-day  
26 notice must be made by an affidavit executed by an officer of  
27 the association or the manager or other person providing  
28 notice of the meeting and filed among the official records of  
29 the association. The meeting must be open to the unit owners.  
30 If an adopted budget requires assessments against the unit  
31 owners in any fiscal or calendar year which exceed 115 percent

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



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1 the prior fiscal or calendar year's assessment without  
2 approval of a majority of all the voting interests of units  
3 subject to assessments under the budget. A multicondominium  
4 association shall adopt a separate budget of common expenses  
5 for each condominium it operates and shall adopt a separate  
6 budget of common expenses for the association.

7 (f) Annual budget.--

8 1. The proposed annual budget of common expenses shall  
9 be detailed and shall show the amounts budgeted by accounts  
10 and expense classifications, including, if applicable, but not  
11 limited to, those expenses listed in s. 718.504(21)~~s.~~  
12 ~~718.504(20)~~. In addition, if the association maintains limited  
13 common elements with the cost to be shared only by those  
14 entitled to use the limited common elements as provided for in  
15 s. 718.113(1), the budget or a schedule attached thereto shall  
16 show amounts budgeted therefor. If, after turnover of control  
17 of the association to the unit owners, any of the expenses  
18 listed in s. 718.504(21)~~s. 718.504(20)~~ are not applicable,  
19 they need not be listed.

20 2. In addition to annual operating expenses, the  
21 budget shall include reserve accounts for capital expenditures  
22 and deferred maintenance. These accounts shall include, but  
23 are not limited to, roof replacement, building painting, and  
24 pavement resurfacing, regardless of the amount of deferred  
25 maintenance expense or replacement cost, and for any other  
26 item for which the deferred maintenance expense or replacement  
27 cost exceeds \$10,000. The amount to be reserved shall be  
28 computed by means of a formula which is based upon estimated  
29 remaining useful life and estimated replacement cost or  
30 deferred maintenance expense of each reserve item. The  
31 association may adjust replacement reserve assessments

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

23         3. Reserve funds and any interest accruing thereon  
24 shall remain in the reserve account or accounts, and shall be  
25 used only for authorized reserve expenditures unless their use  
26 for other purposes is approved in advance by a majority vote  
27 at a duly called meeting of the association. Prior to turnover  
28 of control of an association by a developer to unit owners  
29 other than the developer pursuant to s. 718.301, the  
30 developer-controlled association shall not vote to use  
31 reserves for purposes other than that for which they were

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1 intended without the approval of a majority of all  
2 nondeveloper voting interests, voting in person or by limited  
3 proxy at a duly called meeting of the association.

4 4. In a multicondominium association, the only voting  
5 interests of the association which are eligible to vote on  
6 questions that involve waiving or reducing the funding of  
7 reserves or using existing reserve funds for other purposes  
8 are the voting interests of the units that are subject to  
9 assessment to fund the reserves in question.

10 Section 10. Subsection (2) of section 718.113, Florida  
11 Statutes, is amended to read:

12 718.113 Maintenance; limitation upon improvement;  
13 display of flag; hurricane shutters.--

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

22 (b) There shall not be any material alteration or  
23 substantial addition made to the common elements of a  
24 condominium or condominiums operated by a multicondominium  
25 association unless approved in a manner provided in the  
26 declaration of the affected condominium or condominiums. If a  
27 declaration does not specify a procedure for approving a  
28 material alteration or substantial addition, the approval of  
29 75 percent of the total voting interests of each affected  
30 condominium is required. This subsection does not prohibit a  
31 provision in any condominium document requiring the approval

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1 of unit owners in other condominiums or requiring the approval  
2 of the board of directors before a material alteration or  
3 substantial addition to the common elements is permitted.

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

12 Section 11. Section 718.115, Florida Statutes, 1998  
13 Supplement, is amended to read:

14 718.115 Common expenses and common surplus.--

15 (1)(a) Common expenses include the expenses of the  
16 operation, maintenance, repair, replacement, or protection of  
17 the common elements and association property, costs of  
18 carrying out the powers and duties of the association, and any  
19 other expense, whether or not included in the foregoing,  
20 designated as common expense by this chapter, the declaration,  
21 the documents creating the association, or the bylaws. Common  
22 expenses also include reasonable transportation services,  
23 insurance for directors and officers, road maintenance and  
24 operation expenses, in-house communications, and security  
25 services, which are reasonably related to the general benefit  
26 of the unit owners even if such expenses do not attach to the  
27 common elements or property of the condominium. However, such  
28 common expenses must either have been services or items  
29 provided from the date the control of the board of  
30 administration of the association was transferred from the  
31 developer to the unit owners or must be services or items

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1 provided for in the condominium documents or bylaws. With  
2 respect to a multicondominium association, the common expenses  
3 of the association are the common expenses that are not  
4 directly attributable to the operation of a specific  
5 condominium or condominiums, and common expenses of the  
6 condominium are the common expenses that are directly  
7 attributable to the operation of a specific condominium or  
8 condominiums. The common expenses of the association may  
9 include categories of expenses related to the property or  
10 common elements within a specific condominium or condominiums  
11 if such property or common elements are within areas that all  
12 members of the association have use rights or receive other  
13 tangible economic benefits. Such common expenses of the  
14 association must be identified in the declaration or bylaws.

15 (b) If provided for in the declaration or bylaws, the  
16 actual cost of registration or tuition, and reimbursement for  
17 mileage at the rate allowed by the Internal Revenue Service at  
18 the time the expense is incurred, is a permissible common  
19 expense to pay for participation by officers or directors of  
20 the condominium in educational courses offered within the  
21 state which relate to the provisions of this chapter and the  
22 administrative regulations adopted under this chapter. Such  
23 reimbursement is limited to participation in educational  
24 programs while serving as an officer or director. The  
25 declaration or bylaws may provide a limit on such educational  
26 expenditures. All expenses incurred must be documented by  
27 contemporaneous receipts, which must be kept as part of the  
28 official records of the association. When an educational  
29 program is offered in multiple locations, course cost and  
30 mileage reimbursement may only be made for the location  
31 closest to the condominium association or to the location

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1 closest to the attending officer or director.

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

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

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

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

11 ~~(d)~~(c) The expense of installation, replacement,  
12 operation, repair, and maintenance of hurricane shutters by  
13 the board pursuant to s. 718.113(5) shall constitute a common  
14 expense as defined herein and shall be collected as provided  
15 in this section. Notwithstanding the provisions of s.  
16 718.116(9), a unit owner who has previously installed  
17 hurricane shutters in accordance with s. 718.113(5) or  
18 laminated glass architecturally designed to function as  
19 hurricane protection which complies with the applicable  
20 building code shall receive a credit equal to the pro rata  
21 portion of the assessed installation cost assigned to each  
22 unit. However, such unit owner shall remain responsible for  
23 the pro rata share of expenses for hurricane shutters  
24 installed on common elements and association property by the  
25 board pursuant to s. 718.113(5), and shall remain responsible  
26 for a pro rata share of the expense of the replacement,  
27 operation, repair, and maintenance of such shutters.

28 ~~(e)~~(d) If any unpaid share of common expenses or  
29 assessments is extinguished by foreclosure of a superior lien  
30 or by a deed in lieu of foreclosure thereof, the unpaid share  
31 of common expenses or assessments are common expenses

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1 collectible from all the unit owners in the condominium in  
2 which the unit is located.

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

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

19 Section 12. Subsection (9) of section 718.116, Florida  
20 Statutes, 1998 Supplement, is amended to read:

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

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

28 1. If the declaration so provides, a developer ~~or~~  
29 ~~other person~~ who is offering ~~owns~~ condominium units ~~offered~~  
30 for sale may elect to be excused from the payment of the share  
31 of the common expenses and assessments related to those units



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

21           2. A developer or other person who owns condominium  
22 units and is offering the units for sale or who has an  
23 obligation to pay common ~~condominium~~ expenses may be excused  
24 from paying the ~~payment of his or her~~ share of ~~the~~ common  
25 expenses ~~expense~~ which would otherwise be ~~have been~~ assessed  
26 against those units during the period of time that such person  
27 ~~he or she~~ has guaranteed to each purchaser in the purchase  
28 contract, declaration, ~~or~~ prospectus, or by agreement between  
29 the developer and a majority of the unit owners other than the  
30 developer, that assessments ~~the assessment~~ for common expenses  
31 ~~of the condominium~~ imposed upon the unit owners would not

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

21 (b) If the purchase contract, declaration, prospectus,  
22 or agreement between the developer and a majority of unit  
23 owners other than the developer provides for the developer or  
24 another person to be excused from the payment of assessments  
25 pursuant to paragraph (a), no funds which are receivable from  
26 unit purchasers or owners and payable to the association or  
27 collected by the developer on behalf of the association, other  
28 than regular periodic assessments for common expenses as  
29 provided in the declaration and disclosed in the estimated  
30 operating budget pursuant to s. 718.503(1)(b)6. or s.  
31 718.504(21)(b) ~~s. 718.504(20)(b)~~, shall be used for payment of

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1 common expenses prior to the expiration of the period during  
2 which the developer or other person is so excused. This  
3 restriction applies to funds including, but not limited to,  
4 capital contributions or startup funds collected from unit  
5 purchasers at closing.

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

10 1. The developer shall pay those common expenses of  
11 the condominium affected by the guarantee, including the  
12 funding of reserves as included in the adopted budget of that  
13 condominium, in excess of the amount assessed against the  
14 nondeveloper units within that condominium through regular  
15 periodic assessments related to the adopted budget of that  
16 condominium.

17 2. The developer shall pay the portion of the common  
18 expenses of the association, including the funding of reserves  
19 as included in the adopted budget of the association,  
20 allocated to the units within the condominium affected by the  
21 guarantee which is in excess of the amount assessed against  
22 the nondeveloper units within that condominium through regular  
23 periodic assessments related to the adopted budget of the  
24 association.

25 Section 13. Subsection (11) is added to section  
26 718.117, Florida Statutes, 1998 Supplement, to read:

27 718.117 Termination.--

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

31 Section 14. Section 718.405, Florida Statutes, is

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1 created to read:

2 718.405 Multicondominiums.--

3 (1) An association may operate more than one  
4 condominium if the declaration of condominium for each  
5 condominium to be operated by that association provides for  
6 multicondominium development, in conformity with this section,  
7 and discloses or describes:

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

12 (b) Whether unit owners in other condominiums, or any  
13 other persons, will or may have the right to use recreational  
14 areas or any other facilities or amenities that are common  
15 elements of the condominium, and, if so, the specific formula  
16 by which the other users will share the common expenses  
17 related to those facilities or amenities.

18 (c) The recreational and other commonly used  
19 facilities or amenities that the developer has committed to  
20 provide and that are owned or leased by the association but  
21 are not included within any condominium. The developer may  
22 reserve the right to add additional facilities or amenities if  
23 the prospectus for each condominium to be operated by the  
24 association contains the following statement in conspicuous  
25 type and in substantially the following form: RECREATIONAL  
26 FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF UNIT  
27 OWNERS OR THE ASSOCIATION.

28 (d) The voting rights of the owners of each unit in  
29 the election of directors and in other association affairs  
30 when a vote of the owners is taken, including, but not limited  
31 to, a statement as to whether each unit owner will have a

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1 right to personally cast his or her own vote in all matters  
2 voted upon.

3 (2) If any declaration requires a developer to convey  
4 any additional lands or facilities to the association and the  
5 developer fails to do so within the time specified, or within  
6 a reasonable time if none is specified, any owner of a unit or  
7 the association may enforce such obligation against the  
8 developer or bring an action against the developer for  
9 specific performance or for damages that result from the  
10 developer's failure or refusal to convey such additional lands  
11 or facilities.

12 (3) The declaration that creates each condominium to  
13 be operated by the association may not, at the time of its  
14 initial recording, contain any provision with respect to the  
15 allocation of the assets, liabilities, or common expenses of  
16 the association which is inconsistent with this chapter or the  
17 provisions of the declaration of condominium for any other  
18 condominium then being operated by the association.

19 (4) This section does not prevent or restrict the  
20 formation of a multicondominium development by the merger or  
21 consolidation of two or more condominium associations. Such  
22 mergers or consolidations shall be accomplished in accordance  
23 with the condominium documents of the condominiums involved  
24 and in accordance with chapter 617, which governs the merger  
25 or consolidation of corporations, as applicable. Section  
26 718.110(4) does not apply to amendments to the declarations of  
27 condominium necessary to effect the merger or consolidation.

28 Section 15. Subsection (1) of section 718.5019,  
29 Florida Statutes, is amended to read:

30 718.5019 Advisory council; membership; functions.--

31 (1) There is created the Advisory Council on

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

23 Section 16. Present subsections (15) through (27) of  
24 section 718.504, Florida Statutes, 1998 Supplement, are  
25 redesignated as subsections (16) through (28), respectively,  
26 and a new subsection (15) is added to that section, to read:

27 718.504 Prospectus or offering circular.--Every  
28 developer of a residential condominium which contains more  
29 than 20 residential units, or which is part of a group of  
30 residential condominiums which will be served by property to  
31 be used in common by unit owners of more than 20 residential

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1 units, shall prepare a prospectus or offering circular and  
2 file it with the Division of Florida Land Sales, Condominiums,  
3 and Mobile Homes prior to entering into an enforceable  
4 contract of purchase and sale of any unit or lease of a unit  
5 for more than 5 years and shall furnish a copy of the  
6 prospectus or offering circular to each buyer. In addition to  
7 the prospectus or offering circular, each buyer shall be  
8 furnished a separate page entitled "Frequently Asked Questions  
9 and Answers," which shall be in accordance with a format  
10 approved by the division and a copy of the financial  
11 information required by s. 718.111. This page shall, in  
12 readable language, inform prospective purchasers regarding  
13 their voting rights and unit use restrictions, including  
14 restrictions on the leasing of a unit; shall indicate whether  
15 and in what amount the unit owners or the association is  
16 obligated to pay rent or land use fees for recreational or  
17 other commonly used facilities; shall contain a statement  
18 identifying that amount of assessment which, pursuant to the  
19 budget, would be levied upon each unit type, exclusive of any  
20 special assessments, and which shall further identify the  
21 basis upon which assessments are levied, whether monthly,  
22 quarterly, or otherwise; shall state and identify any court  
23 cases in which the association is currently a party of record  
24 in which the association may face liability in excess of  
25 \$100,000; and which shall further state whether membership in  
26 a recreational facilities association is mandatory, and if so,  
27 shall identify the fees currently charged per unit type. The  
28 division shall by rule require such other disclosure as in its  
29 judgment will assist prospective purchasers. The prospectus or  
30 offering circular may include more than one condominium,  
31 although not all such units are being offered for sale as of

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1 the date of the prospectus or offering circular. The  
2 prospectus or offering circular must contain the following  
3 information:

4 (15) If the condominium is or may become part of a  
5 multicondominium development, the following information must  
6 be provided:

7 (a) A statement in conspicuous type in substantially  
8 the following form: THIS CONDOMINIUM IS (MAY BE) PART OF A  
9 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL  
10 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately  
11 following this statement, the location in the prospectus or  
12 offering circular and its exhibits where the multicondominium  
13 aspects of the offering are described must be stated.

14 (b) A summary of the provisions in the declaration and  
15 bylaws which establish and provide for the operation of the  
16 multicondominium development, including a statement as to  
17 whether unit owners in the condominium will have the right to  
18 use recreational or other facilities located or planned to be  
19 located in other condominiums operated by the same  
20 association, and the manner of sharing the common expenses  
21 related to such facilities.

22 (c) A statement of the minimum and maximum number of  
23 condominiums, and the minimum and maximum number of units in  
24 each of those condominiums, which will or may be operated by  
25 the association, and the latest date by which the exact  
26 numbers will be finally determined.

27 (d) A statement as to whether any of the condominiums  
28 may include units intended to be used for nonresidential  
29 purposes, and, if so, the purpose or purposes permitted for  
30 such use.

31 (e) A general description of the location and



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1 approximate acreage of any land on which any additional  
 2 condominiums to be operated by the association may be located.

3 Section 17. Paragraph (a) of subsection (2) of section  
 4 624.462, Florida Statutes, is amended to read:

5 624.462 Commercial self-insurance funds.--

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

10 (a) Established by:

11 1. A not-for-profit trade association, industry  
 12 association, or professional association of employers or  
 13 professionals which has a constitution or bylaws, which is  
 14 incorporated under the laws of this state, and which has been  
 15 organized for purposes other than that of obtaining or  
 16 providing insurance and operated in good faith for a  
 17 continuous period of 1 year;

18 2. A self-insurance trust fund organized pursuant to  
 19 s. 627.357 and maintained in good faith for a continuous  
 20 period of 1 year for purposes other than that of obtaining or  
 21 providing insurance pursuant to this section. Each member of  
 22 a commercial self-insurance trust fund established pursuant to  
 23 this subsection must maintain membership in the self-insurance  
 24 trust fund organized pursuant to s. 627.357; or

25 3. A not-for-profit group composed ~~comprised~~ of no  
 26 fewer less than 10 condominium associations as defined in s.  
 27 718.103(11) ~~s. 718.103(2)~~, which is incorporated under the  
 28 laws of this state, which restricts its membership to  
 29 condominium associations only, and which has been organized  
 30 and maintained in good faith for a continuous period of 1 year  
 31 for purposes other than that of obtaining or providing

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1 insurance.

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

18  
19 (Redesignate subsequent sections.)

20  
21  
22 ===== T I T L E   A M E N D M E N T =====

23 And the title is amended as follows:

24           On page 1, line 16, after the semicolon,

25  
26 insert:

27           amending s. 718.102, F.S.; providing an  
28           additional purpose of ch. 718, F.S.; amending  
29           s. 718.103, F.S.; revising definitions;  
30           providing an additional definition; amending s.  
31           718.104, F.S.; providing additional

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1 requirements for a declaration of condominium;  
2 providing for determining the percentage share  
3 of liability for common expenses and ownership;  
4 amending s. 718.106, F.S.; providing for the  
5 right to assign exclusive use; providing for  
6 the right to seek election; amending s.  
7 718.110, F.S.; clarifying requirements for  
8 amending and recording the declaration of  
9 condominium; providing for determining the  
10 percentage share of liability for common  
11 expenses and ownership for purposes of  
12 condominiums comprising a multicondominium  
13 development; amending s. 718.111, F.S.;  
14 clarifying an attorney-client privilege;  
15 revising requirements for financial reports;  
16 requiring the disclosure of reserves; revising  
17 requirements for financial statements;  
18 requiring the disclosure of revenues and common  
19 expenses; revising certain limitations on the  
20 commingling of funds maintained in the name of  
21 a condominium association or multicondominium;  
22 amending s. 718.112, F.S.; revising  
23 requirements for budget meetings; providing  
24 conditions under which a multicondominium  
25 association may waive or reduce its funding of  
26 reserves; amending s. 718.113, F.S.; providing  
27 certain limitations on making material  
28 alterations or additions to multicondominiums;  
29 providing a procedure for approving an  
30 alteration or addition if not provided for in  
31 the bylaws; revising requirements for

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1 condominium boards with respect to installing  
2 and maintaining hurricane shutters; specifying  
3 expenses that constitute common expenses of a  
4 multicondominium association; providing for an  
5 association's bylaws to allow certain  
6 educational expenses of the officers or  
7 directors to be a permitted common expense;  
8 amending s. 718.115, F.S.; providing for  
9 determining the common surplus owned by a unit  
10 owner of a multicondominium; amending s.  
11 718.116, F.S.; revising circumstances under  
12 which a developer may be excused from paying  
13 certain common expenses and assessments;  
14 providing for the developer's obligation for  
15 such expenses with respect to a  
16 multicondominium association; amending s.  
17 718.117, F.S.; providing that certain  
18 requirements governing the termination of a  
19 condominium are inapplicable to the merger of a  
20 condominium with one or more other  
21 condominiums; creating s. 718.405, F.S.;  
22 providing for the creation of  
23 multicondominiums; providing requirements for  
24 the declaration of condominium; providing  
25 notice requirements; providing for the merger  
26 or consolidation of condominium associations  
27 that are not controlled by a developer;  
28 amending s. 718.5019, F.S.; providing for a  
29 member's continued service until a replacement  
30 has been appointed; amending s. 718.504, F.S.;  
31 providing requirements for the prospectus or

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1 offering circular for a condominium that is or  
2 may become part of a multicondominium; amending  
3 s. 624.462, F.S., relating to self-insurance  
4 funds; conforming a cross-reference to changes  
5 made by the act; requiring the Department of  
6 Business and Professional Regulation to prepare  
7 proposed legislation addressing master  
8 condominium associations; providing criteria;  
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