

By the Committee on Business Regulation and  
Representatives Kyle, Gottlieb and Cantens

1                                   A bill to be entitled  
2           An act relating to condominiums; amending s.  
3           718.1255, F.S., relating to alternative dispute  
4           resolution procedures; providing for the  
5           expedited handling of any allegation of an  
6           irregularity in the election of any director of  
7           the board of administration of a condominium;  
8           amending s. 702.09, F.S.; revising the  
9           definitions of the terms "mortgage" and  
10          "foreclosure proceedings"; amending s. 718.104,  
11          F.S., revising language with respect to  
12          declarations for the creation of a condominium;  
13          amending s. 718.106, F.S.; revising language  
14          with respect to appurtenances that pass with a  
15          condominium unit; amending s. 718.110, F.S.;  
16          revising language with respect to amendments to  
17          a declaration of condominium; amending s.  
18          718.111, F.S.; revising language with respect  
19          to the association; amending s. 718.112, F.S.;  
20          revising language with respect to bylaws;  
21          amending s. 718.113, F.S.; revising language  
22          with respect to material alterations of common  
23          elements or association real property operated  
24          by a multicondominium association; amending s.  
25          718.115, F.S.; revising language with respect  
26          to common expenses; amending s. 718.405, F.S.;  
27          revising language with respect to  
28          multicondominiums and multicondominium  
29          associations; amending s. 718.503, F.S.,  
30          relating to disclosure requirements for the  
31          sale of certain condominiums; removing the

1 requirement that question and answer sheets be  
2 part of the closing documents; amending s.  
3 718.504, F.S.; revising language with respect  
4 to the prospectus or offering circular;  
5 providing an effective date.  
6

7 Be It Enacted by the Legislature of the State of Florida:  
8

9 Section 1. Subsection (5) is added to section  
10 718.1255, Florida Statutes, to read:

11 718.1255 Alternative dispute resolution; voluntary  
12 mediation; mandatory nonbinding arbitration; disputes  
13 involving election irregularities; legislative findings.--

14 (1) DEFINITIONS.--As used in this section, the term  
15 "dispute" means any disagreement between two or more parties  
16 that involves:

17 (a) The authority of the board of directors, under  
18 this chapter or association document to:

19 1. Require any owner to take any action, or not to  
20 take any action, involving that owner's unit or the  
21 appurtenances thereto.

22 2. Alter or add to a common area or element.

23 (b) The failure of a governing body, when required by  
24 this chapter or an association document, to:

25 1. Properly conduct elections.

26 2. Give adequate notice of meetings or other actions.

27 3. Properly conduct meetings.

28 4. Allow inspection of books and records.  
29

30 "Dispute" does not include any disagreement that primarily  
31 involves: title to any unit or common element; the

1 interpretation or enforcement of any warranty; the levy of a  
2 fee or assessment, or the collection of an assessment levied  
3 against a party; the eviction or other removal of a tenant  
4 from a unit; alleged breaches of fiduciary duty by one or more  
5 directors; or claims for damages to a unit based upon the  
6 alleged failure of the association to maintain the common  
7 elements or condominium property.

8 (2) VOLUNTARY MEDIATION.--Voluntary mediation through  
9 Citizen Dispute Settlement Centers as provided for in s.  
10 44.201 is encouraged.

11 (3) LEGISLATIVE FINDINGS.--

12 (a) The Legislature finds that unit owners are  
13 frequently at a disadvantage when litigating against an  
14 association. Specifically, a condominium association, with its  
15 statutory assessment authority, is often more able to bear the  
16 costs and expenses of litigation than the unit owner who must  
17 rely on his or her own financial resources to satisfy the  
18 costs of litigation against the association.

19 (b) The Legislature finds that the courts are becoming  
20 overcrowded with condominium and other disputes, and further  
21 finds that alternative dispute resolution has been making  
22 progress in reducing court dockets and trials and in offering  
23 a more efficient, cost-effective option to court litigation.  
24 However, the Legislature also finds that alternative dispute  
25 resolution should not be used as a mechanism to encourage the  
26 filing of frivolous or nuisance suits.

27 (c) There exists a need to develop a flexible means of  
28 alternative dispute resolution that directs disputes to the  
29 most efficient means of resolution.

30 (d) The high cost and significant delay of circuit  
31 court litigation faced by unit owners in the state can be

1 alleviated by requiring nonbinding arbitration and mediation  
2 in appropriate cases, thereby reducing delay and attorney's  
3 fees while preserving the right of either party to have its  
4 case heard by a jury, if applicable, in a court of law.

5 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF  
6 DISPUTES.--The Division of Florida Land Sales, Condominiums,  
7 and Mobile Homes of the Department of Business and  
8 Professional Regulation shall employ full-time attorneys to  
9 act as arbitrators to conduct the arbitration hearings  
10 provided by this chapter. The division may also certify  
11 attorneys who are not employed by the division to act as  
12 arbitrators to conduct the arbitration hearings provided by  
13 this section. No person may be employed by the department as a  
14 full-time arbitrator unless he or she is a member in good  
15 standing of The Florida Bar. The department shall promulgate  
16 rules of procedure to govern such arbitration hearings  
17 including mediation incident thereto. The decision of an  
18 arbitrator shall be final; however, such a decision shall not  
19 be deemed final agency action. Nothing in this provision shall  
20 be construed to foreclose parties from proceeding in a trial  
21 de novo unless the parties have agreed that the arbitration is  
22 binding. If such judicial proceedings are initiated, the final  
23 decision of the arbitrator shall be admissible in evidence in  
24 the trial de novo.

25 (a) Prior to the institution of court litigation, a  
26 party to a dispute shall petition the division for nonbinding  
27 arbitration. The petition must be accompanied by a filing fee  
28 in the amount of \$50. Filing fees collected under this  
29 section must be used to defray the expenses of the alternative  
30 dispute resolution program.

31

1 (b) The petition must recite, and have attached  
2 thereto, supporting proof that the petitioner gave the  
3 respondents:

4 1. Advance written notice of the specific nature of  
5 the dispute;

6 2. A demand for relief, and a reasonable opportunity  
7 to comply or to provide the relief; and

8 3. Notice of the intention to file an arbitration  
9 petition or other legal action in the absence of a resolution  
10 of the dispute.

11  
12 Failure to include the allegations or proof of compliance with  
13 these prerequisites requires dismissal of the petition without  
14 prejudice.

15 (c) Upon receipt, the petition shall be promptly  
16 reviewed by the division to determine the existence of a  
17 dispute and compliance with the requirements of paragraphs (a)  
18 and (b). If emergency relief is required and is not available  
19 through arbitration, a motion to stay the arbitration may be  
20 filed. The motion must be accompanied by a verified petition  
21 alleging facts that, if proven, would support entry of a  
22 temporary injunction, and if an appropriate motion and  
23 supporting papers are filed, the division may abate the  
24 arbitration pending a court hearing and disposition of a  
25 motion for temporary injunction.

26 (d) Upon determination by the division that a dispute  
27 exists and that the petition substantially meets the  
28 requirements of paragraphs (a) and (b) and any other  
29 applicable rules, a copy of the petition shall forthwith be  
30 served by the division upon all respondents.

31

1           (e) Either before or after the filing of the  
2 respondents' answer to the petition, any party may request  
3 that the arbitrator refer the case to mediation under this  
4 section and any rules adopted by the division. Upon receipt  
5 of a request for mediation, the division shall promptly  
6 contact the parties to determine if there is agreement that  
7 mediation would be appropriate. If all parties agree, the  
8 dispute must be referred to mediation. Notwithstanding a lack  
9 of an agreement by all parties, the arbitrator may refer a  
10 dispute to mediation at any time.

11           (f) Upon referral of a case to mediation, the parties  
12 must select a mutually acceptable mediator. To assist in the  
13 selection, the arbitrator shall provide the parties with a  
14 list of both volunteer and paid mediators that have been  
15 certified by the division under s. 718.501. If the parties  
16 are unable to agree on a mediator within the time allowed by  
17 the arbitrator, the arbitrator shall appoint a mediator from  
18 the list of certified mediators. If a case is referred to  
19 mediation, the parties shall attend a mediation conference, as  
20 scheduled by the parties and the mediator. If any party fails  
21 to attend a duly noticed mediation conference, without the  
22 permission or approval of the arbitrator or mediator, the  
23 arbitrator must impose sanctions against the party, including  
24 the striking of any pleadings filed, the entry of an order of  
25 dismissal or default if appropriate, and the award of costs  
26 and attorneys' fees incurred by the other parties. Unless  
27 otherwise agreed to by the parties or as provided by order of  
28 the arbitrator, a party is deemed to have appeared at a  
29 mediation conference by the physical presence of the party or  
30 its representative having full authority to settle without  
31 further consultation, provided that an association may comply

1 by having one or more representatives present with full  
2 authority to negotiate a settlement and recommend that the  
3 board of administration ratify and approve such a settlement  
4 within 5 days from the date of the mediation conference. The  
5 parties shall share equally the expense of mediation, unless  
6 they agree otherwise.

7 (g) The purpose of mediation as provided for by this  
8 section is to present the parties with an opportunity to  
9 resolve the underlying dispute in good faith, and with a  
10 minimum expenditure of time and resources.

11 (h) Mediation proceedings must generally be conducted  
12 in accordance with the Florida Rules of Civil Procedure, and  
13 these proceedings are privileged and confidential to the same  
14 extent as court-ordered mediation. Persons who are not parties  
15 to the dispute are not allowed to attend the mediation  
16 conference without the consent of all parties, with the  
17 exception of counsel for the parties and corporate  
18 representatives designated to appear for a party. If the  
19 mediator declares an impasse after a mediation conference has  
20 been held, the arbitration proceeding terminates, unless all  
21 parties agree in writing to continue the arbitration  
22 proceeding, in which case the arbitrator's decision shall be  
23 either binding or nonbinding, as agreed upon by the parties;  
24 in the arbitration proceeding, the arbitrator shall not  
25 consider any evidence relating to the unsuccessful mediation  
26 except in a proceeding to impose sanctions for failure to  
27 appear at the mediation conference. If the parties do not  
28 agree to continue arbitration, the arbitrator shall enter an  
29 order of dismissal, and either party may institute a suit in a  
30 court of competent jurisdiction. The parties may seek to  
31 recover any costs and attorneys' fees incurred in connection

1 with arbitration and mediation proceedings under this section  
2 as part of the costs and fees that may be recovered by the  
3 prevailing party in any subsequent litigation.

4 (i) Arbitration shall be conducted according to rules  
5 promulgated by the division. The filing of a petition for  
6 arbitration shall toll the applicable statute of limitations.

7 (j) At the request of any party to the arbitration,  
8 such arbitrator shall issue subpoenas for the attendance of  
9 witnesses and the production of books, records, documents, and  
10 other evidence and any party on whose behalf a subpoena is  
11 issued may apply to the court for orders compelling such  
12 attendance and production. Subpoenas shall be served and shall  
13 be enforceable in the manner provided by the Florida Rules of  
14 Civil Procedure. Discovery may, in the discretion of the  
15 arbitrator, be permitted in the manner provided by the Florida  
16 Rules of Civil Procedure. Rules adopted by the division may  
17 authorize any reasonable sanctions except contempt for a  
18 violation of the arbitration procedural rules of the division  
19 or for the failure of a party to comply with a reasonable  
20 nonfinal order issued by an arbitrator which is not under  
21 judicial review.

22 (k) The arbitration decision shall be presented to the  
23 parties in writing. An arbitration decision is final in those  
24 disputes in which the parties have agreed to be bound. An  
25 arbitration decision is also final if a complaint for a trial  
26 de novo is not filed in a court of competent jurisdiction in  
27 which the condominium is located within 30 days. The right to  
28 file for a trial de novo entitles the parties to file a  
29 complaint in the appropriate trial court for a judicial  
30 resolution of the dispute. The prevailing party in an  
31 arbitration proceeding shall be awarded the costs of the



1 arbitration and reasonable attorney's fees in an amount  
2 determined by the arbitrator. Such an award shall include the  
3 costs and reasonable attorney's fees incurred in the  
4 arbitration proceeding as well as the costs and reasonable  
5 attorney's fees incurred in preparing for and attending any  
6 scheduled mediation.

7           (1) The party who files a complaint for a trial de  
8 novo shall be assessed the other party's arbitration costs,  
9 court costs, and other reasonable costs, including attorney's  
10 fees, investigation expenses, and expenses for expert or other  
11 testimony or evidence incurred after the arbitration hearing  
12 if the judgment upon the trial de novo is not more favorable  
13 than the arbitration decision. If the judgment is more  
14 favorable, the party who filed a complaint for trial de novo  
15 shall be awarded reasonable court costs and attorney's fees.

16           (m) Any party to an arbitration proceeding may enforce  
17 an arbitration award by filing a petition in a court of  
18 competent jurisdiction in which the condominium is located. A  
19 petition may not be granted unless the time for appeal by the  
20 filing of a complaint for trial de novo has expired. If a  
21 complaint for a trial de novo has been filed, a petition may  
22 not be granted with respect to an arbitration award that has  
23 been stayed. If the petition for enforcement is granted, the  
24 petitioner shall recover reasonable attorney's fees and costs  
25 incurred in enforcing the arbitration award. A mediation  
26 settlement may also be enforced through the county or circuit  
27 court, as applicable, and any costs and fees incurred in the  
28 enforcement of a settlement agreement reached at mediation  
29 must be awarded to the prevailing party in any enforcement  
30 action.

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1           (5) DISPUTES INVOLVING ELECTION IRREGULARITIES.--Every  
2 arbitration petition received by the division and required to  
3 be filed under this section challenging the legality of the  
4 election of any director of the board of administration shall  
5 be handled on an expedited basis in the manner provided by  
6 division rules for recall arbitration disputes.

7           Section 2. Section 702.09, Florida Statutes, is  
8 amended to read:

9           702.09 Definitions.--For the purposes of ss. 702.07  
10 and 702.08 the words "decree of foreclosure" shall include a  
11 judgment or order rendered or passed in the foreclosure  
12 proceedings in which the decree of foreclosure shall be  
13 rescinded, vacated, and set aside; the word "mortgage" shall  
14 mean any written instrument securing the payment of money or  
15 advances and shall include liens to secure payment of  
16 assessments arising under chapters 718, 719, and 720; the word  
17 "debt" shall include promissory notes, bonds, and all other  
18 written obligations given for the payment of money; the words  
19 "foreclosure proceedings" shall embrace every action in the  
20 circuit or county courts of this state wherein it is sought to  
21 foreclose a mortgage and sell the property covered by the  
22 same; and the word "property" shall mean and include both real  
23 and personal property.

24           Section 3. Paragraph (h) of subsection (4) and  
25 subsection (5) of section 718.104, Florida Statutes, are  
26 amended to read:

27           718.104 Creation of condominiums; contents of  
28 declaration.--Every condominium created in this state shall be  
29 created pursuant to this chapter.

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

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

18           (5) The declaration as originally recorded, or as  
19 amended pursuant to the procedures provided therein, may  
20 include covenants and restrictions concerning the use,  
21 occupancy, and transfer of the units permitted by law with  
22 reference to real property. With the exception of amendments  
23 that materially modify unit appurtenances as provided in s.  
24 718.110(4), amendments may be applied to owners of units  
25 existing as of the effective date of the amendment. This  
26 section is intended to clarify existing law and applies to  
27 associations existing on the effective date of this act.  
28 However, the rule against perpetuities shall not defeat a  
29 right given any person or entity by the declaration for the  
30 purpose of allowing unit owners to retain reasonable control  
31 over the use, occupancy, and transfer of units.

1 Section 4. Paragraph (b) of subsection (2) of section  
2 718.106, Florida Statutes, is amended to read:

3 718.106 Condominium parcels; appurtenances; possession  
4 and enjoyment.--

5 (2) There shall pass with a unit, as appurtenances  
6 thereto:

7 (b) The exclusive right to use such portion of the  
8 common elements as may be provided by the declaration,  
9 including the right to transfer such right to other units or  
10 unit owners to the extent authorized by the declaration as  
11 originally recorded, or amendments to the declaration adopted  
12 pursuant to the provisions contained therein ~~under s.~~  
13 ~~718.110(2)~~. Amendments to declarations of condominium  
14 providing for the transfer of use rights with respect to  
15 limited common elements are not amendments which materially  
16 modify unit appurtenances as described in s. 718.110(4).  
17 However, in order to be effective, the transfer of use rights  
18 with respect to limited common elements must be effectuated in  
19 conformity with the procedures set forth in the declaration as  
20 originally recorded or as amended. Further, such transfers  
21 must be evidenced by a written instrument which must be  
22 executed with the formalities of a deed and recorded in the  
23 land records of the county in which the condominium is located  
24 in order to be effective. Such instrument of transfer must  
25 also specify the legal description of the unit which is  
26 transferring use rights, as well as the legal description of  
27 the unit obtaining the transfer of such rights. This section  
28 is intended to clarify existing law and applies to  
29 associations existing on the effective date of this act.

30 Section 5. Subsection (4) of section 718.110, Florida  
31 Statutes, is amended to read:

1           718.110 Amendment of declaration; correction of error  
2 or omission in declaration by circuit court.--  
3           (4) Unless otherwise provided in the declaration as  
4 originally recorded, no amendment may change the configuration  
5 or size of any unit in any material fashion, materially alter  
6 or modify the appurtenances to the unit, or change the  
7 proportion or percentage by which the unit owner shares the  
8 common expenses of the condominium and owns the common surplus  
9 of the condominium unless the record owner of the unit and all  
10 record owners of liens on the unit join in the execution of  
11 the amendment and unless all the record owners of all other  
12 units in the same condominium approve the amendment. The  
13 acquisition of property by the association, and material  
14 alterations or substantial additions to such property or the  
15 common elements by the association in accordance with s.  
16 718.111(7) or s. 718.113, amendments providing for the  
17 transfer of use rights in limited common elements pursuant to  
18 s. 718.106(2)(b), and amendments restricting or modifying the  
19 right to lease condominium units shall not be deemed to  
20 constitute a material alteration or modification of the  
21 appurtenances to the units. With the exception of amendments  
22 that materially modify unit appurtenances as provided in this  
23 section, amendments may be applied to owners of units existing  
24 as of the effective date of the amendment. This section is  
25 intended to clarify existing law and applies to associations  
26 existing on the effective date of this act.A declaration  
27 recorded after April 1, 1992, may not require the approval of  
28 less than a majority of total voting interests of the  
29 condominium for amendments under this subsection, unless  
30 otherwise required by a governmental entity.  
31

1           Section 6. Subsection (4), paragraph (a) of subsection  
2 (7), and subsection (13) of section 718.111, Florida Statutes,  
3 are amended to read:

4           718.111 The association.--

5           (4) ASSESSMENTS; MANAGEMENT OF COMMON ELEMENTS.--The  
6 association has the power to make and collect assessments and  
7 to lease, maintain, repair, and replace the common elements or  
8 association property; however, the association may not charge  
9 a use fee against a unit owner for the use of common elements  
10 or association property unless otherwise provided for in the  
11 declaration of condominium or by a majority vote of the  
12 association or unless the charges relate to ~~expenses incurred~~  
13 ~~by~~ an owner having exclusive use of the common elements or  
14 association property.

15           (7) TITLE TO PROPERTY.--

16           (a) The association has the power to acquire title to  
17 property or otherwise hold, convey, lease, and mortgage  
18 association property for the use and benefit of its members.  
19 The power to acquire personal property shall be exercised by  
20 the board of administration. Except as otherwise permitted in  
21 subsections (8) and (9) and in s. 718.114, no association may  
22 acquire, convey, ~~lease~~, or mortgage association real property  
23 except in the manner provided in the declaration, and if the  
24 declaration does not specify the procedure, then approval of  
25 75 percent of the total voting interests shall be required.

26           (13) FINANCIAL REPORTING.--Within 90 days after the  
27 end of the fiscal year, or annually on a date provided in the  
28 bylaws, the association shall prepare and complete, or  
29 contract for the preparation and completion of ~~cause to be~~  
30 ~~prepared and completed by a third party~~, a financial report  
31 for the preceding fiscal year. Within 21 days after the final

1 financial report is completed by the association or received  
2 ~~by the association~~ from the third party, but in no event later  
3 than 120 days after the end of the fiscal year, or such other  
4 date as is provided in the bylaws,the association shall mail  
5 to each unit owner at the address last furnished to the  
6 association by the unit owner, or hand deliver to each unit  
7 owner, a copy of the financial report or a notice that a copy  
8 of the financial report will be mailed or hand delivered to  
9 the unit owner, without charge, upon receipt of a written  
10 request from the unit owner. The division shall adopt rules  
11 setting forth uniform accounting principles and standards to  
12 be used by all associations and shall adopt rules addressing  
13 financial reporting requirements for multicondominium  
14 associations. In adopting such rules, the division shall  
15 consider the number of members and annual revenues of an  
16 association. Financial reports shall be prepared as follows:

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

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

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

29 3. An association with total annual revenues of  
30 \$400,000 or more shall prepare audited financial statements.

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

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

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

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

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

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

28           3. Audited financial statements if the association is  
29 required to prepare reviewed financial statements.

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

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

6 2. A report of cash receipts and expenditures or a  
7 compiled financial statement in lieu of a reviewed or audited  
8 financial statement; or

9 3. A report of cash receipts and expenditures, a  
10 compiled financial statement, or a reviewed financial  
11 statement in lieu of an audited financial statement.

12

13 Such meeting and approval must occur prior to the end of the  
14 fiscal year and is effective only for the fiscal year in which  
15 the vote is taken. With respect to an association to which the  
16 developer has not turned over control of the association, all  
17 unit owners, including the developer, may vote on issues  
18 related to the preparation of financial reports for the first  
19 2 fiscal years of the association's operation, beginning with  
20 the fiscal year in which the declaration is recorded.

21 Thereafter, all unit owners except the developer may vote on  
22 such issues until control is turned over to the association by  
23 the developer.

24 Section 7. Subsection (3) of section 718.112, Florida  
25 Statutes, is amended to read:

26 718.112 Bylaws.--

27 (3) OPTIONAL PROVISIONS.--The bylaws as originally  
28 recorded, or as amended pursuant to the procedure provided  
29 therein, may provide for the following:

30

31

1 (a) A method of adopting and amending administrative  
2 rules and regulations governing the details of the operation  
3 and use of the common elements.

4 (b) Restrictions on and requirements for the use,  
5 maintenance, and appearance of the units and the use of the  
6 common elements.

7 (c) Other provisions which are not inconsistent with  
8 this chapter or with the declaration, as may be desired. This  
9 subsection is intended to clarify existing law and applies to  
10 associations existing on the effective date of this act.

11 Section 8. Subsection (2) of section 718.113, Florida  
12 Statutes, is amended to read:

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

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

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

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 as originally recorded or  
4 amended requiring the approval of unit owners in any  
5 condominium operated by the same association or requiring  
6 board approval before a material alteration or substantial  
7 addition to the common elements is permitted. This paragraph  
8 is intended to clarify existing law and applies to  
9 associations existing on the effective date of this act.

10 (c) There shall not be any material alteration or  
11 substantial addition made to association real property  
12 operated by a multicondominium association, except as provided  
13 in the declaration, articles of incorporation, or bylaws as  
14 said documents are originally recorded or amended pursuant to  
15 the procedures provided therein. If the declaration, articles  
16 of incorporation, or bylaws do not specify the procedure for  
17 approving an alteration or addition to association real  
18 property, the approval of 75 percent of the total voting  
19 interests of the association is required. This paragraph is  
20 intended to clarify existing law and applies to associations  
21 existing on the effective date of this act.

22 Section 9. Paragraphs (b) and (c) of subsection (1) of  
23 section 718.115, Florida Statutes, are amended to read:

24 718.115 Common expenses and common surplus.--

25 (1)

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

1 multicondominium. This paragraph is intended to clarify  
2 existing law and applies to associations existing on the  
3 effective date of this act.

4 (c) The common expenses of a multicondominium  
5 association may include categories of expenses related to the  
6 property or common elements within a specific condominium in  
7 the multicondominium if such property or common elements are  
8 areas in which all members of the multicondominium association  
9 have use rights or from which all members receive tangible  
10 economic benefits. Such common expenses of the association  
11 shall be identified in the declaration or bylaws of each  
12 condominium within the multicondominium association. This  
13 paragraph is intended to clarify existing law and applies to  
14 associations existing on the effective date of this act.

15 Section 10. Subsections (1) and (4) of section  
16 718.405, Florida Statutes, are amended to read:

17 718.405 Multicondominiums; multicondominium  
18 associations.--

19 (1) An association may operate more than one  
20 condominium. For multicondominiums created on or after July 1,  
21 2000, if the declaration for each condominium to be operated  
22 by that association shall provide ~~provides~~ for participation  
23 in a multicondominium, in conformity with this section, and  
24 disclose ~~discloses~~ or describe ~~describes~~:

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

30 (b) Whether unit owners in any other condominium, or  
31 any other persons, will or may have the right to use

1 recreational areas or any other facilities or amenities that  
2 are common elements of the condominium, and, if so, the  
3 specific formula by which the other users will share the  
4 common expenses related to those facilities or amenities.

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

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

22 (4) This section does not prevent or restrict the  
23 formation of a multicondominium by the merger or consolidation  
24 of two or more condominium associations. Mergers or  
25 consolidations of associations shall be accomplished in  
26 accordance with this chapter, the declarations of the  
27 condominiums being merged or consolidated, and chapter 617.  
28 Section 718.110(4) does not apply to amendments to  
29 declarations necessary to effect a merger or consolidation.  
30 This section is intended to clarify existing law and applies  
31 to associations existing on the effective date of this act.

1 Section 11. Subsection (2) of section 718.503, Florida  
2 Statutes, is amended to read:

3 718.503 Developer disclosure prior to sale;  
4 nondeveloper unit owner disclosure prior to sale;  
5 voidability.--

6 (2) NONDEVELOPER DISCLOSURE.--

7 (a) Each unit owner who is not a developer as defined  
8 by this chapter shall comply with the provisions of this  
9 subsection prior to the sale of his or her unit. Each  
10 prospective purchaser who has entered into a contract for the  
11 purchase of a condominium unit is entitled, at the seller's  
12 expense, to a current copy of the declaration of condominium,  
13 articles of incorporation of the association, bylaws, and  
14 rules of the association, ~~as well as a copy of the question~~  
15 ~~and answer sheet provided for by s. 718.504~~ and a copy of the  
16 financial information required by s. 718.111.

17 (b) If a person licensed under part I of chapter 475  
18 provides to or otherwise obtains for a prospective purchaser  
19 the documents described in this subsection, the person is not  
20 liable for any error or inaccuracy contained in the documents.

21 (c) Each contract entered into after July 1, 1992, for  
22 the resale of a residential unit shall contain in conspicuous  
23 type either:

24 1. A clause which states: THE BUYER HEREBY  
25 ACKNOWLEDGES THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF  
26 THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION OF  
27 THE ASSOCIATION, BYLAWS, RULES OF THE ASSOCIATION, AND A COPY  
28 OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION ~~AND THE~~  
29 ~~QUESTION AND ANSWER SHEET~~ MORE THAN 3 DAYS, EXCLUDING  
30 SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, PRIOR TO EXECUTION OF  
31 THIS CONTRACT; or

1           2. A clause which states: THIS AGREEMENT IS VOIDABLE  
2 BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION  
3 TO CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND  
4 LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT  
5 BY THE BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE  
6 DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION, BYLAWS,  
7 ~~AND~~ AND RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT  
8 YEAR-END FINANCIAL INFORMATION ~~AND QUESTION AND ANSWER SHEET~~  
9 IF SO REQUESTED IN WRITING. ANY PURPORTED WAIVER OF THESE  
10 VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND  
11 THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 3 DAYS,  
12 EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE  
13 BUYER RECEIVES THE DECLARATION, ARTICLES OF INCORPORATION,  
14 BYLAWS, AND RULES, ~~AND QUESTION AND ANSWER SHEET~~ IF REQUESTED  
15 IN WRITING. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL  
16 TERMINATE AT CLOSING.

17  
18 A contract that does not conform to the requirements of this  
19 paragraph is voidable at the option of the purchaser prior to  
20 closing.

21           Section 12. Subsection (15) of section 718.504,  
22 Florida Statutes, is amended to read:

23           718.504 Prospectus or offering circular.--Every  
24 developer of a residential condominium which contains more  
25 than 20 residential units, or which is part of a group of  
26 residential condominiums which will be served by property to  
27 be used in common by unit owners of more than 20 residential  
28 units, shall prepare a prospectus or offering circular and  
29 file it with the Division of Florida Land Sales, Condominiums,  
30 and Mobile Homes prior to entering into an enforceable  
31 contract of purchase and sale of any unit or lease of a unit

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



1           (15) If ~~a~~ the condominium created on or after July 1,  
2 2000, is or may become part of a multicondominium, the  
3 following information must be provided:

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

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

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

24           (d) A statement as to whether any of the condominiums  
25 in the multicondominium may include units intended to be used  
26 for nonresidential purposes and the purpose or purposes  
27 permitted for such use.

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

31           Section 13. This act shall take effect July 1, 2001.

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HOUSE SUMMARY

Revises provisions of law with respect to condominiums to:

1. Provide for the expedited handling of any allegation of an irregularity in the election of any director of the board of administration.
2. Provide for the application of amendments to condominium bylaws, declaration, and other documents affecting unit owners.
3. Revise language with respect to disclosure requirements for the sale of described condominiums to remove the requirement that question and answer sheets be part of the closing documents.

See bill for details.