

By the Committee on Regulated Industries and Senator Saunders

315-2092-00

1                                   A bill to be entitled  
2           An act relating to residential associations;  
3           amending s. 718.103, F.S.; revising  
4           definitions; providing an additional  
5           definition; amending s. 718.104, F.S.;  
6           providing additional requirements for a  
7           declaration of condominium; modifying time  
8           period for filing recorded documents; providing  
9           for determining the percentage share of  
10          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 reporting;  
23          authorizing certain financial statements in  
24          lieu of reports; deleting requirements for  
25          financial statements; revising certain  
26          limitations on the commingling of funds  
27          maintained in the name of a condominium  
28          association or multicondominium; amending s.  
29          718.112, F.S.; revising requirements for budget  
30          meetings; requiring separate budgets for  
31          condominiums and associations; providing

1 conditions under which a multicondominium  
2 association may waive or reduce its funding of  
3 reserves; amending s. 718.113, F.S.; providing  
4 certain limitations on making material  
5 alterations or additions to multicondominiums;  
6 providing a procedure for approving an  
7 alteration or addition if not provided for in  
8 the bylaws; revising requirements for  
9 condominium boards with respect to installing  
10 and maintaining hurricane shutters; specifying  
11 expenses that constitute common expenses of a  
12 multicondominium association; providing for an  
13 association's bylaws to allow certain  
14 educational expenses of the officers or  
15 directors to be a permitted common expense;  
16 amending s. 718.115, F.S.; providing for  
17 determining the common surplus owned by a unit  
18 owner of a multicondominium; authorizing  
19 condominium households receiving supplemental  
20 security income or food stamps to discontinue  
21 cable television service without fees,  
22 penalties, or service charges; amending s.  
23 718.116, F.S.; revising circumstances under  
24 which a developer may be excused from paying  
25 certain common expenses and assessments;  
26 providing for the developer's obligation for  
27 such expenses with respect to a  
28 multicondominium association; amending s.  
29 718.117, F.S.; providing that certain  
30 requirements governing the termination of a  
31 condominium are inapplicable to the merger of a

1 condominium with one or more other  
2 condominiums; amending s. 718.403, F.S.;  
3 modifying time period for filing recorded  
4 documents; creating s. 718.405, F.S.; providing  
5 for the creation of multicondominiums;  
6 providing requirements for the declaration of  
7 condominium; providing for the merger or  
8 consolidation of condominium associations;  
9 repealing s. 718.5019, F.S., relating to the  
10 Advisory Council on Condominiums; amending s.  
11 718.504, F.S.; providing requirements for the  
12 prospectus or offering circular for a  
13 condominium that is or may become part of a  
14 multicondominium; amending s. 721.13, F.S.;  
15 conforming a cross-reference; amending s.  
16 617.3075, F.S.; prohibiting homeowners'  
17 associations from prohibiting display of the  
18 United States flag; creating the Condominium  
19 Study Commission; providing for membership;  
20 providing legislative intent; providing for  
21 duties; providing for recommendations;  
22 providing an appropriation; providing for  
23 future repeal; repealing s. 718.501(1)(j),  
24 F.S., relating to uniform accounting  
25 principles, policies, and standards required to  
26 be adopted by the Division of Florida Land  
27 Sales, Condominiums, and Mobile Homes of the  
28 Department of Business and Professional  
29 Regulation; providing an effective date.

30  
31 Be It Enacted by the Legislature of the State of Florida:

1           Section 1. Section 718.103, Florida Statutes, is  
2 amended to read:

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

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

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

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

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

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

27           (6) "Bylaws" means the bylaws of the association as  
28 they are amended ~~exist~~ from time to time.

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

1 board regarding the proposed annual ~~association~~ budget or to  
2 take action on behalf of the board.

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

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

9 (10) "Common surplus" means the amount ~~excess~~ of all  
10 receipts or revenues, ~~of the association collected on behalf~~  
11 ~~of a condominium (including, but not limited to, assessments,~~  
12 rents, or profits, collected by a condominium association  
13 which exceeds, and revenues on account of the common elements)  
14 ~~over the~~ 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 entirely of units that may be  
18 owned by one or more persons, and in which there is,  
19 appurtenant to each unit, an undivided share in common  
20 elements.

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

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

29 (14) "Conspicuous type" means bold type in capital  
30 letters no smaller than the largest type, exclusive of  
31 headings, on the page on which it appears and, in all cases,

1 at least 10-point type. Where conspicuous type is required,  
2 it must be separated on all sides from other type and print.  
3 Conspicuous type may be used in a contract ~~contracts~~ for  
4 purchase and sale of a unit, a lease of a unit for more than 5  
5 years, or a prospectus or offering circular ~~public offering~~  
6 ~~statements~~ only where required by law.

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

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

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

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

1 any portion of the airspace or subterranean space between two  
2 legally identifiable elevations and may exclude the surface of  
3 a parcel of real property and may mean any combination of the  
4 foregoing, whether or not contiguous.

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

9 (20) "Multicondominium" means a real estate  
10 development containing two or more condominiums all of which  
11 are operated by the same association.

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

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

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

1 s. 721.05(30) shall govern the intended use of each unit in  
2 the condominium. If a condominium is a residential condominium  
3 but contains units intended to be used for commercial or  
4 industrial purposes, then, with respect to those units which  
5 are not intended for or used as private residences, the  
6 condominium is not a residential condominium. A condominium  
7 which contains both commercial and residential units is a  
8 mixed-use condominium and is subject to the requirements of s.  
9 718.404.

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

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

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

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

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

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

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1           ~~(30)(29)~~ "Voting interests ~~interest~~" means the voting  
2 rights distributed to the association members pursuant to s.  
3 718.104(4)(i). In a multicondominium association, the voting  
4 interests of the association are the voting rights distributed  
5 to the unit owners in all condominiums operated by the  
6 association. On matters related to a specific condominium in  
7 a multicondominium association, the voting interests of the  
8 condominium are the voting rights distributed to the unit  
9 owners in that condominium.

10           Section 2. Subsection (2) and paragraphs (f) and (g)  
11 of subsection (4) of section 718.104, Florida Statutes, are  
12 amended, and paragraph (h) is added to subsection (4), to  
13 read:

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

17           (2) A condominium is created by recording a  
18 declaration in the public records of the county where the land  
19 is located, executed and acknowledged with the requirements  
20 for a deed. All persons who have record title to the interest  
21 in the land being submitted to condominium ownership, or their  
22 lawfully authorized agents, must join in the execution of the  
23 declaration. Upon the recording of the declaration, or an  
24 amendment adding a phase to the condominium under s.  
25 718.403(6), all units described in the declaration or phase  
26 amendment as being located in or on the land then being  
27 submitted to condominium ownership shall come into existence,  
28 regardless of the state of completion of planned improvements  
29 in which the units may be located. Upon recording the  
30 declaration of condominium pursuant to this section, the  
31 developer shall file the recording information with the

1 division within 120 calendar ~~30-business~~ days on a form  
2 prescribed by the division.

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

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

16 (g) The percentage or fractional shares of liability  
17 ~~for proportions or percentages of and manner of sharing common~~  
18 ~~expenses of the condominium and owning common surplus,~~ which,  
19 for all ~~a~~ residential units ~~condominium~~, must be the same as  
20 the undivided shares of ownership of ~~in~~ the common elements  
21 and common surplus appurtenant to each unit as provided for in  
22 paragraph (f).

23 (h) If a developer reserves the right, in a  
24 declaration recorded on or after July 1, 2000, to create a  
25 multicondominium, the declaration must state, or provide a  
26 specific formula for determining, the fractional or percentage  
27 shares of liability for the common expenses of the association  
28 and of ownership of the common surplus of the association to  
29 be allocated to the units in each condominium to be operated  
30 by the association. If the declaration as originally recorded  
31 fails to so provide, the 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 in each  
3 condominium operated by the association shall be a fraction of  
4 the whole, the numerator of which is the number "one" and the  
5 denominator of which is the total number of units in all  
6 condominiums operated by the association.

7 Section 3. Subsection (2) of section 718.106, Florida  
8 Statutes, is amended to read:

9 718.106 Condominium parcels; appurtenances; possession  
10 and enjoyment.--

11 (2) There shall pass with a unit, as appurtenances  
12 thereto:

13 (a) An undivided share in the common elements and  
14 common surplus.

15 (b) The exclusive right to use such portion of the  
16 common elements as may be provided by the declaration,  
17 including the right to transfer such right to other units or  
18 unit owners to the extent authorized by the declaration as  
19 originally recorded, or amendments to the declaration adopted  
20 under s. 718.110(2).

21 (c) An exclusive easement for the use of the airspace  
22 occupied by the unit as it exists at any particular time and  
23 as the unit may lawfully be altered or reconstructed from time  
24 to time. An easement in airspace which is vacated shall be  
25 terminated automatically.

26 (d) Membership in the association designated in the  
27 declaration, with the full voting rights appertaining thereto.

28 (e) Other appurtenances as may be provided in the  
29 declaration.

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

4           718.110 Amendment of declaration; correction of error  
5 or omission in declaration by circuit court.--

6           (4) Unless otherwise provided in the declaration as  
7 originally recorded, no amendment may change the configuration  
8 or size of any ~~condominium~~ unit in any material fashion,  
9 materially alter or modify the appurtenances to the unit, or  
10 change the proportion or percentage by which the unit owner ~~of~~  
11 ~~the parcel~~ shares the common expenses of the condominium and  
12 owns the common surplus of the condominium unless the record  
13 owner of the unit and all record owners of liens on the unit  
14 ~~it~~ join in the execution of the amendment and unless all the  
15 record owners of all other units in the same condominium  
16 approve the amendment. The acquisition of property by the  
17 association, and material alterations or substantial additions  
18 to such property or the common elements by the association in  
19 accordance with s. 718.111(7) or s. 718.113, shall not be  
20 deemed to constitute a material alteration or modification of  
21 the appurtenances to the units. A declaration recorded after  
22 April 1, 1992, may not require the approval of less than a  
23 majority of total voting interests of the condominium for  
24 amendments under this subsection, unless otherwise required by  
25 a ~~any~~ governmental entity.

26           (9) If there is an omission or error in a declaration  
27 ~~of condominium~~, or in any other document required by law to  
28 establish the condominium, the association may correct the  
29 error or omission by an amendment to the declaration or to the  
30 other document required to create a condominium in the manner  
31 provided in the declaration to amend the declaration or, if

1 none is provided, by vote of a majority of the voting  
2 interests of the condominium. The amendment is effective when  
3 passed and approved and a certificate of ~~the~~ amendment is  
4 executed and recorded as provided in subsections (2) and (3)  
5 ~~s. 718.104~~. This procedure for amendment cannot be used if  
6 such an amendment would materially or adversely affect  
7 property rights of unit owners, unless the affected unit  
8 owners consent in writing. This subsection does not restrict  
9 the powers of the association to otherwise amend the  
10 declaration, or other documentation, but authorizes a simple  
11 process of amendment requiring a lesser vote for the purpose  
12 of curing defects, errors, or omissions when the property  
13 rights of unit owners are not materially or adversely  
14 affected.

15 (12)(a) With respect to an existing multicondominium  
16 association, any amendment to change the fractional or  
17 percentage share of liability for the common expenses of the  
18 association and ownership of the common surplus of the  
19 association must be approved by at least a majority of the  
20 total voting interests of each condominium operated by the  
21 association unless the declarations of all condominiums  
22 operated by the association uniformly require approval by a  
23 greater percentage of the voting interests of each  
24 condominium.

25 (b) Unless approval by a greater percentage of the  
26 voting interests of an existing multicondominium association  
27 is expressly required in the declaration of an existing  
28 condominium, the declaration may be amended upon approval of  
29 at least a majority of the total voting interests of each  
30 condominium operated by the multicondominium association for  
31 the purpose of:

1           1. Setting forth in the declaration the formula  
2 currently utilized, but not previously stated in the  
3 declaration, for determining the percentage or fractional  
4 shares of liability for the common expenses of the  
5 multicondominium association and ownership of the common  
6 surplus of the multicondominium association.

7           2. Providing for the creation or enlargement of a  
8 multicondominium association by the merger or consolidation of  
9 two or more associations and changing the name of the  
10 association, as appropriate.

11           Section 5. Paragraphs (a) and (c) of subsection (12)  
12 and subsections (13), (14), and (15) of section 718.111,  
13 Florida Statutes, are amended to read:

14           718.111 The association.--

15           (12) OFFICIAL RECORDS.--

16           (a) From the inception of the association, the  
17 association shall maintain each of the following items, when  
18 applicable, which shall constitute the official records of the  
19 association:

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

22           2. A photocopy of the recorded declaration of  
23 condominium of each condominium operated by the association  
24 and of each amendment to each declaration.

25           3. A photocopy of the recorded bylaws of the  
26 association and of each amendment to the bylaws.

27           4. A certified copy of the articles of incorporation  
28 of the association, or other documents creating the  
29 association, and of each amendment thereto.

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

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

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

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

10          9. A current copy of any management agreement, lease,  
11 or other contract to which the association is a party or under  
12 which the association or the unit owners have an obligation or  
13 responsibility.

14          10. Bills of sale or transfer for all property owned  
15 by the association.

16          11. Accounting records for the association and  
17 separate accounting records for each condominium which the  
18 association operates, ~~according to good accounting practices.~~  
19 All accounting records shall be maintained for a period of not  
20 less than 7 years. The accounting records shall include, but  
21 are not limited to:

22           a. Accurate, itemized, and detailed records of all  
23 receipts and expenditures.

24           b. A current account and a monthly, bimonthly, or  
25 quarterly statement of the account for each unit designating  
26 the name of the unit owner, the due date and amount of each  
27 assessment, the amount paid upon the account, and the balance  
28 due.

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

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

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

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

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

12          15. All other records of the association not  
13 specifically included in the foregoing which are related to  
14 the operation of the association.

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



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

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

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

4           3. Medical records of unit owners.

5           (13) FINANCIAL REPORTING REPORTS.--Within 90 days  
6 after the end of the fiscal year, or annually on a date  
7 provided in the bylaws, the association shall prepare and  
8 complete, or cause to be prepared and completed by a third  
9 party, a financial report for the preceding fiscal year.  
10 Within 21 days after the financial report is completed or  
11 received by the association from the third party, the  
12 association shall mail to each unit owner at the address last  
13 furnished to the association by the unit owner, or hand  
14 deliver to each unit owner, a copy of the financial report or  
15 a notice that a copy of the financial report will be mailed or  
16 hand delivered to the unit owner, without charge, upon receipt  
17 of a written request from the unit owner. The division shall  
18 adopt rules setting forth uniform accounting principles and  
19 standards to be used by all associations and shall adopt rules  
20 addressing financial reporting requirements for  
21 multicondominium associations. In adopting such rules, the  
22 division shall consider the number of members and annual  
23 revenues of an association. Financial reports shall be  
24 prepared as follows:

25           (a) An association that meets the criteria of this  
26 paragraph shall prepare or cause to be prepared a complete set  
27 of financial statements in accordance with generally accepted  
28 accounting principles. The financial statements shall be  
29 based upon the association's total annual revenues, as  
30 follows:

- 1           1. An association with total annual revenues of  
2 \$100,000 or more, but less than \$200,000, shall prepare  
3 compiled financial statements.
- 4           2. An association with total annual revenues of at  
5 least \$200,000, but less than \$400,000, shall prepare reviewed  
6 financial statements.
- 7           3. An association with total annual revenues of  
8 \$400,000 or more shall prepare audited financial statements.
- 9           (b)1. An association with total annual revenues of  
10 less than \$100,000 shall prepare a report of cash receipts and  
11 expenditures.
- 12           2. An association which operates less than 50 units,  
13 regardless of the association's annual revenues, shall prepare  
14 a report of cash receipts and expenditures in lieu of  
15 financial statements required by paragraph (a).
- 16           3. A report of cash receipts and disbursements must  
17 disclose the amount of receipts by accounts and receipt  
18 classifications and the amount of expenses by accounts and  
19 expense classifications, including, but not limited to, the  
20 following, as applicable: costs for security, professional and  
21 management fees and expenses, taxes, costs for recreation  
22 facilities, expenses for refuse collection and utility  
23 services, expenses for lawn care, costs for building  
24 maintenance and repair, insurance costs, administration and  
25 salary expenses, and reserves accumulated and expended for  
26 capital expenditures, deferred maintenance, and any other  
27 category for which the association maintains reserves.
- 28           (c) An association may prepare or cause to be  
29 prepared, without a meeting of or approval by the unit owners:  
30  
31

1           1. Compiled, reviewed, or audited financial  
2 statements, if the association is required to prepare a report  
3 of cash receipts and expenditures;

4           2. Reviewed or audited financial statements, if the  
5 association is required to prepare compiled financial  
6 statements; or

7           3. Audited financial statements if the association is  
8 required to prepare reviewed financial statements.

9           (d) If approved by a majority of the voting interests  
10 present at a properly called meeting of the association, an  
11 association may prepare or cause to be prepared:

12           1. A report of cash receipts and expenditures in lieu  
13 of a compiled, reviewed, or audited financial statement;

14           2. A report of cash receipts and expenditures or a  
15 compiled financial statement in lieu of a reviewed or audited  
16 financial statement; or

17           3. A report of cash receipts and expenditures, a  
18 compiled financial statement, or a reviewed financial  
19 statement in lieu of an audited financial statement.

20  
21 Such meeting and approval must occur prior to the end of the  
22 fiscal year and is effective only for the fiscal year in which  
23 the vote is taken. With respect to an association to which  
24 the developer has not turned over control of the association,  
25 all unit owners, including the developer, may vote on issues  
26 related to the preparation of financial reports for the first  
27 2 fiscal years of the association's operation, beginning with  
28 the fiscal year in which the declaration is recorded.

29 Thereafter, all unit owners except the developer may vote on  
30 such issues until control is turned over to the association by  
31 the developer.~~Within 60 days following the end of the fiscal~~

1 ~~or calendar year or annually on such date as is otherwise~~  
2 ~~provided in the bylaws of the association, the board of~~  
3 ~~administration of the association shall mail or furnish by~~  
4 ~~personal delivery to each unit owner a complete financial~~  
5 ~~report of actual receipts and expenditures for the previous 12~~  
6 ~~months, or a complete set of financial statements for the~~  
7 ~~preceding fiscal year prepared in accordance with generally~~  
8 ~~accepted accounting principles. The report shall show the~~  
9 ~~amounts of receipts by accounts and receipt classifications~~  
10 ~~and shall show the amounts of expenses by accounts and expense~~  
11 ~~classifications, including, if applicable, but not limited to,~~  
12 ~~the following:~~

- 13 ~~(a) Costs for security;~~
- 14 ~~(b) Professional and management fees and expenses;~~
- 15 ~~(c) Taxes;~~
- 16 ~~(d) Costs for recreation facilities;~~
- 17 ~~(e) Expenses for refuse collection and utility~~  
18 ~~services;~~
- 19 ~~(f) Expenses for lawn care;~~
- 20 ~~(g) Costs for building maintenance and repair;~~
- 21 ~~(h) Insurance costs;~~
- 22 ~~(i) Administrative and salary expenses; and~~
- 23 ~~(j) Reserves for capital expenditures, deferred~~  
24 ~~maintenance, and any other category for which the association~~  
25 ~~maintains a reserve account or accounts.~~

26 ~~(14) The division shall adopt rules which may require~~  
27 ~~that the association deliver to the unit owners, in lieu of~~  
28 ~~the financial report required by subsection (13), a complete~~  
29 ~~set of financial statements for the preceding fiscal year.~~  
30 ~~The financial statements shall be delivered within 90 days~~  
31 ~~following the end of the previous fiscal year or annually on~~

1 ~~such other date as provided by the bylaws. The rules of the~~  
2 ~~division may require that the financial statements be~~  
3 ~~compiled, reviewed, or audited, and the rules shall take into~~  
4 ~~consideration the criteria set forth in s. 718.501(1)(j). The~~  
5 ~~requirement to have the financial statements compiled,~~  
6 ~~reviewed, or audited does not apply to associations when a~~  
7 ~~majority of the voting interests of the association present at~~  
8 ~~a duly called meeting of the association have determined for a~~  
9 ~~fiscal year to waive this requirement. In an association in~~  
10 ~~which turnover of control by the developer has not occurred,~~  
11 ~~the developer may vote to waive the audit requirement for the~~  
12 ~~first 2 years of the operation of the association, after which~~  
13 ~~time waiver of an applicable audit requirement shall be by a~~  
14 ~~majority of voting interests other than the developer. The~~  
15 ~~meeting shall be held prior to the end of the fiscal year, and~~  
16 ~~the waiver shall be effective for only 1 fiscal year. This~~  
17 ~~subsection does not apply to a condominium which consists of~~  
18 ~~50 or fewer units.~~

19 (14)(15) COMMINGLING.--All funds collected by an  
20 association shall be maintained separately in the  
21 association's name. For investment purposes only, reserve  
22 funds may be commingled with operating funds of the  
23 association. Commingled operating and reserve funds shall be  
24 accounted for separately and a commingled account shall not,  
25 at any time, be less than the amount identified as reserve  
26 funds. This subsection does not prohibit a multicondominium  
27 association from commingling the operating funds of separate  
28 condominiums or the reserve funds of separate condominiums.  
29 Furthermore, for investment purposes only, a multicondominium  
30 association may commingle the operating funds of separate  
31 condominiums with the reserve funds of separate condominiums.

1 A manager or business entity required to be licensed or  
2 registered under s. 468.432, or an agent, employee, officer,  
3 or director of an association, shall not commingle any  
4 association funds with his or her funds or with the funds of  
5 any other condominium association or the funds of a community  
6 association as defined in s. 468.431.~~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 is~~  
10 ~~not meant to prohibit prudent investment of association funds~~  
11 ~~even if combined with operating or other reserve funds of the~~  
12 ~~same association, but such funds must be accounted for~~  
13 ~~separately, and the combined account balance may not, at any~~  
14 ~~time, be less than the amount identified as reserve funds in~~  
15 ~~the combined account. No manager or business entity required~~  
16 ~~to be licensed or registered under s. 468.432, and no agent,~~  
17 ~~employee, officer, or director of a condominium association~~  
18 ~~shall commingle any association funds with his or her funds or~~  
19 ~~with the funds of any other condominium association or~~  
20 ~~community association as defined in s. 468.431.~~

21 Section 6. Paragraphs (d), (e), and (f) of subsection  
22 (2) of section 718.112, Florida Statutes, are amended to read:

23 718.112 Bylaws.--

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

27 (d) Unit owner meetings.--

28 1. There shall be an annual meeting of the unit  
29 owners. Unless the bylaws provide otherwise, a vacancy on the  
30 board of administration caused by the expiration of a  
31 director's term shall be filled by electing a new board

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

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



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

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

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

1 ~~with s. 718.303.~~The regular election shall occur on the date  
2 of the annual meeting. The provisions of this subparagraph  
3 shall not apply to timeshare condominium associations.  
4 Notwithstanding the provisions of this subparagraph, an  
5 election is ~~and balloting are~~ not required unless more  
6 candidates file notices of intent to run or are nominated than  
7 board vacancies exist ~~on the board~~.

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

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

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

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

30           8. Unless otherwise provided in the bylaws, any  
31 vacancy occurring on the board before the expiration of a term

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

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

23 (e) Budget meeting.--

24 1. Any meeting at which a proposed annual budget of an  
25 association will be considered by the board or unit owners  
26 shall be open to all unit owners. At least 14 days prior to  
27 such a meeting, the board shall hand deliver to each unit  
28 owner, or mail to each unit owner at the address last  
29 furnished to the association by the unit owner, a notice of  
30 such meeting and a copy of the proposed annual budget. An  
31 officer or manager of the association, or other person

1 providing notice of such meeting, shall execute an affidavit  
2 evidencing compliance with such notice requirement and such  
3 affidavit shall be filed among the official records of the  
4 association.

5 2.a. If a board adopts in any fiscal year an annual  
6 budget which requires assessments against unit owners which  
7 exceed 115 percent of assessments for the preceding fiscal  
8 year, the board shall conduct a special meeting of the unit  
9 owners to consider a substitute budget if the board receives,  
10 within 21 days after adoption of the annual budget, a written  
11 request for a special meeting from at least 10 percent of all  
12 voting interests. The special meeting shall be conducted  
13 within 60 days after adoption of the annual budget. At least  
14 14 days prior to such special meeting, the board shall hand  
15 deliver to each unit owner, or mail to each unit owner at the  
16 address last furnished to the association, a notice of the  
17 meeting. An officer or manager of the association, or other  
18 person providing notice of such meeting shall execute an  
19 affidavit evidencing compliance with this notice requirement  
20 and such affidavit shall be filed among the official records  
21 of the association. Unit owners may consider and adopt a  
22 substitute budget at the special meeting. A substitute budget  
23 is adopted if approved by a majority of all voting interests  
24 unless the bylaws require adoption by a greater percentage of  
25 voting interests. If there is not a quorum at the special  
26 meeting or a substitute budget is not adopted, the annual  
27 budget previously adopted by the board shall take effect as  
28 scheduled.

29 b. Any determination of whether assessments exceed 115  
30 percent of assessments for the prior fiscal year shall exclude  
31 any authorized provision for reasonable reserves for repair or

1 replacement of the condominium property, anticipated expenses  
2 of the association which the board does not expect to be  
3 incurred on a regular or annual basis, or assessments for  
4 betterments to the condominium property.

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

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

17 (f) Annual budget.--

18 1. The proposed annual budget of common expenses shall  
19 be detailed and shall show the amounts budgeted by accounts  
20 and expense classifications, including, if applicable, but not  
21 limited to, those expenses listed in s. 718.504(21)~~s.~~  
22 ~~718.504(20)~~. A multicondominium association shall adopt a  
23 separate budget of common expenses for each condominium the  
24 association operates and shall adopt a separate budget of  
25 common expenses for the association.In addition, if the  
26 association maintains limited common elements with the cost to  
27 be shared only by those entitled to use the limited common  
28 elements as provided for in s. 718.113(1), the budget or a  
29 schedule attached thereto shall show amounts budgeted  
30 therefor. If, after turnover of control of the association to  
31

1 the unit owners, any of the expenses listed in s. 718.504(21)  
2 ~~s. 718.504(20)~~ are not applicable, they need not be listed.  
3         2. In addition to annual operating expenses, the  
4 budget shall include reserve accounts for capital expenditures  
5 and deferred maintenance. These accounts shall include, but  
6 are not limited to, roof replacement, building painting, and  
7 pavement resurfacing, regardless of the amount of deferred  
8 maintenance expense or replacement cost, and for any other  
9 item for which the deferred maintenance expense or replacement  
10 cost exceeds \$10,000. The amount to be reserved shall be  
11 computed by means of a formula which is based upon estimated  
12 remaining useful life and estimated replacement cost or  
13 deferred maintenance expense of each reserve item. The  
14 association may adjust replacement reserve assessments  
15 annually to take into account any changes in estimates or  
16 extension of the useful life of a reserve item caused by  
17 deferred maintenance. This subsection does not apply to an  
18 adopted budget budgets in which the members of an association  
19 have determined, by a majority vote at a duly called meeting  
20 of the association, ~~and voting determined for a fiscal year~~ to  
21 provide no reserves or less reserves ~~less adequate~~ than  
22 required by this subsection. However, prior to turnover of  
23 control of an association by a developer to unit owners other  
24 than a developer pursuant to s. 718.301, the developer may  
25 vote to waive the reserves or reduce the funding of reserves  
26 for the first 2 fiscal years of the association's operation ~~of~~  
27 ~~the association~~, beginning with the fiscal year in which the  
28 initial declaration is recorded, after which time reserves may  
29 be waived or reduced only upon the vote of a majority of all  
30 nondeveloper voting interests voting in person or by limited  
31 proxy at a duly called meeting of the association. If a



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

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

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

26           Section 7. Subsection (2) of section 718.113, Florida  
27 Statutes, is amended to read:

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

30           (2)(a) Except as otherwise provided in this section,  
31 there shall be no material alteration or substantial additions

1 to the common elements or to real property which is  
2 association property, except in a manner provided in the  
3 declaration. If the declaration does not specify the  
4 procedure for approval of material alterations or substantial  
5 additions, 75 percent of the total voting interests of the  
6 association must approve the alterations or additions.

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

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

29 Section 8. Section 718.115, Florida Statutes, is  
30 amended to read:

31 718.115 Common expenses and common surplus.--

1           (1)(a) Common expenses include the expenses of the  
2 operation, maintenance, repair, replacement, or protection of  
3 the common elements and association property, costs of  
4 carrying out the powers and duties of the association, and any  
5 other expense, whether or not included in the foregoing,  
6 designated as common expense by this chapter, the declaration,  
7 the documents creating the association, or the bylaws. Common  
8 expenses also include reasonable transportation services,  
9 insurance for directors and officers, road maintenance and  
10 operation expenses, in-house communications, and security  
11 services, which are reasonably related to the general benefit  
12 of the unit owners even if such expenses do not attach to the  
13 common elements or property of the condominium. However, such  
14 common expenses must either have been services or items  
15 provided on or after ~~from~~ the date ~~the control of the board of~~  
16 ~~administration~~ of the association is ~~was~~ transferred from the  
17 developer to the unit owners or must be services or items  
18 provided for in the condominium documents or bylaws.

19           (b) The common expenses of a condominium within a  
20 multicondominium are the common expenses directly attributable  
21 to the operation of that condominium. The common expenses of a  
22 multicondominium association do not include the common  
23 expenses directly attributable to the operation of any  
24 specific condominium or condominiums within the  
25 multicondominium.

26           (c) The common expenses of a multicondominium  
27 association may include categories of expenses related to the  
28 property or common elements within a specific condominium in  
29 the multicondominium if such property or common elements are  
30 areas in which all members of the multicondominium association  
31 have use rights or from which all members receive tangible

1 economic benefits. Such common expenses of the association  
2 shall be identified in the declaration or bylaws of each  
3 condominium within the multicondominium association.

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

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

31

1           2. Any such contract shall provide, and shall be  
2 deemed to provide if not expressly set forth, that any hearing  
3 impaired or legally blind unit owner who does not occupy the  
4 unit with a non-hearing-impaired or sighted person, or any  
5 unit owner receiving supplemental security income under Title  
6 XVI of the Social Security Act or food stamps as administered  
7 by the Department of Children and Family Services pursuant to  
8 s. 414.31, may discontinue the service without incurring  
9 disconnect fees, penalties, or subsequent service charges, and  
10 as to such units, the owners shall not be required to pay any  
11 common expenses charge related to such service. If less than  
12 all 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           ~~(e)(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 (f)~~(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 the common expenses of a condominium  
11 shall be collected by assessments against the units in that  
12 condominium ~~unit owners~~ in the proportions or percentages  
13 provided in that condominium's ~~the~~ declaration. In a  
14 residential condominium, or mixed-use condominium created  
15 after January 1, 1996, each unit's share ~~unit owners' shares~~  
16 of the common expenses of the condominium and common surplus  
17 of the condominium shall be the same as the unit's appurtenant  
18 ~~in the same proportions as their~~ ownership interest in the  
19 common elements.

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

22 (4)(a) Funds for payment of the common expenses of a  
23 condominium within a multicondominium shall be collected as  
24 provided in subsection (2). Common expenses of a  
25 multicondominium association shall be funded by assessments  
26 against all unit owners in the association in the proportion  
27 or percentage set forth in the declaration as required by s.  
28 718.104(4)(h) or s. 718.110(12), as applicable.

29 (b) In a multicondominium association, the total  
30 common surplus owned by a unit owner consists of that owner's  
31 share of the common surplus of the association plus that

1 owner's share of the common surplus of the condominium in  
2 which the owner's unit is located, in the proportion or  
3 percentage set forth in the declaration as required by s.  
4 718.104(4)(h) or s. 718.110(12), as applicable.

5 Section 9. Subsection (9) of section 718.116, Florida  
6 Statutes, is amended to read:

7 718.116 Assessments; liability; lien and priority;  
8 interest; collection.--

9 (Substantial rewording of subsection. See  
10 s. 718.116(9), F.S., for present text.)

11 (9)(a) A unit owner may not be excused from payment of  
12 the unit owner's share of common expenses unless all other  
13 unit owners are likewise proportionately excluded from  
14 payment, except as provided in subsection (1) and in the  
15 following cases:

16 1. If authorized by the declaration, a developer who  
17 is offering units for sale may elect to be excused from  
18 payment of assessments against those unsold units for a stated  
19 period of time after the declaration is recorded. However,  
20 the developer must pay common expenses incurred during such  
21 period which exceed regular periodic assessments against other  
22 unit owners in the same condominium. The stated period must  
23 terminate no later than the first day of the fourth calendar  
24 month following the month in which the first closing occurs of  
25 a purchase contract for a unit in that condominium. If a  
26 developer-controlled association has maintained all insurance  
27 coverage required by s. 718.111(11)(a), common expenses  
28 incurred during the stated period resulting from a natural  
29 disaster or an act of God occurring during the stated period,  
30 which are not covered by proceeds from insurance maintained by  
31 the association, may be assessed against all unit owners

1 owning units on the date of such natural disaster or act of  
2 God, and their respective successors and assigns, including  
3 the developer with respect to units owned by the developer. In  
4 the event of such an assessment, all units shall be assessed  
5 in accordance with s. 718.115(2).

6 2. A developer who owns condominium units, and who is  
7 offering the units for sale, may be excused from payment of  
8 assessments against those unsold units for the period of time  
9 the developer has guaranteed to all purchasers or other unit  
10 owners in the same condominium that assessments will not  
11 exceed a stated dollar amount and that the developer will pay  
12 any common expenses that exceed the guaranteed amount. Such  
13 guarantee may be stated in the purchase contract, declaration,  
14 prospectus, or written agreement between the developer and a  
15 majority of the unit owners other than the developer and may  
16 provide that after the initial guarantee period, the developer  
17 may extend the guarantee for one or more stated periods. If a  
18 developer-controlled association has maintained all insurance  
19 coverage required by s. 718.111(11)(a), common expenses  
20 incurred during a guarantee period, as a result of a natural  
21 disaster or an act of God occurring during the same guarantee  
22 period, which are not covered by the proceeds from such  
23 insurance, may be assessed against all unit owners owning  
24 units on the date of such natural disaster or act of God, and  
25 their successors and assigns, including the developer with  
26 respect to units owned by the developer. Any such assessment  
27 shall be in accordance with s. 718.115(2) or (4), as  
28 applicable.

29 (b) If the purchase contract, declaration, prospectus,  
30 or written agreement between the developer and a majority of  
31 unit owners other than the developer, provides for the



1 developer to be excused from payment of assessments under  
2 paragraph (a), only regular periodic assessments for common  
3 expenses as provided for in the declaration and prospectus and  
4 disclosed in the estimated operating budget shall be used for  
5 payment of common expenses during any period in which the  
6 developer is excused. Accordingly, no funds which are  
7 receivable from unit purchasers or unit owners and payable to  
8 the association, including capital contributions or startup  
9 funds collected from unit purchasers at closing, may be used  
10 for payment of such common expenses.

11 (c) If a developer of a multicondominium is excused  
12 from payment of assessments under paragraph (a), the  
13 developer's financial obligation to the multicondominium  
14 association during any period in which the developer is  
15 excused from payment of assessments is as follows:

16 1. The developer shall pay the common expenses of a  
17 condominium affected by a guarantee, including the funding of  
18 reserves as provided in the adopted annual budget of that  
19 condominium, which exceed the regular periodic assessments at  
20 the guaranteed level against all other unit owners within that  
21 condominium.

22 2. The developer shall pay the common expenses of a  
23 multicondominium association, including the funding of  
24 reserves as provided in the adopted annual budget of the  
25 association, which are allocated to units within a condominium  
26 affected by a guarantee and which exceed the regular periodic  
27 assessments against all other unit owners within that  
28 condominium.

29 Section 10. Subsection (11) is added to section  
30 718.117, Florida Statutes, to read:

31 718.117 Termination.--

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

4       Section 11. Subsection (8) of section 718.403, Florida  
5 Statutes, is amended to read:

6       718.403 Phase condominiums.--

7       (8) Upon recording the declaration of condominium or  
8 amendments adding phases pursuant to this section, the  
9 developer shall file the recording information with the  
10 division within 120 calendar ~~30 working~~ days on a form  
11 prescribed by the division.

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

14       718.405 Multicondominiums; multicondominium  
15 associations.--

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

21       (a) The manner or formula by which the assets,  
22 liabilities, common surplus, and common expenses of the  
23 association will be apportioned among the units within the  
24 condominiums operated by the association, in accordance with  
25 s. 718.104(4)(g) or (h), as applicable.

26       (b) Whether unit owners in any other condominium, or  
27 any other persons, will or may have the right to use  
28 recreational areas or any other facilities or amenities that  
29 are common elements of the condominium, and, if so, the  
30 specific formula by which the other users will share the  
31 common expenses related to those facilities or amenities.

1           (c) Recreational and other commonly used facilities or  
2 amenities which the developer has committed to provide that  
3 will be owned, leased by, or dedicated by a recorded plat to  
4 the association but which are not included within any  
5 condominium operated by the association. The developer may  
6 reserve the right to add additional facilities or amenities if  
7 the declaration and prospectus for each condominium to be  
8 operated by the association contains the following statement  
9 in conspicuous type and in substantially the following form:

10 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT  
11 CONSENT OF UNIT OWNERS OR THE ASSOCIATION.

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

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

27           (3) The declaration for each condominium to be  
28 operated by a multicondominium association may not, at the  
29 time of the initial recording of the declaration, contain any  
30 provision with respect to allocation of the association's  
31 assets, liabilities, common surplus, or common expenses which

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

4 (4) This section does not prevent or restrict the  
5 formation of a multicondominium by the merger or consolidation  
6 of two or more condominium associations. Mergers or  
7 consolidations of associations shall be accomplished in  
8 accordance with this chapter, the declarations of the  
9 condominiums being merged or consolidated, and chapter 617.

10 Section 718.110(4) does not apply to amendments to  
11 declarations necessary to effect a merger or consolidation.

12 Section 13. Section 718.5019, Florida Statutes, is  
13 repealed.

14 Section 14. Present subsections (15) through (27) of  
15 section 718.504, Florida Statutes, are redesignated as  
16 subsections (16) through (28), respectively, and a new  
17 subsection (15) is added to that section, to read:

18 718.504 Prospectus or offering circular.--Every  
19 developer of a residential condominium which contains more  
20 than 20 residential units, or which is part of a group of  
21 residential condominiums which will be served by property to  
22 be used in common by unit owners of more than 20 residential  
23 units, shall prepare a prospectus or offering circular and  
24 file it with the Division of Florida Land Sales, Condominiums,  
25 and Mobile Homes prior to entering into an enforceable  
26 contract of purchase and sale of any unit or lease of a unit  
27 for more than 5 years and shall furnish a copy of the  
28 prospectus or offering circular to each buyer. In addition to  
29 the prospectus or offering circular, each buyer shall be  
30 furnished a separate page entitled "Frequently Asked Questions  
31 and Answers," which shall be in accordance with a format

1 approved by the division and a copy of the financial  
2 information required by s. 718.111. This page shall, in  
3 readable language, inform prospective purchasers regarding  
4 their voting rights and unit use restrictions, including  
5 restrictions on the leasing of a unit; shall indicate whether  
6 and in what amount the unit owners or the association is  
7 obligated to pay rent or land use fees for recreational or  
8 other commonly used facilities; shall contain a statement  
9 identifying that amount of assessment which, pursuant to the  
10 budget, would be levied upon each unit type, exclusive of any  
11 special assessments, and which shall further identify the  
12 basis upon which assessments are levied, whether monthly,  
13 quarterly, or otherwise; shall state and identify any court  
14 cases in which the association is currently a party of record  
15 in which the association may face liability in excess of  
16 \$100,000; and which shall further state whether membership in  
17 a recreational facilities association is mandatory, and if so,  
18 shall identify the fees currently charged per unit type. The  
19 division shall by rule require such other disclosure as in its  
20 judgment will assist prospective purchasers. The prospectus or  
21 offering circular may include more than one condominium,  
22 although not all such units are being offered for sale as of  
23 the date of the prospectus or offering circular. The  
24 prospectus or offering circular must contain the following  
25 information:

26 (15) If the condominium is or may become part of a  
27 multicondominium, the following information must be provided:

28 (a) A statement in conspicuous type in substantially  
29 the following form: THIS CONDOMINIUM IS (MAY BE) PART OF A  
30 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL  
31 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately

1 following this statement, the location in the prospectus or  
2 offering circular and its exhibits where the multicondominium  
3 aspects of the offering are described must be stated.

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

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

17 (d) A statement as to whether any of the condominiums  
18 in the multicondominium may include units intended to be used  
19 for nonresidential purposes and the purpose or purposes  
20 permitted for such use.

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

24 Section 15. Paragraph (e) of subsection (3) of section  
25 721.13, Florida Statutes, is amended to read:

26 721.13 Management.--

27 (3) The duties of the managing entity include, but are  
28 not limited to:

29 (e) Arranging for an annual audit of the financial  
30 statements of the timeshare plan by a certified public  
31 accountant licensed by the Board of Accountancy of the

1 Department of Business and Professional Regulation, in  
2 accordance with generally accepted auditing standards as  
3 defined by the rules of the Board of Accountancy of the  
4 Department of Business and Professional Regulation. The  
5 financial statements required by this section must be prepared  
6 on an accrual basis using fund accounting, and must be  
7 presented in accordance with generally accepted accounting  
8 principles. A copy of the audited financial statements must be  
9 filed with the division and forwarded to the board of  
10 directors and officers of the owners' association, if one  
11 exists, no later than 5 calendar months after the end of the  
12 timeshare plan's fiscal year. If no owners' association  
13 exists, each purchaser must be notified, no later than 5  
14 months after the end of the timeshare plan's fiscal year, that  
15 a copy of the audited financial statements is available upon  
16 request to the managing entity. Notwithstanding any  
17 requirement of s. 718.111(13) ~~or (14)~~, the audited financial  
18 statements required by this section are the only annual  
19 financial reporting requirements for timeshare condominiums.

20 Section 16. Subsection (3) is added to section  
21 617.3075, Florida Statutes, to read:

22 617.3075 Prohibited clauses in homeowners' association  
23 documents.--

24 (3) After July 1, 2000, homeowners' association  
25 documents, including declarations of covenants, articles of  
26 incorporation, or bylaws, may not preclude the display of one  
27 United States flag by property owners. However, the flag must  
28 be displayed in a respectful way and may be subject to  
29 reasonable standards for size, placement, and safety, as  
30 adopted by the homeowners' association, consistent with Title  
31 36 U.S.C. Chapter 10 and any local ordinances.

1           Section 17. Condominium Study Commission; appointment  
2 of members; duties; recommendations.--

3           (1) There is created the Condominium Study Commission.

4 The commission is to consist of 15 members. Five members of

5 the commission, at least two of whom are members of the

6 Legislature, are to be appointed by the Speaker of the House

7 of Representatives; five members, at least two of whom are

8 members of the Legislature, are to be appointed by the

9 President of the Senate; and five members who are not members

10 of the Legislature are to be appointed by the Governor.

11 Persons appointed to the commission should represent a

12 cross-section of persons interested in condominium issues. In

13 addition to the appointed members, the director of the

14 Division of Florida Land Sales, Condominiums, and Mobile Homes

15 shall serve as ex officio member of the commission. For

16 administrative purposes, the commission is assigned to the

17 Division of Florida Land Sales, Condominiums, and Mobile Homes

18 of the Department of Business and Professional Regulation.

19           (2) The commission shall conduct public hearings

20 throughout the state and take testimony regarding issues

21 relating to condominiums and may receive recommendations for

22 changes to the condominium law. The commission may consider,

23 without limitation, the continued tension between unit owners

24 and boards of directors, the election process for the board of

25 directors, the effectiveness of the Division of Florida Land

26 Sales, Condominiums, and Mobile Homes in responding to

27 complaints from unit owners, the relationship of rights and

28 responsibilities of unit owners and the board, the method of

29 enforcement of condominium liens, and whether the condominium

30 should be able to foreclose condominium liens against

31 individual units. Members of the commission may receive per



1 diem and travel expenses pursuant to section 112.061, Florida  
2 Statutes, while on official business of the commission.

3 (3) The commission shall report its recommendations  
4 and findings to the Governor, the President of the Senate, the  
5 Speaker of the House of Representatives, and the minority  
6 leaders of the Senate and the House of Representatives on or  
7 before February 1, 2001, for the 2001 Regular Session of the  
8 Legislature.

9 (4) This section expires June 30, 2001.

10 Section 18. (1) The sum of \$100,000 is appropriated  
11 from the Division of Florida Land Sales, Condominiums, and  
12 Mobile Homes Trust Fund to the Department of Business and  
13 Professional Regulation to carry out the provisions of section  
14 17 of this act.

15 (2) This section expires June 30, 2001.

16 Section 19. Paragraph (j) of subsection (1) of section  
17 718.501, Florida Statutes, is repealed.

18 Section 20. This act shall take effect July 1, 2000.

19  
20 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
21 COMMITTEE SUBSTITUTE FOR  
22 Senate Bill 1286

23 The Committee Substitute for Senate Bill 1286:

- 24 - Allows a condominium unit owner who receives  
25 supplemental security income or food stamps to  
26 discontinue master antenna television service without  
incurring disconnect fees, penalties, or service charges  
and to avoid common expense charges related to this  
service.  
27  
28 - Repeals the condominium advisory council.  
29 - Prohibits homeowners' associations from prohibiting  
display of United States flag.  
30 - Establishes a condominium study commission and  
appropriates \$100,000.  
31