

Bill No. CS/CS/HB 593

Amendment No.

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Saunders moved the following amendment:		
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13	Senate Amendment (with title amendment)		
14	On page 178, line 15, through page 179, line 10, delete		
15	those lines		
16			
17	and insert:		
18	Section 47. Subsection (3) is added to section		
19	617.3075, Florida Statutes, to read:		
20	617.3075 Prohibited clauses in homeowners' association		
21	documents.--		
22	<u>(3) Homeowners' association documents, including</u>		
23	<u>declarations of covenants, articles of incorporation, or</u>		
24	<u>bylaws, may not preclude the display of one United States flag</u>		
25	<u>by property owners. However, the flag must be displayed in a</u>		
26	<u>respectful way and may be subject to reasonable standards for</u>		
27	<u>size, placement, and safety, as adopted by the homeowners'</u>		
28	<u>association, consistent with Title 36 U.S.C. Chapter 10 and</u>		
29	<u>any local ordinances.</u>		
30	Section 48. Section 718.103, Florida Statutes, is		
31	amended to read:		

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1 718.103 Definitions.--As used in this chapter, the
2 term:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 Conspicuous type may be used in a contract ~~contracts~~ for
2 purchase and sale of a unit, a lease of a unit for more than 5
3 years, or a prospectus or offering circular ~~public offering~~
4 ~~statements~~ only where required by law.

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

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

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

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

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

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

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

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

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

16 (23)~~(22)~~ "Residential condominium" means a condominium
17 consisting of two or more ~~condominium~~ units, any of which are
18 intended for use as a private temporary or permanent
19 residence, except that a condominium is not a residential
20 condominium if the use for which the units are intended is
21 primarily commercial or industrial and not more than three
22 units are intended to be used for private residence, and are
23 intended to be used as housing for maintenance, managerial,
24 janitorial, or other operational staff of the condominium.

25 With respect to a condominium that is not a timeshare
26 condominium, a residential unit includes a unit intended as a
27 private temporary or permanent residence as well as a unit not
28 intended for commercial or industrial use. With respect to a
29 timeshare condominium, the timeshare instrument as defined in
30 s. 721.05(33)~~s. 721.05(30)~~ shall govern the intended use of
31 each unit in the condominium. If a condominium is a

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

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

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

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

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

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

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

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

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1 interests of the association are the voting rights distributed
2 to the unit owners in all condominiums operated by the
3 association. On matters related to a specific condominium in
4 a multicondominium association, the voting interests of the
5 condominium are the voting rights distributed to the unit
6 owners in that condominium.

7 Section 49. Subsection (2) and paragraphs (f) and (g)
8 of subsection (4) of section 718.104, Florida Statutes, are
9 amended, and paragraph (h) is added to subsection (4), to
10 read:

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

14 (2) A condominium is created by recording a
15 declaration in the public records of the county where the land
16 is located, executed and acknowledged with the requirements
17 for a deed. All persons who have record title to the interest
18 in the land being submitted to condominium ownership, or their
19 lawfully authorized agents, must join in the execution of the
20 declaration. Upon the recording of the declaration, or an
21 amendment adding a phase to the condominium under s.

22 718.403(6), all units described in the declaration or phase
23 amendment as being located in or on the land then being
24 submitted to condominium ownership shall come into existence,
25 regardless of the state of completion of planned improvements
26 in which the units may be located. Upon recording the
27 declaration of condominium pursuant to this section, the
28 developer shall file the recording information with the
29 division within 120 calendar ~~30 business~~ days on a form
30 prescribed by the division.

31 (4) The declaration must contain or provide for the

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1 following matters:

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

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

20 (h) If a developer reserves the right, in a
21 declaration recorded on or after July 1, 2000, to create a
22 multicondominium, the declaration must state, or provide a
23 specific formula for determining, the fractional or percentage
24 shares of liability for the common expenses of the association
25 and of ownership of the common surplus of the association to
26 be allocated to the units in each condominium to be operated
27 by the association. If the declaration as originally recorded
28 fails to so provide, the share of liability for the common
29 expenses of the association and of ownership of the common
30 surplus of the association allocated to each unit in each
31 condominium operated by the association shall be a fraction of

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1 the whole, the numerator of which is the number "one" and the
2 denominator of which is the total number of units in all
3 condominiums operated by the association.

4 Section 50. Subsection (2) of section 718.106, Florida
5 Statutes, is amended to read:

6 718.106 Condominium parcels; appurtenances; possession
7 and enjoyment.--

8 (2) There shall pass with a unit, as appurtenances
9 thereto:

10 (a) An undivided share in the common elements and
11 common surplus.

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

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

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

25 (e) Other appurtenances as may be provided in the
26 declaration.

27 Section 51. Subsections (4) and (9) of section
28 718.110, Florida Statutes, are amended, and subsection (12) is
29 added to that section, to read:

30 718.110 Amendment of declaration; correction of error
31 or omission in declaration by circuit court.--

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

21 (9) If there is an omission or error in a declaration
22 ~~of condominium~~, or in any other document required by law to
23 establish the condominium, the association may correct the
24 error or omission by an amendment to the declaration or to the
25 other document required to create a condominium in the manner
26 provided in the declaration to amend the declaration or, if
27 none is provided, by vote of a majority of the voting
28 interests of the condominium. The amendment is effective when
29 passed and approved and a certificate of ~~the~~ amendment is
30 executed and recorded as provided in subsections (2) and (3)
31 ~~s. 718.104~~. This procedure for amendment cannot be used if

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1 such an amendment would materially or adversely affect
2 property rights of unit owners, unless the affected unit
3 owners consent in writing. This subsection does not restrict
4 the powers of the association to otherwise amend the
5 declaration, or other documentation, but authorizes a simple
6 process of amendment requiring a lesser vote for the purpose
7 of curing defects, errors, or omissions when the property
8 rights of unit owners are not materially or adversely
9 affected.

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

20 (b) Unless approval by a greater percentage of the
21 voting interests of an existing multicondominium association
22 is expressly required in the declaration of an existing
23 condominium, the declaration may be amended upon approval of
24 at least a majority of the total voting interests of each
25 condominium operated by the multicondominium association for
26 the purpose of:

27 1. Setting forth in the declaration the formula
28 currently utilized, but not previously stated in the
29 declaration, for determining the percentage or fractional
30 shares of liability for the common expenses of the
31 multicondominium association and ownership of the common

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1 surplus of the multicondominium association.

2 2. Providing for the creation or enlargement of a
3 multicondominium association by the merger or consolidation of
4 two or more associations and changing the name of the
5 association, as appropriate.

6 Section 52. Paragraphs (a) and (c) of subsection (12)
7 and subsections (13), (14), and (15) of section 718.111,
8 Florida Statutes, are amended to read:

9 718.111 The association.--

10 (12) OFFICIAL RECORDS.--

11 (a) From the inception of the association, the
12 association shall maintain each of the following items, when
13 applicable, which shall constitute the official records of the
14 association:

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

17 2. A photocopy of the recorded declaration of
18 condominium of each condominium operated by the association
19 and of each amendment to each declaration.

20 3. A photocopy of the recorded bylaws of the
21 association and of each amendment to the bylaws.

22 4. A certified copy of the articles of incorporation
23 of the association, or other documents creating the
24 association, and of each amendment thereto.

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

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

30 7. A current roster of all unit owners and their
31 mailing addresses, unit identifications, voting

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1 certifications, and, if known, telephone numbers.

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

4 9. A current copy of any management agreement, lease,
5 or other contract to which the association is a party or under
6 which the association or the unit owners have an obligation or
7 responsibility.

8 10. Bills of sale or transfer for all property owned
9 by the association.

10 11. Accounting records for the association and
11 separate accounting records for each condominium which the
12 association operates, ~~according to good accounting practices.~~
13 All accounting records shall be maintained for a period of not
14 less than 7 years. The accounting records shall include, but
15 are not limited to:

16 a. Accurate, itemized, and detailed records of all
17 receipts and expenditures.

18 b. A current account and a monthly, bimonthly, or
19 quarterly statement of the account for each unit designating
20 the name of the unit owner, the due date and amount of each
21 assessment, the amount paid upon the account, and the balance
22 due.

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

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

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

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1 all amendments to each of the foregoing, as well as the
2 question and answer sheet provided for in s. 718.504 and
3 year-end financial information required in this section on the
4 condominium property to ensure their availability to unit
5 owners and prospective purchasers, and may charge its actual
6 costs for preparing and furnishing these documents to those
7 requesting the same. Notwithstanding the provisions of this
8 paragraph, the following records shall not be accessible to
9 unit owners:

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

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

26 3. Medical records of unit owners.

27 (13) FINANCIAL REPORTING REPORTS.--Within 90 days
28 after the end of the fiscal year, or annually on a date
29 provided in the bylaws, the association shall prepare and
30 complete, or cause to be prepared and completed by a third
31 party, a financial report for the preceding fiscal year.

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1 Within 21 days after the financial report is completed or
2 received by the association from the third party, the
3 association shall mail to each unit owner at the address last
4 furnished to the association by the unit owner, or hand
5 deliver to each unit owner, a copy of the financial report or
6 a notice that a copy of the financial report will be mailed or
7 hand delivered to the unit owner, without charge, upon receipt
8 of a written request from the unit owner. The division shall
9 adopt rules setting forth uniform accounting principles and
10 standards to be used by all associations and shall adopt rules
11 addressing financial reporting requirements for
12 multicondominium associations. In adopting such rules, the
13 division shall consider the number of members and annual
14 revenues of an association. Financial reports shall be
15 prepared as follows:

16 (a) An association that meets the criteria of this
17 paragraph shall prepare or cause to be prepared a complete set
18 of financial statements in accordance with generally accepted
19 accounting principles. The financial statements shall be
20 based upon the association's total annual revenues, as
21 follows:

22 1. An association with total annual revenues of
23 \$100,000 or more, but less than \$200,000, shall prepare
24 compiled financial statements.

25 2. An association with total annual revenues of at
26 least \$200,000, but less than \$400,000, shall prepare reviewed
27 financial statements.

28 3. An association with total annual revenues of
29 \$400,000 or more shall prepare audited financial statements.

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

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1 expenditures.

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

6 3. A report of cash receipts and disbursements must
7 disclose the amount of receipts by accounts and receipt
8 classifications and the amount of expenses by accounts and
9 expense classifications, including, but not limited to, the
10 following, as applicable: costs for security, professional and
11 management fees and expenses, taxes, costs for recreation
12 facilities, expenses for refuse collection and utility
13 services, expenses for lawn care, costs for building
14 maintenance and repair, insurance costs, administration and
15 salary expenses, and reserves accumulated and expended for
16 capital expenditures, deferred maintenance, and any other
17 category for which the association maintains reserves.

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

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

23 2. Reviewed or audited financial statements, if the
24 association is required to prepare compiled financial
25 statements; or

26 3. Audited financial statements if the association is
27 required to prepare reviewed financial statements.

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

31 1. A report of cash receipts and expenditures in lieu

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1 of a compiled, reviewed, or audited financial statement;

2 2. A report of cash receipts and expenditures or a
3 compiled financial statement in lieu of a reviewed or audited
4 financial statement; or

5 3. A report of cash receipts and expenditures, a
6 compiled financial statement, or a reviewed financial
7 statement in lieu of an audited financial statement.

8
9 Such meeting and approval must occur prior to the end of the
10 fiscal year and is effective only for the fiscal year in which
11 the vote is taken. With respect to an association to which
12 the developer has not turned over control of the association,
13 all unit owners, including the developer, may vote on issues
14 related to the preparation of financial reports for the first
15 2 fiscal years of the association's operation, beginning with
16 the fiscal year in which the declaration is recorded.

17 Thereafter, all unit owners except the developer may vote on
18 such issues until control is turned over to the association by
19 the developer. Within 60 days following the end of the fiscal
20 or calendar year or annually on such date as is otherwise
21 provided in the bylaws of the association, the board of
22 administration of the association shall mail or furnish by
23 personal delivery to each unit owner a complete financial
24 report of actual receipts and expenditures for the previous 12
25 months, or a complete set of financial statements for the
26 preceding fiscal year prepared in accordance with generally
27 accepted accounting principles. The report shall show the
28 amounts of receipts by accounts and receipt classifications
29 and shall show the amounts of expenses by accounts and expense
30 classifications, including, if applicable, but not limited to,
31 the following:

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- 1 ~~(a) Costs for security;~~
- 2 ~~(b) Professional and management fees and expenses;~~
- 3 ~~(c) Taxes;~~
- 4 ~~(d) Costs for recreation facilities;~~
- 5 ~~(e) Expenses for refuse collection and utility~~
- 6 ~~services;~~
- 7 ~~(f) Expenses for lawn care;~~
- 8 ~~(g) Costs for building maintenance and repair;~~
- 9 ~~(h) Insurance costs;~~
- 10 ~~(i) Administrative and salary expenses; and~~
- 11 ~~(j) Reserves for capital expenditures, deferred~~
- 12 ~~maintenance, and any other category for which the association~~
- 13 ~~maintains a reserve account or accounts.~~

14 ~~(14) The division shall adopt rules which may require~~

15 ~~that the association deliver to the unit owners, in lieu of~~

16 ~~the financial report required by subsection (13), a complete~~

17 ~~set of financial statements for the preceding fiscal year.~~

18 ~~The financial statements shall be delivered within 90 days~~

19 ~~following the end of the previous fiscal year or annually on~~

20 ~~such other date as provided by the bylaws. The rules of the~~

21 ~~division may require that the financial statements be~~

22 ~~compiled, reviewed, or audited, and the rules shall take into~~

23 ~~consideration the criteria set forth in s. 718.501(1)(j). The~~

24 ~~requirement to have the financial statements compiled,~~

25 ~~reviewed, or audited does not apply to associations when a~~

26 ~~majority of the voting interests of the association present at~~

27 ~~a duly called meeting of the association have determined for a~~

28 ~~fiscal year to waive this requirement. In an association in~~

29 ~~which turnover of control by the developer has not occurred,~~

30 ~~the developer may vote to waive the audit requirement for the~~

31 ~~first 2 years of the operation of the association, after which~~

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1 ~~time waiver of an applicable audit requirement shall be by a~~
2 ~~majority of voting interests other than the developer. The~~
3 ~~meeting shall be held prior to the end of the fiscal year, and~~
4 ~~the waiver shall be effective for only 1 fiscal year. This~~
5 ~~subsection does not apply to a condominium which consists of~~
6 ~~50 or fewer units.~~

7 (14)(15) COMMINGLING.--All funds collected by an
8 association shall be maintained separately in the
9 association's name. For investment purposes only, reserve
10 funds may be commingled with operating funds of the
11 association. Commingled operating and reserve funds shall be
12 accounted for separately and a commingled account shall not,
13 at any time, be less than the amount identified as reserve
14 funds. This subsection does not prohibit a multicondominium
15 association from commingling the operating funds of separate
16 condominiums or the reserve funds of separate condominiums.
17 Furthermore, for investment purposes only, a multicondominium
18 association may commingle the operating funds of separate
19 condominiums with the reserve funds of separate condominiums.
20 A manager or business entity required to be licensed or
21 registered under s. 468.432, or an agent, employee, officer,
22 or director of an association, shall not commingle any
23 association funds with his or her funds or with the funds of
24 any other condominium association or the funds of a community
25 association as defined in s. 468.431.~~All funds shall be~~
26 ~~maintained separately in the association's name. Reserve and~~
27 ~~operating funds of the association shall not be commingled~~
28 ~~unless combined for investment purposes. This subsection is~~
29 ~~not meant to prohibit prudent investment of association funds~~
30 ~~even if combined with operating or other reserve funds of the~~
31 ~~same association, but such funds must be accounted for~~

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1 ~~separately, and the combined account balance may not, at any~~
2 ~~time, be less than the amount identified as reserve funds in~~
3 ~~the combined account. No manager or business entity required~~
4 ~~to be licensed or registered under s. 468.432, and no agent,~~
5 ~~employee, officer, or director of a condominium association~~
6 ~~shall commingle any association funds with his or her funds or~~
7 ~~with the funds of any other condominium association or~~
8 ~~community association as defined in s. 468.431.~~

9 Section 53. Paragraphs (d), (e), and (f) of subsection
10 (2) of section 718.112, Florida Statutes, are amended to read:

11 718.112 Bylaws.--

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

15 (d) Unit owner meetings.--

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

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1 his or her right to vote restored pursuant to law in the
2 jurisdiction of his or her residence is not eligible for board
3 membership. The validity of an action by the board is not
4 affected if it is later determined that a member of the board
5 is ineligible for board membership due to having been
6 convicted of a felony.

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

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1 the address provided on the deed of record. An officer of the
2 association, or the manager or other person providing notice
3 of the association meeting, shall provide an affidavit or
4 United States Postal Service certificate of mailing, to be
5 included in the official records of the association affirming
6 that the notice was mailed or hand delivered, in accordance
7 with this provision, ~~to each unit owner at the address last~~
8 ~~furnished to the association.~~

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

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1 the association. ~~However,~~The association is not liable ~~has no~~
2 ~~liability~~ for the contents of the information sheets prepared
3 by the candidates. In order to reduce costs, the association
4 may print or duplicate the information sheets on both sides of
5 the paper. The division shall by rule establish voting
6 procedures consistent with the provisions contained herein,
7 including rules providing for the secrecy of ballots.
8 Elections shall be decided by a plurality of those ballots
9 cast. There shall be no quorum requirement; however, at least
10 20 percent of the eligible voters must cast a ballot in order
11 to have a valid election of members of the board ~~of~~
12 ~~administration~~. No unit owner shall permit any other person to
13 vote his or her ballot, and any such ballots improperly cast
14 shall be deemed invalid, provided any unit owner who violates
15 this provision may be fined by the association in accordance
16 with s. 718.303. A unit owner who needs assistance in casting
17 the ballot for the reasons stated in s. 101.051 may obtain
18 assistance in casting the ballot. ~~Any unit owner violating~~
19 ~~this provision may be fined by the association in accordance~~
20 ~~with s. 718.303~~.The regular election shall occur on the date
21 of the annual meeting. The provisions of this subparagraph
22 shall not apply to timeshare condominium associations.
23 Notwithstanding the provisions of this subparagraph, an
24 election is ~~and balloting are~~ not required unless more
25 candidates file notices of intent to run or are nominated than
26 board vacancies exist ~~on the board~~.

27 4. Any approval by unit owners called for by this
28 chapter or the applicable declaration or bylaws, including,
29 but not limited to, the approval requirement in s. 718.111(8),
30 shall be made at a duly noticed meeting of unit owners and
31 shall be subject to all requirements of this chapter or the

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1 applicable condominium documents relating to unit owner
2 decisionmaking, except that unit owners may take action by
3 written agreement, without meetings, on matters for which
4 action by written agreement without meetings is expressly
5 allowed by the applicable bylaws or declaration or any statute
6 that provides for such action.

7 5. Unit owners may waive notice of specific meetings
8 if allowed by the applicable bylaws or declaration or any
9 statute.

10 6. Unit owners shall have the right to participate in
11 meetings of unit owners with reference to all designated
12 agenda items. However, the association may adopt reasonable
13 rules governing the frequency, duration, and manner of unit
14 owner participation.

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

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

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1 adopted by the division.

2

3 Notwithstanding subparagraphs (b)2. and (d)3., an association
4 may, by the affirmative vote of a majority of the total voting
5 interests, provide for different voting and election
6 procedures in its bylaws, which vote may be by a proxy
7 specifically delineating the different voting and election
8 procedures. The different voting and election procedures may
9 provide for elections to be conducted by limited or general
10 proxy.

11 (e) Budget meeting.--

12 1. Any meeting at which a proposed annual budget of an
13 association will be considered by the board or unit owners
14 shall be open to all unit owners. At least 14 days prior to
15 such a meeting, the board shall hand deliver to each unit
16 owner, or mail to each unit owner at the address last
17 furnished to the association by the unit owner, a notice of
18 such meeting and a copy of the proposed annual budget. An
19 officer or manager of the association, or other person
20 providing notice of such meeting, shall execute an affidavit
21 evidencing compliance with such notice requirement and such
22 affidavit shall be filed among the official records of the
23 association.

24 2.a. If a board adopts in any fiscal year an annual
25 budget which requires assessments against unit owners which
26 exceed 115 percent of assessments for the preceding fiscal
27 year, the board shall conduct a special meeting of the unit
28 owners to consider a substitute budget if the board receives,
29 within 21 days after adoption of the annual budget, a written
30 request for a special meeting from at least 10 percent of all
31 voting interests. The special meeting shall be conducted

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1 within 60 days after adoption of the annual budget. At least
2 14 days prior to such special meeting, the board shall hand
3 deliver to each unit owner, or mail to each unit owner at the
4 address last furnished to the association, a notice of the
5 meeting. An officer or manager of the association, or other
6 person providing notice of such meeting shall execute an
7 affidavit evidencing compliance with this notice requirement
8 and such affidavit shall be filed among the official records
9 of the association. Unit owners may consider and adopt a
10 substitute budget at the special meeting. A substitute budget
11 is adopted if approved by a majority of all voting interests
12 unless the bylaws require adoption by a greater percentage of
13 voting interests. If there is not a quorum at the special
14 meeting or a substitute budget is not adopted, the annual
15 budget previously adopted by the board shall take effect as
16 scheduled.

17 b. Any determination of whether assessments exceed 115
18 percent of assessments for the prior fiscal year shall exclude
19 any authorized provision for reasonable reserves for repair or
20 replacement of the condominium property, anticipated expenses
21 of the association which the board does not expect to be
22 incurred on a regular or annual basis, or assessments for
23 betterments to the condominium property.

24 c. If the developer controls the board, assessments
25 shall not exceed 115 percent of assessments for the prior
26 fiscal year unless approved by a majority of all voting
27 interests.~~The board of administration shall hand deliver to~~
28 ~~each unit owner, or mail to each unit owner at the address~~
29 ~~last furnished to the association, a meeting notice and copies~~
30 ~~of the proposed annual budget of common expenses not less than~~
31 ~~14 days prior to the meeting of the unit owners or the board~~

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

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1 ~~control of the board of administration, the board may not~~
2 ~~impose an assessment for any year greater than 115 percent of~~
3 ~~the prior fiscal or calendar year's assessment without~~
4 ~~approval of a majority of all the voting interests.~~

5 (f) Annual budget.--

6 1. The proposed annual budget of common expenses shall
7 be detailed and shall show the amounts budgeted by accounts
8 and expense classifications, including, if applicable, but not
9 limited to, those expenses listed in s. 718.504(21)~~s.~~

10 718.504(20). A multicondominium association shall adopt a
11 separate budget of common expenses for each condominium the
12 association operates and shall adopt a separate budget of
13 common expenses for the association.In addition, if the
14 association maintains limited common elements with the cost to
15 be shared only by those entitled to use the limited common
16 elements as provided for in s. 718.113(1), the budget or a
17 schedule attached thereto shall show amounts budgeted
18 therefor. If, after turnover of control of the association to
19 the unit owners, any of the expenses listed in s. 718.504(21)
20 ~~s. 718.504(20)~~are not applicable, they need not be listed.

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

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

26 3. Reserve funds and any interest accruing thereon
27 shall remain in the reserve account or accounts, and shall be
28 used only for authorized reserve expenditures unless their use
29 for other purposes is approved in advance by a majority vote
30 at a duly called meeting of the association. Prior to turnover
31 of control of an association by a developer to unit owners

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1 other than the developer pursuant to s. 718.301, the
2 developer-controlled association shall not vote to use
3 reserves for purposes other than that for which they were
4 intended without the approval 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.

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

13 Section 54. Subsection (2) of section 718.113, Florida
14 Statutes, is amended to read:

15 718.113 Maintenance; limitation upon improvement;
16 display of flag; hurricane shutters.--

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

25 (b) There shall not be any material alteration of, or
26 substantial addition to, the common elements of any
27 condominium operated by a multicondominium association unless
28 approved in the manner provided in the declaration of the
29 affected condominium or condominiums. If a declaration does
30 not specify a procedure for approving such an alteration or
31 addition, the approval of 75 percent of the total voting

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1 interests of each affected condominium is required. This
 2 subsection does not prohibit a provision in any declaration,
 3 articles of incorporation, or bylaws requiring the approval of
 4 unit owners in any condominium operated by the same
 5 association or requiring board approval before a material
 6 alteration or substantial addition to the common elements is
 7 permitted.

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

16 Section 55. Section 718.115, Florida Statutes, is
 17 amended to read:

18 718.115 Common expenses and common surplus.--
 19 (1)(a) Common expenses include the expenses of the
 20 operation, maintenance, repair, replacement, or protection of
 21 the common elements and association property, costs of
 22 carrying out the powers and duties of the association, and any
 23 other expense, whether or not included in the foregoing,
 24 designated as common expense by this chapter, the declaration,
 25 the documents creating the association, or the bylaws. Common
 26 expenses also include reasonable transportation services,
 27 insurance for directors and officers, road maintenance and
 28 operation expenses, in-house communications, and security
 29 services, which are reasonably related to the general benefit
 30 of the unit owners even if such expenses do not attach to the
 31 common elements or property of the condominium. However, such

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1 common expenses must either have been services or items
2 provided on or after ~~from~~ the date ~~the~~ control of the board of
3 ~~administration~~ of the association is ~~was~~ transferred from the
4 developer to the unit owners or must be services or items
5 provided for in the condominium documents or bylaws.

6 (b) The common expenses of a condominium within a
7 multicondominium are the common expenses directly attributable
8 to the operation of that condominium. The common expenses of a
9 multicondominium association do not include the common
10 expenses directly attributable to the operation of any
11 specific condominium or condominiums within the
12 multicondominium.

13 (c) The common expenses of a multicondominium
14 association may include categories of expenses related to the
15 property or common elements within a specific condominium in
16 the multicondominium if such property or common elements are
17 areas in which all members of the multicondominium association
18 have use rights or from which all members receive tangible
19 economic benefits. Such common expenses of the association
20 shall be identified in the declaration or bylaws of each
21 condominium within the multicondominium association.

22 (d) ~~(b)~~ If so provided in the declaration, the cost of
23 a master antenna television system or duly franchised cable
24 television service obtained pursuant to a bulk contract shall
25 be deemed a common expense. If the declaration does not
26 provide for the cost of a master antenna television system or
27 duly franchised cable television service obtained under a bulk
28 contract as a common expense, the board ~~of administration~~ may
29 enter into such a contract, and the cost of the service will
30 be a common expense but allocated on a per-unit basis rather
31 than a percentage basis if the declaration provides for other

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1 than an equal sharing of common expenses, and any contract
2 entered into before July 1, 1998, in which the cost of the
3 service is not equally divided among all unit owners, may be
4 changed by vote of a majority of the voting interests present
5 at a regular or special meeting of the association, to
6 allocate the cost equally among all units. The contract shall
7 be for a term of not less than 2 years.

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

18 2. Any such contract shall provide, and shall be
19 deemed to provide if not expressly set forth, that any hearing
20 impaired or legally blind unit owner who does not occupy the
21 unit with a non-hearing-impaired or sighted person, or any
22 unit owner receiving supplemental security income under Title
23 XVI of the Social Security Act or food stamps as administered
24 by the Department of Children and Family Services pursuant to
25 s. 414.31, may discontinue the service without incurring
26 disconnect fees, penalties, or subsequent service charges, and
27 as to such units, the owners shall not be required to pay any
28 common expenses charge related to such service. If less than
29 all members of an association share the expenses of cable
30 television, the expense shall be shared equally by all
31 participating unit owners. The association may use the

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1 provisions of s. 718.116 to enforce payment of the shares of
2 such costs by the unit owners receiving cable television.

3 (e)~~(c)~~ The expense of installation, replacement,
4 operation, repair, and maintenance of hurricane shutters by
5 the board pursuant to s. 718.113(5) shall constitute a common
6 expense as defined herein and shall be collected as provided
7 in this section. Notwithstanding the provisions of s.
8 718.116(9), a unit owner who has previously installed
9 hurricane shutters in accordance with s. 718.113(5) or
10 laminated glass architecturally designed to function as
11 hurricane protection which complies with the applicable
12 building code shall receive a credit equal to the pro rata
13 portion of the assessed installation cost assigned to each
14 unit. However, such unit owner shall remain responsible for
15 the pro rata share of expenses for hurricane shutters
16 installed on common elements and association property by the
17 board pursuant to s. 718.113(5), and shall remain responsible
18 for a pro rata share of the expense of the replacement,
19 operation, repair, and maintenance of such shutters.

20 (f)~~(d)~~ If any unpaid share of common expenses or
21 assessments is extinguished by foreclosure of a superior lien
22 or by a deed in lieu of foreclosure thereof, the unpaid share
23 of common expenses or assessments are common expenses
24 collectible from all the unit owners in the condominium in
25 which the unit is located.

26 (2) Except as otherwise provided by this chapter,
27 funds for ~~the~~ payment of the common expenses of a condominium
28 shall be collected by assessments against the units in that
29 condominium ~~unit owners~~ in the proportions or percentages
30 provided in that condominium's ~~the~~ declaration. In a
31 residential condominium, or mixed-use condominium created

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1 after January 1, 1996, each unit's share ~~unit owners' shares~~
2 of the common expenses of the condominium and common surplus
3 of the condominium shall be the same as the unit's appurtenant
4 ~~in the same proportions as their ownership interest in the~~
5 common elements.

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

8 (4)(a) Funds for payment of the common expenses of a
9 condominium within a multicondominium shall be collected as
10 provided in subsection (2). Common expenses of a
11 multicondominium association shall be funded by assessments
12 against all unit owners in the association in the proportion
13 or percentage set forth in the declaration as required by s.
14 718.104(4)(h) or s. 718.110(12), as applicable.

15 (b) In a multicondominium association, the total
16 common surplus owned by a unit owner consists of that owner's
17 share of the common surplus of the association plus that
18 owner's share of the common surplus of the condominium in
19 which the owner's unit is located, in the proportion or
20 percentage set forth in the declaration as required by s.
21 718.104(4)(h) or s. 718.110(12), as applicable.

22 Section 56. Subsection (9) of section 718.116, Florida
23 Statutes, is amended to read:

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

26 718.116 Assessments; liability; lien and priority;
27 interest; collection.--

28 (9)(a) A unit owner may not be excused from payment of
29 the unit owner's share of common expenses unless all other
30 unit owners are likewise proportionately excluded from
31 payment, except as provided in subsection (1) and in the

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1 following cases:

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

23 2. A developer who owns condominium units, and who is
24 offering the units for sale, may be excused from payment of
25 assessments against those unsold units for the period of time
26 the developer has guaranteed to all purchasers or other unit
27 owners in the same condominium that assessments will not
28 exceed a stated dollar amount and that the developer will pay
29 any common expenses that exceed the guaranteed amount. Such
30 guarantee may be stated in the purchase contract, declaration,
31 prospectus, or written agreement between the developer and a

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1 majority of the unit owners other than the developer and may
2 provide that after the initial guarantee period, the developer
3 may extend the guarantee for one or more stated periods. If a
4 developer-controlled association has maintained all insurance
5 coverage required by s. 718.111(11)(a), common expenses
6 incurred during a guarantee period, as a result of a natural
7 disaster or an act of God occurring during the same guarantee
8 period, which are not covered by the proceeds from such
9 insurance, may be assessed against all unit owners owning
10 units on the date of such natural disaster or act of God, and
11 their successors and assigns, including the developer with
12 respect to units owned by the developer. Any such assessment
13 shall be in accordance with s. 718.115(2) or (4), as
14 applicable.

15 (b) If the purchase contract, declaration, prospectus,
16 or written agreement between the developer and a majority of
17 unit owners other than the developer, provides for the
18 developer to be excused from payment of assessments under
19 paragraph (a), only regular periodic assessments for common
20 expenses as provided for in the declaration and prospectus and
21 disclosed in the estimated operating budget shall be used for
22 payment of common expenses during any period in which the
23 developer is excused. Accordingly, no funds which are
24 receivable from unit purchasers or unit owners and payable to
25 the association, including capital contributions or startup
26 funds collected from unit purchasers at closing, may be used
27 for payment of such common expenses.

28 (c) If a developer of a multicondominium is excused
29 from payment of assessments under paragraph (a), the
30 developer's financial obligation to the multicondominium
31 association during any period in which the developer is

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1 excused from payment of assessments is as follows:

2 1. The developer shall pay the common expenses of a
3 condominium affected by a guarantee, including the funding of
4 reserves as provided in the adopted annual budget of that
5 condominium, which exceed the regular periodic assessments at
6 the guaranteed level against all other unit owners within that
7 condominium.

8 2. The developer shall pay the common expenses of a
9 multicondominium association, including the funding of
10 reserves as provided in the adopted annual budget of the
11 association, which are allocated to units within a condominium
12 affected by a guarantee and which exceed the regular periodic
13 assessments against all other unit owners within that
14 condominium.

15 Section 57. Subsection (11) is added to section
16 718.117, Florida Statutes, to read:

17 718.117 Termination.--

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

21 Section 58. Subsection (8) of section 718.403, Florida
22 Statutes, is amended to read:

23 718.403 Phase condominiums.--

24 (8) Upon recording the declaration of condominium or
25 amendments adding phases pursuant to this section, the
26 developer shall file the recording information with the
27 division within 120 Calendar ~~30 working~~ days on a form
28 prescribed by the division.

29 Section 59. Section 718.405, Florida Statutes, is
30 created to read:

31 718.405 Multicondominiums; multicondominium

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1 associations.--

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

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

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

18 (c) Recreational and other commonly used facilities or
19 amenities which the developer has committed to provide that
20 will be owned, leased by, or dedicated by a recorded plat to
21 the association but which are not included within any
22 condominium operated by the association. The developer may
23 reserve the right to add additional facilities or amenities if
24 the declaration and prospectus for each condominium to be
25 operated by the association contains the following statement
26 in conspicuous type and in substantially the following form:

27 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT
28 CONSENT OF UNIT OWNERS OR THE ASSOCIATION.

29 (d) The voting rights of the unit owners in the
30 election of directors and in other multicondominium
31 association affairs when a vote of the owners is taken,

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1 including, but not limited to, a statement as to whether each
2 unit owner will have a right to personally cast his or her own
3 vote in all matters voted upon.

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

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

21 (4) This section does not prevent or restrict the
22 formation of a multicondominium by the merger or consolidation
23 of two or more condominium associations. Mergers or
24 consolidations of associations shall be accomplished in
25 accordance with this chapter, the declarations of the
26 condominiums being merged or consolidated, and chapter 617.
27 Section 718.110(4) does not apply to amendments to
28 declarations necessary to effect a merger or consolidation.

29 Section 60. Section 718.5019, Florida Statutes, is
30 repealed.

31 Section 61. Present subsections (15) through (27) of

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1 section 718.504, Florida Statutes, are redesignated as
2 subsections (16) through (28), respectively, and a new
3 subsection (15) is added to that section, to read:

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

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

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

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

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

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

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

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

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

10 Section 62. Paragraph (j) of subsection (1) of section
11 718.501, Florida Statutes, is repealed.

12
13 (Redesignate subsequent sections.)

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15
16 ===== T I T L E A M E N D M E N T =====

17 And the title is amended as follows:

18 On page 1, lines 2 and 3, delete those lines,
19
20 and insert:

21 An act relating to real property; amending s.
22 617.3075, F.S.; prohibiting homeowners'
23 associations from prohibiting display of the
24 United States flag; amending s. 718.103, F.S.;
25 revising definitions; providing an additional
26 definition; amending s. 718.104, F.S.;
27 providing additional requirements for a
28 declaration of condominium; modifying time
29 period for filing recorded documents; providing
30 for determining the percentage share of
31 liability for common expenses and ownership;

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

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1 expenses that constitute common expenses of a
2 multicondominium association; providing for an
3 association's bylaws to allow certain
4 educational expenses of the officers or
5 directors to be a permitted common expense;
6 amending s. 718.115, F.S.; providing for
7 determining the common surplus owned by a unit
8 owner of a multicondominium; authorizing
9 condominium households receiving supplemental
10 security income or food stamps to discontinue
11 cable television service without fees,
12 penalties, or service charges; amending s.
13 718.116, F.S.; revising circumstances under
14 which a developer may be excused from paying
15 certain common expenses and assessments;
16 providing for the developer's obligation for
17 such expenses with respect to a
18 multicondominium association; amending s.
19 718.117, F.S.; providing that certain
20 requirements governing the termination of a
21 condominium are inapplicable to the merger of a
22 condominium with one or more other
23 condominiums; amending s. 718.403, F.S.;
24 modifying time period for filing recorded
25 documents; creating s. 718.405, F.S.; providing
26 for the creation of multicondominiums;
27 providing requirements for the declaration of
28 condominium; providing for the merger or
29 consolidation of condominium associations;
30 repealing s. 718.5019, F.S., relating to the
31 Advisory Council on Condominiums; amending s.

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1 718.504, F.S.; providing requirements for the
2 prospectus or offering circular for a
3 condominium that is or may become part of a
4 multicondominium; amending s. 721.13, F.S.;
5 conforming a cross-reference; repealing s.
6 718.501(1)(j), F.S., relating to uniform
7 accounting principles, policies, and standards
8 required to be adopted by the Division of
9 Florida Land Sales, Condominiums, and Mobile
10 Homes of the Department of Business and
11 Professional Regulation; amending s. 719.103,
12 F.S.; providing for

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