

hbd-032

Bill No. CS/HB 251

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Detert offered the following:

**Amendment (with title amendment)**

On page 1, line 11,  
remove from the bill: everything after the enacting clause,  
and insert in lieu thereof:

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

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

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

(2) "Association" means, in addition to any entity ~~those entities~~ responsible for the operation of common elements owned in undivided shares by unit owners, any entity which operates or maintains other real property in which ~~condominium~~ unit owners have use rights, where ~~unit owner~~ membership in the entity is composed exclusively of ~~condominium~~ unit owners or their elected or appointed

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1 ~~representatives, and where membership in the entity is a~~  
2 required condition of unit ownership.

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

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

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

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

15 (7) "Committee" means a group of board members, unit  
16 owners, or board members and unit owners appointed by the  
17 board or a member of the board to make recommendations to the  
18 board regarding the proposed annual ~~association~~ budget or to  
19 take action on behalf of the board.

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

22 (9) "Common expenses" means all expenses ~~and~~  
23 ~~assessments which are~~ properly incurred by the association in  
24 the performance of its duties, including expenses specified in  
25 s. 718.115 for the condominium.

26 (10) "Common surplus" means the amount ~~excess~~ of all  
27 receipts or revenues, of the association collected on behalf  
28 of a condominium (including, but not limited to, assessments,  
29 rents, or profits, collected by a condominium association  
30 which exceeds, and revenues on account of the common elements)  
31 ~~over the~~ common expenses.

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1           (11) "Condominium" means that form of ownership of  
2 real property ~~which is~~ created pursuant to ~~the provisions of~~  
3 this chapter, which is comprised entirely of units that may be  
4 owned by one or more persons, and in which there is,  
5 appurtenant to each unit, an undivided share in common  
6 elements.

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

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

15           (14) "Conspicuous type" means bold type in capital  
16 letters no smaller than the largest type, exclusive of  
17 headings, on the page on which it appears and, in all cases,  
18 at least 10-point type. Where conspicuous type is required,  
19 it must be separated on all sides from other type and print.  
20 Conspicuous type may be used in a contract ~~contracts~~ for  
21 purchase and sale of a unit, a lease of a unit for more than 5  
22 years, or a prospectus or offering circular ~~public offering~~  
23 ~~statements~~ only where required by law.

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

27           (16) "Developer" means a person who creates a  
28 condominium or offers condominium parcels for sale or lease in  
29 the ordinary course of business, but does not include an owner  
30 or lessee of a condominium or cooperative unit who has  
31 acquired the unit for his or her own occupancy, nor does it

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1 include a cooperative association which creates a condominium  
2 by conversion of an existing residential cooperative after  
3 control of the association has been transferred to the unit  
4 owners if, following the conversion, the unit owners will be  
5 the same persons who were unit owners of the cooperative and  
6 no units are offered for sale or lease to the public as part  
7 of the plan of conversion.

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

11 (18) "Land" means, ~~unless otherwise defined in the~~  
12 ~~declaration as hereinafter provided,~~ the surface of a legally  
13 described parcel of real property and includes, unless  
14 otherwise specified in the declaration and whether separate  
15 from or including such surface, airspace lying above and  
16 subterranean space lying below such surface. However, if so  
17 defined in the declaration, the term "land" may mean all or  
18 any portion of the airspace or subterranean space between two  
19 legally identifiable elevations and may exclude the surface of  
20 a parcel of real property and may mean any combination of the  
21 foregoing, whether or not contiguous.

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

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

29 (21)~~(20)~~ "Operation" or "operation of the condominium"  
30 includes the administration and management of the condominium  
31 property.

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

4            (23)~~(22)~~ "Residential condominium" means a condominium  
5 consisting of two or more ~~condominium~~ units, any of which are  
6 intended for use as a private temporary or permanent  
7 residence, except that a condominium is not a residential  
8 condominium if the use for which the units are intended is  
9 primarily commercial or industrial and not more than three  
10 units are intended to be used for private residence, and are  
11 intended to be used as housing for maintenance, managerial,  
12 janitorial, or other operational staff of the condominium.  
13 With respect to a condominium that is not a timeshare  
14 condominium, a residential unit includes a unit intended as a  
15 private temporary or permanent residence as well as a unit not  
16 intended for commercial or industrial use. With respect to a  
17 timeshare condominium, the timeshare instrument as defined in  
18 s. 721.05(30) shall govern the intended use of each unit in  
19 the condominium. If a condominium is a residential condominium  
20 but contains units intended to be used for commercial or  
21 industrial purposes, then, with respect to those units which  
22 are not intended for or used as private residences, the  
23 condominium is not a residential condominium. A condominium  
24 which contains both commercial and residential units is a  
25 mixed-use condominium and is subject to the requirements of s.  
26 718.404.

27            (24)~~(23)~~ "Special assessment" means any assessment  
28 levied against a unit owner ~~owners~~ other than the assessment  
29 required by a budget adopted annually.

30            (25)~~(24)~~ "Timeshare estate" means any interest in a  
31 unit under which the exclusive right of use, possession, or

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1 occupancy of the unit circulates among the various purchasers  
2 of a timeshare plan pursuant to chapter 721 on a recurring  
3 basis for a period of time.

4 ~~(26)~~(25) "Timeshare unit" means a unit in which  
5 timeshare estates have been created.

6 ~~(27)~~(26) "Unit" means a part of the condominium  
7 property which is subject to exclusive ownership. A unit may  
8 be in improvements, land, or land and improvements together,  
9 as specified in the declaration.

10 ~~(28)~~(27) "Unit owner" or "owner of a unit" means a  
11 record owner of legal title to a condominium parcel.

12 ~~(29)~~(28) "Voting certificate" means a document which  
13 designates one of the record title owners, or the corporate,  
14 partnership, or entity representative, who is authorized to  
15 vote on behalf of a condominium unit that is owned by more  
16 than one owner or by any entity.

17 ~~(30)~~(29) "Voting interests ~~interest~~" means the voting  
18 rights distributed to the association members pursuant to s.  
19 718.104(4)(i). In a multicondominium association, the voting  
20 interests of the association are the voting rights distributed  
21 to the unit owners in all condominiums operated by the  
22 association. On matters related to a specific condominium in  
23 a multicondominium association, the voting interests of the  
24 condominium are the voting rights distributed to the unit  
25 owners in that condominium.

26 Section 2. Subsection (2) and paragraphs (f) and (g)  
27 of subsection (4) of section 718.104, Florida Statutes, are  
28 amended, and paragraph (h) is added to subsection (4), to  
29 read:

30 718.104 Creation of condominiums; contents of  
31 declaration.--Every condominium created in this state shall be

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1 created pursuant to this chapter.

2 (2) A condominium is created by recording a  
3 declaration in the public records of the county where the land  
4 is located, executed and acknowledged with the requirements  
5 for a deed. All persons who have record title to the interest  
6 in the land being submitted to condominium ownership, or their  
7 lawfully authorized agents, must join in the execution of the  
8 declaration. Upon the recording of the declaration, or an  
9 amendment adding a phase to the condominium under s.  
10 718.403(6), all units described in the declaration or phase  
11 amendment as being located in or on the land then being  
12 submitted to condominium ownership shall come into existence,  
13 regardless of the state of completion of planned improvements  
14 in which the units may be located. Upon recording the  
15 declaration of condominium pursuant to this section, the  
16 developer shall file the recording information with the  
17 division within 120 calendar ~~30 business~~ days on a form  
18 prescribed by the division.

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

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

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1           (g) The percentage or fractional shares of liability  
 2 for proportions or percentages of and manner of sharing common  
 3 expenses of the condominium and owning common surplus, which,  
 4 for all a residential units condominium, must be the same as  
 5 the undivided shares of ownership of in the common elements  
 6 and common surplus appurtenant to each unit as provided for in  
 7 paragraph (f).

8           (h) If a developer reserves the right, in a  
 9 declaration recorded on or after July 1, 2000, to create a  
 10 multicondominium, the declaration must state, or provide a  
 11 specific formula for determining, the fractional or percentage  
 12 shares of liability for the common expenses of the association  
 13 and of ownership of the common surplus of the association to  
 14 be allocated to the units in each condominium to be operated  
 15 by the association. If the declaration as originally recorded  
 16 fails to so provide, the share of liability for the common  
 17 expenses of the association and of ownership of the common  
 18 surplus of the association allocated to each unit in each  
 19 condominium operated by the association shall be a fraction of  
 20 the whole, the numerator of which is the number "one" and the  
 21 denominator of which is the total number of units in all  
 22 condominiums operated by the association.

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

25           718.106 Condominium parcels; appurtenances; possession  
 26 and enjoyment.--

27           (2) There shall pass with a unit, as appurtenances  
 28 thereto:

29           (a) An undivided share in the common elements and  
 30 common surplus.

31           (b) The exclusive right to use such portion of the



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1 common elements as may be provided by the declaration,  
2 including the right to transfer such right to other units or  
3 unit owners to the extent authorized by the declaration as  
4 originally recorded, or amendments to the declaration adopted  
5 under s. 718.110(2).

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

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

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

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

18 718.110 Amendment of declaration; correction of error  
19 or omission in declaration by circuit court.--

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

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

9 (9) If there is an omission or error in a declaration  
10 ~~of condominium~~, or in any other document required by law to  
11 establish the condominium, the association may correct the  
12 error or omission by an amendment to the declaration or to the  
13 other document required to create a condominium in the manner  
14 provided in the declaration to amend the declaration or, if  
15 none is provided, by vote of a majority of the voting  
16 interests of the condominium. The amendment is effective when  
17 passed and approved and a certificate of ~~the~~ amendment is  
18 executed and recorded as provided in subsections (2) and (3)  
19 ~~s. 718.104~~. This procedure for amendment cannot be used if  
20 such an amendment would materially or adversely affect  
21 property rights of unit owners, unless the affected unit  
22 owners consent in writing. This subsection does not restrict  
23 the powers of the association to otherwise amend the  
24 declaration, or other documentation, but authorizes a simple  
25 process of amendment requiring a lesser vote for the purpose  
26 of curing defects, errors, or omissions when the property  
27 rights of unit owners are not materially or adversely  
28 affected.

29 (12)(a) With respect to an existing multicondominium  
30 association, any amendment to change the fractional or  
31 percentage share of liability for the common expenses of the

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1 association and ownership of the common surplus of the  
 2 association must be approved by at least a majority of the  
 3 total voting interests of each condominium operated by the  
 4 association unless the declarations of all condominiums  
 5 operated by the association uniformly require approval by a  
 6 greater percentage of the voting interests of each  
 7 condominium.

8 (b) Unless approval by a greater percentage of the  
 9 voting interests of an existing multicondominium association  
 10 is expressly required in the declaration of an existing  
 11 condominium, the declaration may be amended upon approval of  
 12 at least a majority of the total voting interests of each  
 13 condominium operated by the multicondominium association for  
 14 the purpose of:

15 1. Setting forth in the declaration the formula  
 16 currently utilized, but not previously stated in the  
 17 declaration, for determining the percentage or fractional  
 18 shares of liability for the common expenses of the  
 19 multicondominium association and ownership of the common  
 20 surplus of the multicondominium association.

21 2. Providing for the creation or enlargement of a  
 22 multicondominium association by the merger or consolidation of  
 23 two or more associations and changing the name of the  
 24 association, as appropriate.

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

28 718.111 The association.--

29 (12) OFFICIAL RECORDS.--

30 (a) From the inception of the association, the  
 31 association shall maintain each of the following items, when

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1 applicable, which shall constitute the official records of the  
2 association:

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

5 2. A photocopy of the recorded declaration of  
6 condominium of each condominium operated by the association  
7 and of each amendment to each declaration.

8 3. A photocopy of the recorded bylaws of the  
9 association and of each amendment to the bylaws.

10 4. A certified copy of the articles of incorporation  
11 of the association, or other documents creating the  
12 association, and of each amendment thereto.

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

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

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

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

23 9. A current copy of any management agreement, lease,  
24 or other contract to which the association is a party or under  
25 which the association or the unit owners have an obligation or  
26 responsibility.

27 10. Bills of sale or transfer for all property owned  
28 by the association.

29 11. Accounting records for the association and  
30 separate accounting records for each condominium which the  
31 association operates, ~~according to good accounting practices.~~

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1 All accounting records shall be maintained for a period of not  
2 less than 7 years. The accounting records shall include, but  
3 are not limited to:

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

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

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

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

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

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

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

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

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

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

29 1. Any record protected by the lawyer-client privilege  
30 as described in s. 90.502, and any record protected by the  
31 work-product privilege including any A record which was

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1 prepared by an association attorney or prepared at the  
 2 attorney's express direction, which reflects a mental  
 3 impression, conclusion, litigation strategy, or legal theory  
 4 of the attorney or the association, and which was prepared  
 5 exclusively for civil or criminal litigation or for  
 6 adversarial administrative proceedings, or which was prepared  
 7 in anticipation of imminent civil or criminal litigation or  
 8 imminent adversarial administrative proceedings until the  
 9 conclusion of the litigation or adversarial administrative  
 10 proceedings.

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

14           3. Medical records of unit owners.

15           (13) FINANCIAL REPORTING REPORTS.--Within 90 days  
 16 after the end of the fiscal year, or annually on a date  
 17 provided in the bylaws, the association shall prepare and  
 18 complete, or cause to be prepared and completed by a third  
 19 party, a financial report for the preceding fiscal year.  
 20 Within 21 days after the financial report is completed or  
 21 received by the association from the third party, the  
 22 association shall mail to each unit owner at the address last  
 23 furnished to the association by the unit owner, or hand  
 24 deliver to each unit owner, a copy of the financial report or  
 25 a notice that a copy of the financial report will be mailed or  
 26 hand delivered to the unit owner, without charge, upon receipt  
 27 of a written request from the unit owner. The division shall  
 28 adopt rules setting forth uniform accounting principles and  
 29 standards to be used by all associations and shall adopt rules  
 30 addressing financial reporting requirements for  
 31 multicondominium associations. In adopting such rules, the

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1 division shall consider the number of members and annual  
2 revenues of an association. Financial reports shall be  
3 prepared as follows:

4 (a) An association that meets the criteria of this  
5 paragraph shall prepare or cause to be prepared a complete set  
6 of financial statements in accordance with generally accepted  
7 accounting principles. The financial statements shall be  
8 based upon the association's total annual revenues, as  
9 follows:

10 1. An association with total annual revenues of  
11 \$100,000 or more, but less than \$200,000, shall prepare  
12 compiled financial statements.

13 2. An association with total annual revenues of  
14 \$200,000 or more, but less than \$400,000, shall prepare  
15 reviewed financial statements.

16 3. An association with total annual revenues of  
17 \$400,000 or more shall prepare audited financial statements.

18 (b)1. An association with total annual revenues of  
19 less than \$100,000 shall prepare a report of cash receipts and  
20 expenditures.

21 2. An association which operates less than 50 units,  
22 regardless of the association's annual revenues, shall prepare  
23 a report of cash receipts and expenditures in lieu of the  
24 financial statements required by paragraph (a).

25 3. A report of cash receipts and disbursements shall  
26 disclose the amount of receipts by accounts and receipt  
27 classifications and the amount of expenses by accounts and  
28 expense classifications, including, but not limited to, the  
29 following, as applicable: Costs for security, professional  
30 and management fees and expenses, taxes, costs for recreation  
31 facilities, expenses for refuse collection and utility



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1 services, expenses for lawn care, costs for building  
2 maintenance and repair, insurance costs, administration and  
3 salary expenses, and reserves accumulated and expended for  
4 capital expenditures, deferred maintenance, and any other  
5 category for which the association maintains reserves.

6 (c) An association may prepare or cause to be  
7 prepared, without a meeting of or approval by the unit owners:

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

11 2. Reviewed or audited financial statements, if the  
12 association is required to prepare compiled financial  
13 statements; or

14 3. Audited financial statements if the association is  
15 required to prepare reviewed financial statements.

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

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

21 2. A report of cash receipts and expenditures or a  
22 compiled financial statement in lieu of a reviewed or audited  
23 financial statement; or

24 3. A report of cash receipts and expenditures, a  
25 compiled financial statement, or a reviewed financial  
26 statement in lieu of an audited financial statement.

27  
28 Such meeting and approval must occur prior to the end of the  
29 fiscal year and is effective only for the fiscal year in which  
30 the vote is taken. With respect to an association to which  
31 the developer has not turned over control of the association,

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1 all unit owners, including the developer, may vote on issues  
2 related to the preparation of financial reports for the first  
3 2 fiscal years of the association's operation, beginning with  
4 the fiscal year in which the declaration is recorded.  
5 Thereafter, all unit owners except the developer may vote on  
6 such issues until control is turned over to the association by  
7 the developer.~~Within 60 days following the end of the fiscal~~  
8 ~~or calendar year or annually on such date as is otherwise~~  
9 ~~provided in the bylaws of the association, the board of~~  
10 ~~administration of the association shall mail or furnish by~~  
11 ~~personal delivery to each unit owner a complete financial~~  
12 ~~report of actual receipts and expenditures for the previous 12~~  
13 ~~months, or a complete set of financial statements for the~~  
14 ~~preceding fiscal year prepared in accordance with generally~~  
15 ~~accepted accounting principles. The report shall show the~~  
16 ~~amounts of receipts by accounts and receipt classifications~~  
17 ~~and shall show the amounts of expenses by accounts and expense~~  
18 ~~classifications, including, if applicable, but not limited to,~~  
19 ~~the following:~~  
20 ~~(a) Costs for security;~~  
21 ~~(b) Professional and management fees and expenses;~~  
22 ~~(c) Taxes;~~  
23 ~~(d) Costs for recreation facilities;~~  
24 ~~(e) Expenses for refuse collection and utility~~  
25 ~~services;~~  
26 ~~(f) Expenses for lawn care;~~  
27 ~~(g) Costs for building maintenance and repair;~~  
28 ~~(h) Insurance costs;~~  
29 ~~(i) Administrative and salary expenses; and~~  
30 ~~(j) Reserves for capital expenditures, deferred~~  
31 ~~maintenance, and any other category for which the association~~

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1 ~~maintains a reserve account or accounts.~~  
2 ~~(14) The division shall adopt rules which may require~~  
3 ~~that the association deliver to the unit owners, in lieu of~~  
4 ~~the financial report required by subsection (13), a complete~~  
5 ~~set of financial statements for the preceding fiscal year.~~  
6 ~~The financial statements shall be delivered within 90 days~~  
7 ~~following the end of the previous fiscal year or annually on~~  
8 ~~such other date as provided by the bylaws. The rules of the~~  
9 ~~division may require that the financial statements be~~  
10 ~~compiled, reviewed, or audited, and the rules shall take into~~  
11 ~~consideration the criteria set forth in s. 718.501(1)(j). The~~  
12 ~~requirement to have the financial statements compiled,~~  
13 ~~reviewed, or audited does not apply to associations when a~~  
14 ~~majority of the voting interests of the association present at~~  
15 ~~a duly called meeting of the association have determined for a~~  
16 ~~fiscal year to waive this requirement. In an association in~~  
17 ~~which turnover of control by the developer has not occurred,~~  
18 ~~the developer may vote to waive the audit requirement for the~~  
19 ~~first 2 years of the operation of the association, after which~~  
20 ~~time waiver of an applicable audit requirement shall be by a~~  
21 ~~majority of voting interests other than the developer. The~~  
22 ~~meeting shall be held prior to the end of the fiscal year, and~~  
23 ~~the waiver shall be effective for only 1 fiscal year. This~~  
24 ~~subsection does not apply to a condominium which consists of~~  
25 ~~50 or fewer units.~~

26 (14)(15) COMMINGLING.--All funds collected by an  
27 association shall be maintained separately in the  
28 association's name. For investment purposes only, reserve  
29 funds may be commingled with operating funds of the  
30 association. Commingled operating and reserve funds shall be  
31 accounted for separately and a commingled account shall not,

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1 at any time, be less than the amount identified as reserve  
2 funds. This subsection does not prohibit a multicondominium  
3 association from commingling the operating funds of separate  
4 condominiums or the reserve funds of separate condominiums.  
5 Furthermore, for investment purposes only, a multicondominium  
6 association may commingle the operating funds of separate  
7 condominiums with the reserve funds of separate condominiums.  
8 A manager or business entity required to be licensed or  
9 registered under s. 468.432, or an agent, employee, officer,  
10 or director of an association, shall not commingle any  
11 association funds with his or her funds or with the funds of  
12 any other condominium association or the funds of a community  
13 association as defined in s. 468.431. All funds shall be  
14 maintained separately in the association's name. Reserve and  
15 operating funds of the association shall not be commingled  
16 unless combined for investment purposes. This subsection is  
17 not meant to prohibit prudent investment of association funds  
18 even if combined with operating or other reserve funds of the  
19 same association, but such funds must be accounted for  
20 separately, and the combined account balance may not, at any  
21 time, be less than the amount identified as reserve funds in  
22 the combined account. No manager or business entity required  
23 to be licensed or registered under s. 468.432, and no agent,  
24 employee, officer, or director of a condominium association  
25 shall commingle any association funds with his or her funds or  
26 with the funds of any other condominium association or  
27 community association as defined in s. 468.431.

28 Section 6. Paragraphs (d), (e), and (f) of subsection  
29 (2) of section 718.112, Florida Statutes, are amended to read:  
30 718.112 Bylaws.--

31 (2) REQUIRED PROVISIONS.--The bylaws shall provide for

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1 the following and, if they do not do so, shall be deemed to  
2 include the following:

3 (d) Unit owner meetings.--

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

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

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

28           3. The members of the board ~~of administration~~ shall be  
29 elected by written ballot or voting machine. Proxies shall in  
30 no event be used in electing the board ~~of administration~~,  
31 either in general elections or elections to fill vacancies

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

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1 vote his or her ballot, and any such ballots improperly cast  
2 shall be deemed invalid, provided any unit owner who violates  
3 this provision may be fined by the association in accordance  
4 with s. 718.303. A unit owner who needs assistance in casting  
5 the ballot for the reasons stated in s. 101.051 may obtain  
6 assistance in casting the ballot. ~~Any unit owner violating~~  
7 ~~this provision may be fined by the association in accordance~~  
8 ~~with s. 718.303.~~The regular election shall occur on the date  
9 of the annual meeting. The provisions of this subparagraph  
10 shall not apply to timeshare condominium associations.  
11 Notwithstanding the provisions of this subparagraph, an  
12 election is ~~and balloting are~~ not required unless more  
13 candidates file notices of intent to run or are nominated than  
14 board vacancies exist ~~on the board~~.

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

26 5. Unit owners may waive notice of specific meetings  
27 if allowed by the applicable bylaws or declaration or any  
28 statute.

29 6. Unit owners shall have the right to participate in  
30 meetings of unit owners with reference to all designated  
31 agenda items. However, the association may adopt reasonable



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1 rules governing the frequency, duration, and manner of unit  
2 owner participation.

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

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

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

30 (e) Budget meeting.--

31 1. Any meeting at which a proposed annual budget of an

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1 association will be considered by the board or unit owners  
2 shall be open to all unit owners. At least 14 days prior to  
3 such a meeting, the board shall hand deliver to each unit  
4 owner, or mail to each unit owner at the address last  
5 furnished to the association by the unit owner, a notice of  
6 such meeting and a copy of the proposed annual budget. An  
7 officer or manager of the association, or other person  
8 providing notice of such meeting, shall execute an affidavit  
9 evidencing compliance with such notice requirement and such  
10 affidavit shall be filed among the official records of the  
11 association.

12 2.a. If a board adopts in any fiscal year an annual  
13 budget which requires assessments against unit owners which  
14 exceed 115 percent of assessments for the preceding fiscal  
15 year, the board shall conduct a special meeting of the unit  
16 owners to consider a substitute budget if the board receives,  
17 within 21 days after adoption of the annual budget, a written  
18 request for a special meeting from at least 10 percent of all  
19 voting interests. The special meeting shall be conducted  
20 within 60 days after adoption of the annual budget. At least  
21 14 days prior to such special meeting, the board shall hand  
22 deliver to each unit owner, or mail to each unit owner at the  
23 address last furnished to the association, a notice of the  
24 meeting. An officer or manager of the association, or other  
25 person providing notice of such meeting shall execute an  
26 affidavit evidencing compliance with this notice requirement  
27 and such affidavit shall be filed among the official records  
28 of the association. Unit owners may consider and adopt a  
29 substitute budget at the special meeting. A substitute budget  
30 is adopted if approved by a majority of all voting interests  
31 unless the bylaws require adoption by a greater percentage of

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1 voting interests. If there is not a quorum at the special  
2 meeting or a substitute budget is not adopted, the annual  
3 budget previously adopted by the board shall take effect as  
4 scheduled.

5 b. Any determination of whether assessments exceed 115  
6 percent of assessments for the prior fiscal year shall exclude  
7 any authorized provision for reasonable reserves for repair or  
8 replacement of the condominium property, anticipated expenses  
9 of the association which the board does not expect to be  
10 incurred on a regular or annual basis, or assessments for  
11 betterments to the condominium property.

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

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

24 (f) Annual budget.--

25 1. The proposed annual budget of common expenses shall  
26 be detailed and shall show the amounts budgeted by accounts  
27 and expense classifications, including, if applicable, but not  
28 limited to, those expenses listed in s. 718.504(21)~~s.~~  
29 ~~718.504(20)~~. A multicondominium association shall adopt a  
30 separate budget of common expenses for each condominium the  
31 association operates and shall adopt a separate budget of

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1 common expenses for the association.In addition, if the  
2 association maintains limited common elements with the cost to  
3 be shared only by those entitled to use the limited common  
4 elements as provided for in s. 718.113(1), the budget or a  
5 schedule attached thereto shall show amounts budgeted  
6 therefor. If, after turnover of control of the association to  
7 the unit owners, any of the expenses listed in s. 718.504(21)  
8 ~~s. 718.504(20)~~ are not applicable, they need not be listed.

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

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1 for the first 2 fiscal years of the association's operation of  
2 ~~the association, beginning with the fiscal year in which the~~  
3 initial declaration is recorded, after which time reserves may  
4 be waived or reduced only upon the vote of a majority of all  
5 nondeveloper voting interests voting in person or by limited  
6 proxy at a duly called meeting of the association. If a  
7 meeting of the unit owners has been called to determine  
8 whether to waive or reduce the funding of ~~to provide no~~  
9 ~~reserves or reserves less adequate than required~~, and no such  
10 result is achieved ~~not attained~~ or a quorum is not attained,  
11 the reserves as included in the budget shall go into effect.  
12 After the turnover, the developer may vote its voting interest  
13 to waive or reduce the funding of reserves.

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

26           4. In a multicondominium association, the only voting  
27 interests which are eligible to vote on questions that involve  
28 waiving or reducing the funding of reserves, or using existing  
29 reserve funds for purposes other than purposes for which the  
30 reserves were intended, are the voting interests of the units  
31 subject to assessment to fund the reserves in question.

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

3 718.113 Maintenance; limitation upon improvement;  
4 display of flag; hurricane shutters.--

5 (2)(a) Except as otherwise provided in this section,  
6 there shall be no material alteration or substantial additions  
7 to the common elements or to real property which is  
8 association property, except in a manner provided in the  
9 declaration. If the declaration does not specify the  
10 procedure for approval of material alterations or substantial  
11 additions, 75 percent of the total voting interests of the  
12 association must approve the alterations or additions.

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

27 (c) There shall not be any material alteration or  
28 substantial addition made to association real property  
29 operated by a multicondominium association, except as provided  
30 in the declaration, articles of incorporation, or bylaws. If  
31 the declaration, articles of incorporation, or bylaws do not

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1 specify the procedure for approving an alteration or addition  
2 to association real property, the approval of 75 percent of  
3 the total voting interests of the association is required.

4 Section 8. Section 718.115, Florida Statutes, is  
5 amended to read:

6 718.115 Common expenses and common surplus.--

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

25 (b) The common expenses of a condominium within a  
26 multicondominium are the common expenses directly attributable  
27 to the operation of that condominium. The common expenses of a  
28 multicondominium association do not include the common  
29 expenses directly attributable to the operation of any  
30 specific condominium or condominiums within the  
31 multicondominium.



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1           (c) The common expenses of a multicondominium  
2 association may include categories of expenses related to the  
3 property or common elements within a specific condominium in  
4 the multicondominium if such property or common elements are  
5 areas in which all members of the multicondominium association  
6 have use rights or from which all members receive tangible  
7 economic benefits. Such common expenses of the association  
8 shall be identified in the declaration or bylaws of each  
9 condominium within the multicondominium association.

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

27           1. Any contract made by the board after the effective  
28 date hereof for a community antenna system or duly franchised  
29 cable television service may be canceled by a majority of the  
30 voting interests present at the next regular or special  
31 meeting of the association. Any member may make a motion to

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1 cancel said contract, but if no motion is made or if such  
2 motion fails to obtain the required majority at the next  
3 regular or special meeting, whichever is sooner, following the  
4 making of the contract, then such contract shall be deemed  
5 ratified for the term therein expressed.

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

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

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1 installed on common elements and association property by the  
2 board pursuant to s. 718.113(5), and shall remain responsible  
3 for a pro rata share of the expense of the replacement,  
4 operation, repair, and maintenance of such shutters.

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

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

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

24 (4)(a) Funds for payment of the common expenses of a  
25 condominium within a multicondominium shall be collected as  
26 provided in subsection (2). Common expenses of a  
27 multicondominium association shall be funded by assessments  
28 against all unit owners in the association in the proportion  
29 or percentage set forth in the declaration as required by s.  
30 718.104(4)(h) or s. 718.110(12), as applicable.

31 (b) In a multicondominium association, the total

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1 common surplus owned by a unit owner consists of that owner's  
 2 share of the common surplus of the association plus that  
 3 owner's share of the common surplus of the condominium in  
 4 which the owner's unit is located, in the proportion or  
 5 percentage set forth in the declaration as required by s.  
 6 718.104(4)(h) or s. 718.110(12), as applicable.

7 Section 9. Paragraph (b) of subsection (1) and  
 8 subsection (9) of section 718.116, Florida Statutes, are  
 9 amended, and paragraph (g) is added to subsection (1) of said  
 10 section, to read:

11 (1)

12 (b) The liability of a first mortgagee or its  
 13 successor or assignees who acquire title to a unit by  
 14 foreclosure or by deed in lieu of foreclosure for the unpaid  
 15 assessments that became due prior to the mortgagee's  
 16 acquisition of title is limited to the lesser of:

17 1. The unit's unpaid common expenses and regular  
 18 periodic assessments which accrued or came due during the 6  
 19 months immediately preceding the acquisition of title and for  
 20 which payment in full has not been received by the  
 21 association; or

22 2. One percent of the original mortgage debt.

23  
 24 The provisions of this paragraph ~~shall not~~ apply only if  
 25 ~~unless~~ the first mortgagee joined the association as a  
 26 defendant in the foreclosure action. Joinder of the  
 27 association is not required if, on the date the complaint is  
 28 filed, the association was dissolved or did not maintain an  
 29 office or agent for service of process at a location which was  
 30 known to or reasonably discoverable by the mortgagee.

31 (g) For purposes of this subsection, the term

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1 "successor or assignee" of a first mortgagee includes only a  
2 subsequent holder of the first mortgage.  
3 (Substantial rewording of subsection. See  
4 s. 718.116(9), F.S., for present text.)  
5 (9)(a) A unit owner may not be excused from payment of  
6 the unit owner's share of common expenses unless all other  
7 unit owners are likewise proportionately excluded from  
8 payment, except as provided in subsection (1) and in the  
9 following cases:

10 1. If authorized by the declaration, a developer who  
11 is offering units for sale may elect to be excused from  
12 payment of assessments against those unsold units for a stated  
13 period of time after the declaration is recorded. However,  
14 the developer must pay common expenses incurred during such  
15 period which exceed regular periodic assessments against other  
16 unit owners in the same condominium. The stated period must  
17 terminate no later than the first day of the fourth calendar  
18 month following the month in which the first closing occurs of  
19 a purchase contract for a unit in that condominium. If a  
20 developer-controlled association has maintained all insurance  
21 coverage required by s. 718.111(11)(a), common expenses  
22 incurred during the stated period resulting from a natural  
23 disaster or an act of God occurring during the stated period,  
24 which are not covered by proceeds from insurance maintained by  
25 the association, may be assessed against all unit owners  
26 owning units on the date of such natural disaster or act of  
27 God, and their respective successors and assigns, including  
28 the developer with respect to units owned by the developer. In  
29 the event of such an assessment, all units shall be assessed  
30 in accordance with s. 718.115(2).

31 2. A developer who owns condominium units, and who is

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

23 (b) If the purchase contract, declaration, prospectus,  
24 or written agreement between the developer and a majority of  
25 unit owners other than the developer, provides for the  
26 developer to be excused from payment of assessments under  
27 paragraph (a), only regular periodic assessments for common  
28 expenses as provided for in the declaration and prospectus and  
29 disclosed in the estimated operating budget shall be used for  
30 payment of common expenses during any period in which the  
31 developer is excused. Accordingly, no funds which are

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1 receivable from unit purchasers or unit owners and payable to  
2 the association, including capital contributions or startup  
3 funds collected from unit purchasers at closing, may be used  
4 for payment of such common expenses.

5 (c) If a developer of a multicondominium is excused  
6 from payment of assessments under paragraph (a), the  
7 developer's financial obligation to the multicondominium  
8 association during any period in which the developer is  
9 excused from payment of assessments is as follows:

10 1. The developer shall pay the common expenses of a  
11 condominium affected by a guarantee, including the funding of  
12 reserves as provided in the adopted annual budget of that  
13 condominium, which exceed the regular periodic assessments at  
14 the guaranteed level against all other unit owners within that  
15 condominium.

16 2. The developer shall pay the common expenses of a  
17 multicondominium association, including the funding of  
18 reserves as provided in the adopted annual budget of the  
19 association, which are allocated to units within a condominium  
20 affected by a guarantee and which exceed the regular periodic  
21 assessments against all other unit owners within that  
22 condominium.

23 Section 10. Subsection (11) is added to section  
24 718.117, Florida Statutes, to read:

25 718.117 Termination.--

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

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

31 718.403 Phase condominiums.--

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

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

8           718.405 Multicondominiums; multicondominium  
9 associations.--

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

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

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

26           (c) Recreational and other commonly used facilities or  
27 amenities which the developer has committed to provide that  
28 will be owned, leased by, or dedicated by a recorded plat to  
29 the association but which are not included within any  
30 condominium operated by the association. The developer may  
31 reserve the right to add additional facilities or amenities if



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1 the declaration and prospectus for each condominium to be  
2 operated by the association contains the following statement  
3 in conspicuous type and in substantially the following form:  
4 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT  
5 CONSENT OF UNIT OWNERS OR THE ASSOCIATION.

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

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

21 (3) The declaration for each condominium to be  
22 operated by a multicondominium association may not, at the  
23 time of the initial recording of the declaration, contain any  
24 provision with respect to allocation of the association's  
25 assets, liabilities, common surplus, or common expenses which  
26 is inconsistent with this chapter or the provisions of a  
27 declaration for any other condominium then being operated by  
28 the multicondominium association.

29 (4) This section does not prevent or restrict the  
30 formation of a multicondominium by the merger or consolidation  
31 of two or more condominium associations. Mergers or

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1 consolidations of associations shall be accomplished in  
2 accordance with this chapter, the declarations of the  
3 condominiums being merged or consolidated, and chapter 617.  
4 Section 718.110(4) does not apply to amendments to  
5 declarations necessary to effect a merger or consolidation.

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

8 718.5019 Advisory council; membership; functions.--

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

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1 business.

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

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

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

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

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

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

31 (c) A statement of the minimum and maximum number of

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1 condominiums, and the minimum and maximum number of units in  
2 each of those condominiums, which will or may be operated by  
3 the association, and the latest date by which the exact number  
4 will be finally determined.

5 (d) A statement as to whether any of the condominiums  
6 in the multicondominium may include units intended to be used  
7 for nonresidential purposes and the purpose or purposes  
8 permitted for such use.

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

12 Section 15. Paragraph (e) of subsection (3) of section  
13 721.13, Florida Statutes, is amended to read:

14 721.13 Management.--

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

17 (e) Arranging for an annual audit of the financial  
18 statements of the timeshare plan by a certified public  
19 accountant licensed by the Board of Accountancy of the  
20 Department of Business and Professional Regulation, in  
21 accordance with generally accepted auditing standards as  
22 defined by the rules of the Board of Accountancy of the  
23 Department of Business and Professional Regulation. The  
24 financial statements required by this section must be prepared  
25 on an accrual basis using fund accounting, and must be  
26 presented in accordance with generally accepted accounting  
27 principles. A copy of the audited financial statements must be  
28 filed with the division and forwarded to the board of  
29 directors and officers of the owners' association, if one  
30 exists, no later than 5 calendar months after the end of the  
31 timeshare plan's fiscal year. If no owners' association

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1 exists, each purchaser must be notified, no later than 5  
 2 months after the end of the timeshare plan's fiscal year, that  
 3 a copy of the audited financial statements is available upon  
 4 request to the managing entity. Notwithstanding any  
 5 requirement of s. 718.111(13) ~~or (14)~~, the audited financial  
 6 statements required by this section are the only annual  
 7 financial reporting requirements for timeshare condominiums.

8 Section 16. Paragraph (j) of subsection (1) of section  
 9 718.501, Florida Statutes, is repealed.

10 Section 17. This act shall take effect October 1,  
 11 2000.

12  
 13

14 ===== T I T L E A M E N D M E N T =====

15 And the title is amended as follows:

16 On page 1, lines 2-8,  
 17 remove from the title of the bill: all of said lines,

18

19 and insert in lieu thereof:

20 An act relating to condominium associations;  
 21 amending s. 718.103, F.S.; revising  
 22 definitions; providing an additional  
 23 definition; amending s. 718.104, F.S.; changing  
 24 from 30 business days to 120 calendar days the  
 25 requirement to file recorded documents;  
 26 providing additional requirements for a  
 27 declaration of condominium; providing for  
 28 determining the percentage share of liability  
 29 for common expenses and ownership; amending s.  
 30 718.106, F.S.; providing for the right to  
 31 assign exclusive use; providing for the right

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

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1 educational expenses of the officers or  
2 directors to be a permitted common expense;  
3 amending s. 718.115, F.S.; providing for  
4 determining the common surplus owned by a unit  
5 owner of a multicondominium; amending s.  
6 718.116, F.S.; limiting liability of certain  
7 mortgagees for certain unpaid assessments;  
8 limiting construction of a term; revising  
9 circumstances under which a developer may be  
10 excused from paying certain common expenses and  
11 assessments; providing for the developer's  
12 obligation for such expenses with respect to a  
13 multicondominium association; amending s.  
14 718.117, F.S.; providing that certain  
15 requirements governing the termination of a  
16 condominium are inapplicable to the merger of a  
17 condominium with one or more other  
18 condominiums; amending s. 718.403, F.S.;  
19 changing from 30 working days to 120 calendar  
20 days the requirement to file recorded  
21 documents; creating s. 718.405, F.S.; providing  
22 for the creation of multicondominiums;  
23 providing requirements for the declaration of  
24 condominium; providing for the merger or  
25 consolidation of condominium associations;  
26 amending s. 718.5019, F.S.; providing for a  
27 member's continued service until a replacement  
28 has been appointed; amending s. 718.504, F.S.;  
29 providing requirements for the prospectus or  
30 offering circular for a condominium that is or  
31 may become part of a multicondominium; amending



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1 s. 721.13, F.S.; correcting a cross reference;  
2 repealing s. 718.501(1)(j), F.S., relating to  
3 uniform accounting principles, policies, and  
4 standards required to be adopted by the  
5 Division of Florida Land Sales, Condominiums,  
6 and Mobile Homes of the Department of Business  
7 and Professional Regulation; providing an  
8 effective date.  
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