

Bill No. CS/CS/HB 593

Amendment No.

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Saunders moved the following amendment:

Senate Amendment (with title amendment)

On page 178, line 15, through page 179, line 10, delete those lines

and insert:

Section 47. 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(33)~~s. 721.05(30)~~ shall govern the intended use of
19 each unit in the condominium. If a condominium is a
20 residential condominium but contains units intended to be used
21 for commercial or industrial purposes, then, with respect to
22 those units which are not intended for or used as private
23 residences, the condominium is not a residential condominium.
24 A condominium which contains both commercial and residential
25 units is a mixed-use condominium and is subject to the
26 requirements of s. 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 48. 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 49. 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 50. Subsections (4) and (9) of section
16 718.110, Florida Statutes, are amended, and subsection (12) is
17 added to that 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 51. 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 at
14 least \$200,000, but less than \$400,000, shall prepare reviewed
15 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
24 financial statements required by paragraph (a).

25 3. A report of cash receipts and disbursements must
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 and
30 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 52. 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 53. 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 54. 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 55. Subsection (9) of section 718.116, Florida
8 Statutes, is amended to read:

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

11 718.116 Assessments; liability; lien and priority;
12 interest; collection.--

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

18 1. If authorized by the declaration, a developer who
19 is offering units for sale may elect to be excused from
20 payment of assessments against those unsold units for a stated
21 period of time after the declaration is recorded. However,
22 the developer must pay common expenses incurred during such
23 period which exceed regular periodic assessments against other
24 unit owners in the same condominium. The stated period must
25 terminate no later than the first day of the fourth calendar
26 month following the month in which the first closing occurs of
27 a purchase contract for a unit in that condominium. If a
28 developer-controlled association has maintained all insurance
29 coverage required by s. 718.111(11)(a), common expenses
30 incurred during the stated period resulting from a natural
31 disaster or an act of God occurring during the stated period,

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1 which are not covered by proceeds from insurance maintained by
2 the association, may be assessed against all unit owners
3 owning units on the date of such natural disaster or act of
4 God, and their respective successors and assigns, including
5 the developer with respect to units owned by the developer. In
6 the event of such an assessment, all units shall be assessed
7 in accordance with s. 718.115(2).

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

31 (b) If the purchase contract, declaration, prospectus,

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

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

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

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

31 Section 56. Subsection (11) is added to section

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1 718.117, Florida Statutes, to read:

2 718.117 Termination.--

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

6 Section 57. Subsection (8) of section 718.403, Florida
7 Statutes, is amended to read:

8 718.403 Phase condominiums.--

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

14 Section 58. Section 718.405, Florida Statutes, is
15 created to read:

16 718.405 Multicondominiums; multicondominium
17 associations.--

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

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

28 (b) Whether unit owners in any other condominium, or
29 any other persons, will or may have the right to use
30 recreational areas or any other facilities or amenities that
31 are common elements of the condominium, and, if so, the

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1 specific formula by which the other users will share the
2 common expenses related to those facilities or amenities.

3 (c) Recreational and other commonly used facilities or
4 amenities which the developer has committed to provide that
5 will be owned, leased by, or dedicated by a recorded plat to
6 the association but which are not included within any
7 condominium operated by the association. The developer may
8 reserve the right to add additional facilities or amenities if
9 the declaration and prospectus for each condominium to be
10 operated by the association contains the following statement
11 in conspicuous type and in substantially the following form:
12 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT
13 CONSENT OF UNIT OWNERS OR THE ASSOCIATION.

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

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

29 (3) The declaration for each condominium to be
30 operated by a multicondominium association may not, at the
31 time of the initial recording of the declaration, contain any

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1 provision with respect to allocation of the association's
2 assets, liabilities, common surplus, or common expenses which
3 is inconsistent with this chapter or the provisions of a
4 declaration for any other condominium then being operated by
5 the multicondominium association.

6 (4) This section does not prevent or restrict the
7 formation of a multicondominium by the merger or consolidation
8 of two or more condominium associations. Mergers or
9 consolidations of associations shall be accomplished in
10 accordance with this chapter, the declarations of the
11 condominiums being merged or consolidated, and chapter 617.
12 Section 718.110(4) does not apply to amendments to
13 declarations necessary to effect a merger or consolidation.

14 Section 59. Subsection (1) of section 718.5019,
15 Florida Statutes, is amended to read:

16 718.5019 Advisory council; membership; functions.--

17 (1) There is created the Advisory Council on
18 Condominiums. The council shall consist of seven members. Two
19 shall be appointed by the Speaker of the House of
20 Representatives, two shall be appointed by the President of
21 the Senate, and three members shall be appointed by the
22 Governor. At least one member shall represent timeshare
23 condominiums. Members shall be appointed to 2-year terms. Each
24 member shall continue to serve until his or her replacement
25 has been appointed.In addition to these appointed members,
26 the director of the Division of Florida Land Sales,
27 Condominiums, and Mobile Homes shall serve as an ex officio
28 member of the council. It is the intent of the Legislature
29 that the appointments to this council be geographically
30 distributed across the state and represent a cross section of
31 persons interested in condominium issues and include

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1 unit-owner and board representatives and a representative from
 2 at least one association with less than 100 units. For
 3 administrative purposes, the commission shall be located in
 4 the Division of Florida Land Sales, Condominiums, and Mobile
 5 Homes of the Department of Business and Professional
 6 Regulation. Members of the council shall serve without
 7 compensation, but shall be entitled to receive per diem and
 8 travel expenses pursuant to s. 112.061 while on official
 9 business.

10 Section 60. Present subsections (15) through (27) of
 11 section 718.504, Florida Statutes, are redesignated as
 12 subsections (16) through (28), respectively, and a new
 13 subsection (15) is added to that section, to read:

14 718.504 Prospectus or offering circular.--Every
 15 developer of a residential condominium which contains more
 16 than 20 residential units, or which is part of a group of
 17 residential condominiums which will be served by property to
 18 be used in common by unit owners of more than 20 residential
 19 units, shall prepare a prospectus or offering circular and
 20 file it with the Division of Florida Land Sales, Condominiums,
 21 and Mobile Homes prior to entering into an enforceable
 22 contract of purchase and sale of any unit or lease of a unit
 23 for more than 5 years and shall furnish a copy of the
 24 prospectus or offering circular to each buyer. In addition to
 25 the prospectus or offering circular, each buyer shall be
 26 furnished a separate page entitled "Frequently Asked Questions
 27 and Answers," which shall be in accordance with a format
 28 approved by the division and a copy of the financial
 29 information required by s. 718.111. This page shall, in
 30 readable language, inform prospective purchasers regarding
 31 their voting rights and unit use restrictions, including

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

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

24 (a) A statement in conspicuous type in substantially
25 the following form: THIS CONDOMINIUM IS (MAY BE) PART OF A
26 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL
27 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately
28 following this statement, the location in the prospectus or
29 offering circular and its exhibits where the multicondominium
30 aspects of the offering are described must be stated.

31 (b) A summary of the provisions in the declaration,

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1 articles of incorporation, and bylaws which establish and
2 provide for the operation of the multicondominium, including a
3 statement as to whether unit owners in the condominium will
4 have the right to use recreational or other facilities located
5 or planned to be located in other condominiums operated by the
6 same association, and the manner of sharing the common
7 expenses related to such facilities.

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

13 (d) A statement as to whether any of the condominiums
14 in the multicondominium may include units intended to be used
15 for nonresidential purposes and the purpose or purposes
16 permitted for such use.

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

20 Section 61. Paragraph (j) of subsection (1) of section
21 718.501, Florida Statutes, is repealed.

22
23 (Redesignate subsequent sections.)

24
25
26 ===== T I T L E A M E N D M E N T =====

27 And the title is amended as follows:

28 On page 1, lines 2 and 3, delete those lines,

29
30 and insert:

31 An act relating to real property; amending s.

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1 718.103, F.S.; revising definitions; providing
2 an additional definition; amending s. 718.104,
3 F.S.; providing additional requirements for a
4 declaration of condominium; modifying time
5 period for filing recorded documents; providing
6 for determining the percentage share of
7 liability for common expenses and ownership;
8 amending s. 718.106, F.S.; providing for the
9 right to assign exclusive use; providing for
10 the right to seek election; amending s.
11 718.110, F.S.; clarifying requirements for
12 amending and recording the declaration of
13 condominium; providing for determining the
14 percentage share of liability for common
15 expenses and ownership for purposes of
16 condominiums comprising a multicondominium
17 development; amending s. 718.111, F.S.;
18 clarifying an attorney-client privilege;
19 revising requirements for financial reporting;
20 authorizing certain financial statements in
21 lieu of reports; deleting requirements for
22 financial statements; revising certain
23 limitations on the commingling of funds
24 maintained in the name of a condominium
25 association or multicondominium; amending s.
26 718.112, F.S.; revising requirements for budget
27 meetings; requiring separate budgets for
28 condominiums and associations; providing
29 conditions under which a multicondominium
30 association may waive or reduce its funding of
31 reserves; amending s. 718.113, F.S.; providing

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1 certain limitations on making material
2 alterations or additions to multicondominiums;
3 providing a procedure for approving an
4 alteration or addition if not provided for in
5 the bylaws; revising requirements for
6 condominium boards with respect to installing
7 and maintaining hurricane shutters; specifying
8 expenses that constitute common expenses of a
9 multicondominium association; providing for an
10 association's bylaws to allow certain
11 educational expenses of the officers or
12 directors to be a permitted common expense;
13 amending s. 718.115, F.S.; providing for
14 determining the common surplus owned by a unit
15 owner of a multicondominium; amending s.
16 718.116, F.S.; revising circumstances under
17 which a developer may be excused from paying
18 certain common expenses and assessments;
19 providing for the developer's obligation for
20 such expenses with respect to a
21 multicondominium association; amending s.
22 718.117, F.S.; providing that certain
23 requirements governing the termination of a
24 condominium are inapplicable to the merger of a
25 condominium with one or more other
26 condominiums; amending s. 718.403, F.S.;
27 modifying time period for filing recorded
28 documents; creating s. 718.405, F.S.; providing
29 for the creation of multicondominiums;
30 providing requirements for the declaration of
31 condominium; providing for the merger or

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1 consolidation of condominium associations;
 2 amending s. 718.5019, F.S.; providing for a
 3 member's continued service until a replacement
 4 has been appointed; amending s. 718.504, F.S.;
 5 providing requirements for the prospectus or
 6 offering circular for a condominium that is or
 7 may become part of a multicondominium; amending
 8 s. 721.13, F.S.; conforming a cross-reference;
 9 repealing s. 718.501(1)(j), F.S., relating to
 10 uniform accounting principles, policies, and
 11 standards required to be adopted by the
 12 Division of Florida Land Sales, Condominiums,
 13 and Mobile Homes of the Department of Business
 14 and Professional Regulation; amending s.
 15 719.103, F.S.; providing for

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