

CHAMBER ACTION

1 The Civil Justice Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to homeowners' and condominium
7 associations; amending s. 468.431, F.S.; providing and
8 revising definitions; amending s. 468.4315, F.S.; revising
9 qualifications of members of the Regulatory Council of
10 Community Association Managers; providing that two members
11 must be members of community associations; amending s.
12 468.432, F.S.; requiring application to and licensure by
13 the Department of Business and Professional Regulation of
14 certain community association management firms or other
15 like entities; providing for expiration and renewal of
16 such license; providing and revising requirements for
17 licensure; amending s. 468.435, F.S.; providing a fee for
18 management firm licensure; amending s. 468.436, F.S.;
19 providing that certain disciplinary actions against
20 community association managers or management firms may be
21 taken upon a finding by the Division of Florida Land
22 Sales, Condominiums, and Mobile Homes or the department;
23 adding an additional ground for disciplinary action;

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24 | amending s. 718.110, F.S.; providing that alteration of
25 | parking spaces to accommodate persons with severe mobility
26 | disabilities does not constitute a material alteration or
27 | modification of the appurtenances to condominium units;
28 | amending s. 718.111, F.S.; restricting a condominium
29 | association from waiving an audit for more than 2
30 | consecutive years; requiring reasonable provisions to be
31 | made to provide parking spaces for persons with severe
32 | mobility disabilities; amending s. 718.112, F.S.; removing
33 | a provision allowing a condominium association to only
34 | respond once every 30 days to unit owner inquiries;
35 | providing that limited proxy votes may not be used for
36 | votes taken to waive or reduce reserves under certain
37 | circumstances; revising the terms of office and reelection
38 | of the members of a condominium association board;
39 | providing that certain coowners may not serve on the
40 | board; removing provisions that allowed a condominium
41 | association to establish different voting and election
42 | procedures in its bylaws under certain circumstances;
43 | requiring condominium associations, by a certain date, to
44 | adjust replacement reserve assessments annually; providing
45 | that the adjustment requirement applies to certain
46 | association budgets; providing that reserve funds may be
47 | used for nonscheduled purposes under certain catastrophic
48 | circumstances; amending s. 718.113, F.S.; providing for
49 | additional hurricane protection measures under certain
50 | circumstances; amending s. 718.303, F.S.; providing notice
51 | and response requirements to certain alleged violations;

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52 providing that action may not proceed without further
 53 notice when a fine is levied; amending s. 718.50151, F.S.;
 54 authorizing the division director to appoint a designee to
 55 serve ex officio on the Advisory Council on Condominiums;
 56 amending s. 719.104, F.S.; restricting a cooperative
 57 association from waiving an audit for more than 2
 58 consecutive years; amending s. 719.1055, F.S.; providing
 59 that restrictions on the rental of cooperative units
 60 applies only to certain unit owners; providing an
 61 effective date.

62
 63 Be It Enacted by the Legislature of the State of Florida:

64
 65 Section 1. Subsections (3), (4), and (5) of section
 66 468.431, Florida Statutes, are renumbered as subsections (4),
 67 (5), and (6), respectively, present subsection (3) is amended,
 68 and a new subsection (3) is added to said section, to read:

69 468.431 Definitions.--

70 (3) "Community association management firm" means a
 71 corporation, limited liability company, partnership, trust,
 72 association, sole proprietorship, or other like organization
 73 engaging in the business of community association management to
 74 provide any of the services described in subsection (2).

75 ~~(4)(3)~~ "Community association manager" means a natural
 76 person who is licensed pursuant to this part to perform
 77 community association management services.

78 Section 2. Paragraph (a) of subsection (1) of section
 79 468.4315, Florida Statutes, is amended to read:

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80 468.4315 Regulatory Council of Community Association
81 Managers.--

82 (1) The Regulatory Council of Community Association
83 Managers is created within the department and shall consist of
84 seven members appointed by the Governor and confirmed by the
85 Senate.

86 (a) Five members of the council shall be licensed
87 community association managers, one of whom may ~~shall~~ be a
88 community association manager employed by a timeshare managing
89 entity as described in ss. 468.438 and 721.13, who have held an
90 active license for 5 years. The remaining two council members
91 shall be members of community associations, as defined in
92 chapter 718, chapter 719, or chapter 720, and residents of this
93 state and must not be or ever have been connected with the
94 business of community association management.

95 Section 3. Section 468.432, Florida Statutes, is amended
96 to read:

97 468.432 Licensure of community association managers;
98 community association management firms; exceptions.--

99 ~~(1)~~ A person shall not manage or hold herself or himself
100 out to the public as being able to manage a community
101 association in this state unless she or he is licensed by the
102 department in accordance with the provisions of this part.
103 However, nothing in this part prohibits any person licensed in
104 this state under any other law or court rule from engaging in
105 the profession for which she or he is licensed.

106 (1) As of January 1, 2006, a community association
107 management firm or other like organization shall not engage in

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108 | or hold itself out to the public as being able to engage in the
 109 | business of community association management in this state
 110 | unless it is licensed by the department as a community
 111 | association management firm in accordance with the provisions of
 112 | this part.

113 | (2) A community association management firm or other like
 114 | organization desiring to be licensed as a community association
 115 | management firm shall apply to the department on a form approved
 116 | by the department accompanied by the application and licensure
 117 | fees required by s. 468.435(1)(a) and (g). Each community
 118 | association management firm applying for licensure under this
 119 | subsection must be actively registered and authorized to do
 120 | business in this state.

121 | (3) On its application each applicant shall designate a
 122 | licensed community association manager who shall be required to
 123 | respond to all inquires from and investigations by the
 124 | department or division.

125 | (4) Each licensed community association management firm
 126 | shall notify the department within 30 days of any change of
 127 | information contained in the application upon which licensure is
 128 | based.

129 | (5) A community association management firm license shall
 130 | expire September 30 of even-numbered years and shall be renewed
 131 | every 2 years. An application for renewal shall be accompanied
 132 | by the renewal fee required by s. 468.435(1)(d).

133 | (6) The department shall license each applicant who the
 134 | department certifies as meeting the requirements of this
 135 | section.

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136 (7) If the license of at least one active community
 137 association management member who is a natural person is not in
 138 force, the license of the community association management firm
 139 or other like organization is canceled automatically during that
 140 time.

141 (8) Any community association management firm or other
 142 like organization agrees by being licensed that it will employ
 143 only licensed persons in the direct provision of community
 144 association management services as defined in s. 468.431(2).

145 ~~(2) Nothing in this part prohibits a corporation,~~
 146 ~~partnership, trust, association, or other like organization from~~
 147 ~~engaging in the business of community association management~~
 148 ~~without being licensed if it employs licensed natural persons in~~
 149 ~~the direct provision of community association management~~
 150 ~~services. Such corporation, partnership, trust, association, or~~
 151 ~~other organization shall also file with the department a~~
 152 ~~statement on a form approved by the department that it submits~~
 153 ~~itself to the rules of the council and the department and the~~
 154 ~~provisions of this part which the department deems applicable.~~

155 Section 4. Paragraph (g) is added to subsection (1) of
 156 section 468.435, Florida Statutes, to read:

157 468.435 Fees; establishment; disposition.--

158 (1) The council shall, by rule, establish fees for the
 159 described purposes and within the ranges specified in this
 160 section:

161 (g) Management firm license fee: not more than \$250.

162 Section 5. Section 468.436, Florida Statutes, is amended
 163 to read:

164 468.436 Disciplinary proceedings.--

165 (1) Upon a finding by the Division of Florida Land Sales,

166 Condominiums, and Mobile Homes or the department, the following

167 acts constitute grounds for which the disciplinary actions in

168 subsection (3) may be taken:

169 (a) Violation of any provision of s. 455.227(1).

170 (b)1. Violation of any provision of this part.

171 2. Violation of any lawful order or rule rendered or

172 adopted by the department or the council.

173 3. Being convicted of or pleading nolo contendere to a

174 felony in any court in the United States.

175 4. Obtaining a license or certification or any other

176 order, ruling, or authorization by means of fraud,

177 misrepresentation, or concealment of material facts.

178 5. Committing acts of gross misconduct or gross negligence

179 in connection with the profession.

180 6. Contracting on behalf of an association with any entity

181 in which the licensee has a financial interest that is not

182 disclosed.

183 (2) The council shall specify by rule the acts or

184 omissions that constitute a violation of subsection (1).

185 (3) When the Division of Florida Land Sales, Condominiums,

186 and Mobile Homes or the department finds any community

187 association manager or management firm guilty of any of the

188 grounds set forth in subsection (1), the department ~~it~~ may enter

189 an order imposing one or more of the following penalties:

190 (a) Denial of an application for licensure.

191 (b) Revocation or suspension of a license.

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192 (c) Imposition of an administrative fine not to exceed
193 \$5,000 for each count or separate offense.

194 (d) Issuance of a reprimand.

195 (e) Placement of the community association manager or firm
196 on probation for a period of time and subject to such conditions
197 as the department specifies.

198 (f) Restriction of the authorized scope of practice by the
199 community association manager or firm.

200 (4) The department shall reissue the license of a
201 disciplined community association manager or firm upon
202 certification by the department that the disciplined person or
203 firm has complied with all of the terms and conditions set forth
204 in the final order.

205 Section 6. Subsection (4) of section 718.110, Florida
206 Statutes, is amended to read:

207 718.110 Amendment of declaration; correction of error or
208 omission in declaration by circuit court.--

209 (4) Unless otherwise provided in the declaration as
210 originally recorded, no amendment may change the configuration
211 or size of any unit in any material fashion, materially alter or
212 modify the appurtenances to the unit, or change the proportion
213 or percentage by which the unit owner shares the common expenses
214 of the condominium and owns the common surplus of the
215 condominium unless the record owner of the unit and all record
216 owners of liens on the unit join in the execution of the
217 amendment and unless all the record owners of all other units in
218 the same condominium approve the amendment. The acquisition of
219 property by the association and material alterations or

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220 substantial additions to such property or the common elements by
 221 the association in accordance with s. 718.111(7) or (15) or s.
 222 718.113, and amendments providing for the transfer of use rights
 223 in limited common elements pursuant to s. 718.106(2)(b) shall
 224 not be deemed to constitute a material alteration or
 225 modification of the appurtenances to the units. A declaration
 226 recorded after April 1, 1992, may not require the approval of
 227 less than a majority of total voting interests of the
 228 condominium for amendments under this subsection, unless
 229 otherwise required by a governmental entity.

230 Section 7. Paragraph (d) of subsection (13) of section
 231 718.111, Florida Statutes, is amended, and subsection (15) is
 232 added to said section, to read:

233 718.111 The association.--

234 (13) FINANCIAL REPORTING.--Within 90 days after the end of
 235 the fiscal year, or annually on a date provided in the bylaws,
 236 the association shall prepare and complete, or contract for the
 237 preparation and completion of, a financial report for the
 238 preceding fiscal year. Within 21 days after the final financial
 239 report is completed by the association or received from the
 240 third party, but not later than 120 days after the end of the
 241 fiscal year or other date as provided in the bylaws, the
 242 association shall mail to each unit owner at the address last
 243 furnished to the association by the unit owner, or hand deliver
 244 to each unit owner, a copy of the financial report or a notice
 245 that a copy of the financial report will be mailed or hand
 246 delivered to the unit owner, without charge, upon receipt of a
 247 written request from the unit owner. The division shall adopt

248 | rules setting forth uniform accounting principles and standards
 249 | to be used by all associations and shall adopt rules addressing
 250 | financial reporting requirements for multicondominium
 251 | associations. In adopting such rules, the division shall
 252 | consider the number of members and annual revenues of an
 253 | association. Financial reports shall be prepared as follows:

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

257 | ~~a.1.~~ A report of cash receipts and expenditures in lieu of
 258 | a compiled, reviewed, or audited financial statement;

259 | ~~b.2.~~ A report of cash receipts and expenditures or a
 260 | compiled financial statement in lieu of a reviewed or audited
 261 | financial statement; or

262 | ~~c.3.~~ A report of cash receipts and expenditures, a
 263 | compiled financial statement, or a reviewed financial statement
 264 | in lieu of an audited financial statement.

265 | 2. In no event shall an association waive its requirement
 266 | for an audit, if applicable, for more than 2 consecutive years.

267 |
 268 | Such meeting and approval must occur prior to the end of the
 269 | fiscal year and is effective only for the fiscal year in which
 270 | the vote is taken. With respect to an association to which the
 271 | developer has not turned over control of the association, all
 272 | unit owners, including the developer, may vote on issues related
 273 | to the preparation of financial reports for the first 2 fiscal
 274 | years of the association's operation, beginning with the fiscal
 275 | year in which the declaration is recorded. Thereafter, all unit

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276 owners except the developer may vote on such issues until
277 control is turned over to the association by the developer.

278 (15) PARKING SPACES FOR PERSONS WHO HAVE SEVERE MOBILITY
279 DISABILITIES.--Because parking in condominium associations
280 generally is not configured to provide vehicular ingress and
281 egress for persons who have severe mobility disabilities
282 requiring the use of a vehicle with a lift or ramp, it is
283 determined to be in the best interest of all residents of the
284 state that these persons not be precluded from housing choices
285 that are desirable to them where alterations may be made to
286 accommodate this disability. The association shall make
287 reasonable provisions for a mobility-disabled person to transfer
288 the use rights to a limited common element parking place that
289 does not accommodate the person's vehicle for a common area
290 parking space that will accommodate his or her vehicle. If
291 alterations to the parking areas are required to bring the
292 parking space into compliance with s. 553.5041, the alterations
293 shall be at the expense of the person requesting the
294 accommodation, and the cost of returning the parking area to its
295 previous condition shall also be paid by the person requesting
296 the accommodation.

297 Section 8. Paragraphs (a), (b), (d), and (f) of subsection
298 (2) of section 718.112, Florida Statutes, are amended to read:

299 718.112 Bylaws.--

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

303 (a) Administration.--

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304 1. The form of administration of the association shall be
305 described indicating the title of the officers and board of
306 administration and specifying the powers, duties, manner of
307 selection and removal, and compensation, if any, of officers and
308 boards. In the absence of such a provision, the board of
309 administration shall be composed of five members, except in the
310 case of a condominium which has five or fewer units, in which
311 case in a not-for-profit corporation the board shall consist of
312 not fewer than three members. In the absence of provisions to
313 the contrary in the bylaws, the board of administration shall
314 have a president, a secretary, and a treasurer, who shall
315 perform the duties of such officers customarily performed by
316 officers of corporations. Unless prohibited in the bylaws, the
317 board of administration may appoint other officers and grant
318 them the duties it deems appropriate. Unless otherwise provided
319 in the bylaws, the officers shall serve without compensation and
320 at the pleasure of the board of administration. Unless otherwise
321 provided in the bylaws, the members of the board shall serve
322 without compensation.

323 2. When a unit owner files a written inquiry by certified
324 mail with the board of administration, the board shall respond
325 in writing to the unit owner within 30 days of receipt of the
326 inquiry. The board's response shall either give a substantive
327 response to the inquirer, notify the inquirer that a legal
328 opinion has been requested, or notify the inquirer that advice
329 has been requested from the division. If the board requests
330 advice from the division, the board shall, within 10 days of its
331 receipt of the advice, provide in writing a substantive response

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332 to the inquirer. If a legal opinion is requested, the board
333 shall, within 60 days after the receipt of the inquiry, provide
334 in writing a substantive response to the inquiry. The failure to
335 provide a substantive response to the inquiry as provided herein
336 precludes the board from recovering attorney's fees and costs in
337 any subsequent litigation, administrative proceeding, or
338 arbitration arising out of the inquiry. ~~The association may~~
339 ~~through its board of administration adopt reasonable rules and~~
340 ~~regulations regarding the frequency and manner of responding to~~
341 ~~unit owner inquiries, one of which may be that the association~~
342 ~~is only obligated to respond to one written inquiry per unit in~~
343 ~~any given 30-day period. In such a case, any additional inquiry~~
344 ~~or inquiries must be responded to in the subsequent 30-day~~
345 ~~period, or periods, as applicable.~~

346 (b) Quorum; voting requirements; proxies.--

347 1. Unless a lower number is provided in the bylaws, the
348 percentage of voting interests required to constitute a quorum
349 at a meeting of the members shall be a majority of the voting
350 interests. Unless otherwise provided in this chapter or in the
351 declaration, articles of incorporation, or bylaws, and except as
352 provided in subparagraph (d)3., decisions shall be made by
353 owners of a majority of the voting interests represented at a
354 meeting at which a quorum is present.

355 2. Except as specifically otherwise provided herein, after
356 January 1, 1992, unit owners may not vote by general proxy, but
357 may vote by limited proxies substantially conforming to a
358 limited proxy form adopted by the division. Limited proxies and
359 general proxies may be used to establish a quorum. Limited

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360 | ~~proxies shall be used for votes taken to waive or reduce~~
 361 | ~~reserves in accordance with subparagraph (f)2.;~~ for votes taken
 362 | to waive the financial reporting requirements of s. 718.111(13);
 363 | for votes taken to amend the declaration pursuant to s. 718.110;
 364 | for votes taken to amend the articles of incorporation or bylaws
 365 | pursuant to this section; and for any other matter for which
 366 | this chapter requires or permits a vote of the unit owners.
 367 | Except as provided in paragraph (d), after January 1, 1992, no
 368 | proxy, limited or general, shall be used in the election of
 369 | board members. General proxies may be used for other matters for
 370 | which limited proxies are not required, and may also be used in
 371 | voting for nonsubstantive changes to items for which a limited
 372 | proxy is required and given. Notwithstanding the provisions of
 373 | this subparagraph, unit owners may vote in person at unit owner
 374 | meetings. Nothing contained herein shall limit the use of
 375 | general proxies or require the use of limited proxies for any
 376 | agenda item or election at any meeting of a timeshare
 377 | condominium association.

378 | 3. Any proxy given shall be effective only for the
 379 | specific meeting for which originally given and any lawfully
 380 | adjourned meetings thereof. In no event shall any proxy be valid
 381 | for a period longer than 90 days after the date of the first
 382 | meeting for which it was given. Every proxy is revocable at any
 383 | time at the pleasure of the unit owner executing it.

384 | 4. A member of the board of administration or a committee
 385 | may submit in writing his or her agreement or disagreement with
 386 | any action taken at a meeting that the member did not attend.
 387 | This agreement or disagreement may not be used as a vote for or

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388 | against the action taken and may not be used for the purposes of
389 | creating a quorum.

390 | 5. When any of the board or committee members meet by
391 | telephone conference, those board or committee members attending
392 | by telephone conference may be counted toward obtaining a quorum
393 | and may vote by telephone. A telephone speaker must be used so
394 | that the conversation of those board or committee members
395 | attending by telephone may be heard by the board or committee
396 | members attending in person as well as by any unit owners
397 | present at a meeting.

398 | (d) Unit owner meetings.--

399 | 1. There shall be an annual meeting of the unit owners.
400 | Unless the bylaws provide otherwise, a vacancy on the board
401 | caused by the expiration of a director's term shall be filled by
402 | electing a new board member, and the election shall be by secret
403 | ballot; however, if the number of vacancies equals or exceeds
404 | the number of candidates, no election is required. ~~If there is~~
405 | ~~no provision in the bylaws for terms of the members of the~~
406 | ~~board,~~ The terms of all members of the board shall expire ~~upon~~
407 | ~~the election of their successors~~ at the annual meeting. Members
408 | may stand for reelection. There shall be no limit to the number
409 | of times a board member may be reelected. Coowners of a unit may
410 | not serve as members of the board at the same time. Any unit
411 | owner desiring to be a candidate for board membership shall
412 | comply with subparagraph 3. A person who has been convicted of
413 | any felony by any court of record in the United States and who
414 | has not had his or her right to vote restored pursuant to law in
415 | the jurisdiction of his or her residence is not eligible for

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416 board membership. The validity of an action by the board is not
417 affected if it is later determined that a member of the board is
418 ineligible for board membership due to having been convicted of
419 a felony.

420 2. The bylaws shall provide the method of calling meetings
421 of unit owners, including annual meetings. Written notice, which
422 notice must include an agenda, shall be mailed, hand delivered,
423 or electronically transmitted to each unit owner at least 14
424 days prior to the annual meeting and shall be posted in a
425 conspicuous place on the condominium property at least 14
426 continuous days preceding the annual meeting. Upon notice to the
427 unit owners, the board shall by duly adopted rule designate a
428 specific location on the condominium property or association
429 property upon which all notices of unit owner meetings shall be
430 posted; however, if there is no condominium property or
431 association property upon which notices can be posted, this
432 requirement does not apply. In lieu of or in addition to the
433 physical posting of notice of any meeting of the unit owners on
434 the condominium property, the association may, by reasonable
435 rule, adopt a procedure for conspicuously posting and repeatedly
436 broadcasting the notice and the agenda on a closed-circuit cable
437 television system serving the condominium association. However,
438 if broadcast notice is used in lieu of a notice posted
439 physically on the condominium property, the notice and agenda
440 must be broadcast at least four times every broadcast hour of
441 each day that a posted notice is otherwise required under this
442 section. When broadcast notice is provided, the notice and
443 agenda must be broadcast in a manner and for a sufficient

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444 continuous length of time so as to allow an average reader to
445 observe the notice and read and comprehend the entire content of
446 the notice and the agenda. Unless a unit owner waives in writing
447 the right to receive notice of the annual meeting, such notice
448 shall be hand delivered, mailed, or electronically transmitted
449 to each unit owner. Notice for meetings and notice for all other
450 purposes shall be mailed to each unit owner at the address last
451 furnished to the association by the unit owner, or hand
452 delivered to each unit owner. However, if a unit is owned by
453 more than one person, the association shall provide notice, for
454 meetings and all other purposes, to that one address which the
455 developer initially identifies for that purpose and thereafter
456 as one or more of the owners of the unit shall so advise the
457 association in writing, or if no address is given or the owners
458 of the unit do not agree, to the address provided on the deed of
459 record. An officer of the association, or the manager or other
460 person providing notice of the association meeting, shall
461 provide an affidavit or United States Postal Service certificate
462 of mailing, to be included in the official records of the
463 association affirming that the notice was mailed or hand
464 delivered, in accordance with this provision.

465 3. The members of the board shall be elected by written
466 ballot or voting machine. Proxies shall in no event be used in
467 electing the board, either in general elections or elections to
468 fill vacancies caused by recall, resignation, or otherwise,
469 unless otherwise provided in this chapter. Not less than 60 days
470 before a scheduled election, the association shall mail,
471 deliver, or electronically transmit, whether by separate

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472 association mailing or included in another association mailing,
473 delivery, or transmission, including regularly published
474 newsletters, to each unit owner entitled to a vote, a first
475 notice of the date of the election. Any unit owner or other
476 eligible person desiring to be a candidate for the board must
477 give written notice to the association not less than 40 days
478 before a scheduled election. Together with the written notice
479 and agenda as set forth in subparagraph 2., the association
480 shall mail, deliver, or electronically transmit a second notice
481 of the election to all unit owners entitled to vote therein,
482 together with a ballot which shall list all candidates. Upon
483 request of a candidate, the association shall include an
484 information sheet, no larger than 8 1/2 inches by 11 inches,
485 which must be furnished by the candidate not less than 35 days
486 before the election, to be included with the mailing, delivery,
487 or transmission of the ballot, with the costs of mailing,
488 delivery, or electronic transmission and copying to be borne by
489 the association. The association is not liable for the contents
490 of the information sheets prepared by the candidates. In order
491 to reduce costs, the association may print or duplicate the
492 information sheets on both sides of the paper. The division
493 shall by rule establish voting procedures consistent with the
494 provisions contained herein, including rules establishing
495 procedures for giving notice by electronic transmission and
496 rules providing for the secrecy of ballots. Elections shall be
497 decided by a plurality of those ballots cast. There shall be no
498 quorum requirement; however, at least 20 percent of the eligible
499 voters must cast a ballot in order to have a valid election of

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500 members of the board. No unit owner shall permit any other
501 person to vote his or her ballot, and any such ballots
502 improperly cast shall be deemed invalid, provided any unit owner
503 who violates this provision may be fined by the association in
504 accordance with s. 718.303. A unit owner who needs assistance in
505 casting the ballot for the reasons stated in s. 101.051 may
506 obtain assistance in casting the ballot. The regular election
507 shall occur on the date of the annual meeting. The provisions of
508 this subparagraph shall not apply to timeshare condominium
509 associations. Notwithstanding the provisions of this
510 subparagraph, an election is not required unless more candidates
511 file notices of intent to run or are nominated than board
512 vacancies exist.

513 4. Any approval by unit owners called for by this chapter
514 or the applicable declaration or bylaws, including, but not
515 limited to, the approval requirement in s. 718.111(8), shall be
516 made at a duly noticed meeting of unit owners and shall be
517 subject to all requirements of this chapter or the applicable
518 condominium documents relating to unit owner decisionmaking,
519 except that unit owners may take action by written agreement,
520 without meetings, on matters for which action by written
521 agreement without meetings is expressly allowed by the
522 applicable bylaws or declaration or any statute that provides
523 for such action.

524 5. Unit owners may waive notice of specific meetings if
525 allowed by the applicable bylaws or declaration or any statute.
526 If authorized by the bylaws, notice of meetings of the board of
527 administration, unit owner meetings, except unit owner meetings

528 called to recall board members under paragraph (j), and
 529 committee meetings may be given by electronic transmission to
 530 unit owners who consent to receive notice by electronic
 531 transmission.

532 6. Unit owners shall have the right to participate in
 533 meetings of unit owners with reference to all designated agenda
 534 items. However, the association may adopt reasonable rules
 535 governing the frequency, duration, and manner of unit owner
 536 participation.

537 7. Any unit owner may tape record or videotape a meeting
 538 of the unit owners subject to reasonable rules adopted by the
 539 division.

540 8. Unless otherwise provided in the bylaws, any vacancy
 541 occurring on the board before the expiration of a term may be
 542 filled by the affirmative vote of the majority of the remaining
 543 directors, even if the remaining directors constitute less than
 544 a quorum, or by the sole remaining director. In the alternative,
 545 a board may hold an election to fill the vacancy, in which case
 546 the election procedures must conform to the requirements of
 547 subparagraph 3. ~~unless the association has opted out of the~~
 548 ~~statutory election process, in which case the bylaws of the~~
 549 ~~association control.~~ Unless otherwise provided in the bylaws, a
 550 board member appointed or elected under this section shall fill
 551 the vacancy for the unexpired term of the seat being filled.
 552 Filling vacancies created by recall is governed by paragraph (j)
 553 and rules adopted by the division.

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555 ~~Notwithstanding subparagraphs (b)2. and (d)3., an association~~
 556 ~~may, by the affirmative vote of a majority of the total voting~~
 557 ~~interests, provide for different voting and election procedures~~
 558 ~~in its bylaws, which vote may be by a proxy specifically~~
 559 ~~delineating the different voting and election procedures. The~~
 560 ~~different voting and election procedures may provide for~~
 561 ~~elections to be conducted by limited or general proxy.~~

562 (f) Annual budget.--

563 1. The proposed annual budget of common expenses shall be
 564 detailed and shall show the amounts budgeted by accounts and
 565 expense classifications, including, if applicable, but not
 566 limited to, those expenses listed in s. 718.504(21). A
 567 multicondominium association shall adopt a separate budget of
 568 common expenses for each condominium the association operates
 569 and shall adopt a separate budget of common expenses for the
 570 association. In addition, if the association maintains limited
 571 common elements with the cost to be shared only by those
 572 entitled to use the limited common elements as provided for in
 573 s. 718.113(1), the budget or a schedule attached thereto shall
 574 show amounts budgeted therefor. If, after turnover of control of
 575 the association to the unit owners, any of the expenses listed
 576 in s. 718.504(21) are not applicable, they need not be listed.

577 2. In addition to annual operating expenses, the budget
 578 shall include reserve accounts for capital expenditures and
 579 deferred maintenance for the improvements that have already been
 580 made. These accounts shall include, but are not limited to, roof
 581 replacement, building painting, and pavement resurfacing,
 582 regardless of the amount of deferred maintenance expense or

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583 replacement cost, and for any other item for which the deferred
 584 maintenance expense or replacement cost exceeds \$10,000. The
 585 amount to be reserved shall be computed by means of a formula
 586 which is based upon estimated remaining useful life and
 587 estimated replacement cost or deferred maintenance expense of
 588 each reserve item. The association shall ~~may~~ adjust replacement
 589 reserve assessments annually to take into account any changes in
 590 estimates or extension of the useful life of a reserve item
 591 caused by deferred maintenance. An association not in compliance
 592 with this subparagraph as of January 1, 2006, shall have until
 593 January 1, 2011, to meet the requirements of this subparagraph.
 594 ~~This subsection does not apply to an adopted budget in which the~~
 595 ~~members of an association have determined, by a majority vote at~~
 596 ~~a duly called meeting of the association, to provide no reserves~~
 597 ~~or less reserves than required by this subsection. However,~~
 598 ~~prior to turnover of control of an association by a developer to~~
 599 ~~unit owners other than a developer pursuant to s. 718.301, the~~
 600 ~~developer may vote to waive the reserves or reduce the funding~~
 601 ~~of reserves for the first 2 fiscal years of the association's~~
 602 ~~operation, beginning with the fiscal year in which the initial~~
 603 ~~declaration is recorded, after which time reserves may be waived~~
 604 ~~or reduced only upon the vote of a majority of all nondeveloper~~
 605 ~~voting interests voting in person or by limited proxy at a duly~~
 606 ~~called meeting of the association. If a meeting of the unit~~
 607 ~~owners has been called to determine whether to waive or reduce~~
 608 ~~the funding of reserves, and no such result is achieved or a~~
 609 ~~quorum is not attained, the reserves as included in the budget~~

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610 ~~shall go into effect. After the turnover, the developer may vote~~
 611 ~~its voting interest to waive or reduce the funding of reserves.~~

612 3. Reserve funds and any interest accruing thereon shall
 613 remain in the reserve account or accounts, and shall be used
 614 only for authorized reserve expenditures unless their use for
 615 other purposes is approved in advance by a majority vote at a
 616 duly called meeting of the association. Prior to turnover of
 617 control of an association by a developer to unit owners other
 618 than the developer pursuant to s. 718.301, the developer-
 619 controlled association shall not vote to use reserves for
 620 purposes other than that for which they were intended without
 621 the approval of a majority of all nondeveloper voting interests,
 622 voting in person or by limited proxy at a duly called meeting of
 623 the association.

624 4. The only voting interests which are eligible to vote on
 625 questions that involve ~~waiving or reducing the funding of~~
 626 ~~reserves, or~~ using existing reserve funds for purposes other
 627 than purposes for which the reserves were intended, are the
 628 voting interests of the units subject to assessment to fund the
 629 reserves in question.

630 5. Notwithstanding the provisions of subparagraph 3., the
 631 association after turnover may, in case of a catastrophic event,
 632 use reserve funds for nonscheduled purposes to mitigate further
 633 damage to units or common elements or to make the condominium
 634 accessible for repairs.

635 Section 9. Subsection (5) of section 718.113, Florida
 636 Statutes, is amended to read:

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637 718.113 Maintenance; limitation upon improvement; display
 638 of flag; hurricane shutters.--
 639 (5) Each board of administration shall adopt hurricane
 640 shutter specifications for each building within each condominium
 641 operated by the association which shall include color, style,
 642 and other factors deemed relevant by the board. All
 643 specifications adopted by the board shall comply with the
 644 applicable building code. Notwithstanding any provision to the
 645 contrary in the condominium documents, if approval is required
 646 by the documents, a board shall not refuse to approve the
 647 installation or replacement of hurricane shutters conforming to
 648 the specifications adopted by the board. The board may, subject
 649 to the provisions of s. 718.3026, and the approval of a majority
 650 of voting interests of the condominium, install hurricane
 651 shutters or hurricane protection that complies with or exceeds
 652 the applicable building code and may maintain, repair, or
 653 replace such approved hurricane shutters, whether on or within
 654 common elements, limited common elements, units, or association
 655 property. However, where laminated glass or window film
 656 architecturally designed to function as hurricane protection
 657 which complies with the applicable building code has been
 658 installed, the board may not install hurricane shutters. The
 659 board may operate shutters installed pursuant to this subsection
 660 without permission of the unit owners only where such operation
 661 is necessary to preserve and protect the condominium property
 662 and association property. The installation, replacement,
 663 operation, repair, and maintenance of such shutters in
 664 accordance with the procedures set forth herein shall not be

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665 | deemed a material alteration to the common elements or
666 | association property within the meaning of this section.

667 | Section 10. Subsection (4) is added to section 718.303,
668 | Florida Statutes, to read:

669 | 718.303 Obligations of owners; waiver; levy of fine
670 | against unit by association.--

671 | (4) Anyone subject to an action under this section shall
672 | be notified of the violation by certified mail, return receipt
673 | requested, and, except in the case of imminent danger to person
674 | or property, shall have 30 days in which to respond in writing.
675 | If no response is provided and the violation continues or is
676 | repeated, the association may proceed without further notice
677 | except as provided in subsection (3).

678 | Section 11. Subsection (1) of section 718.50151, Florida
679 | Statutes, is amended to read:

680 | 718.50151 Advisory council; membership functions.--

681 | (1) There is created the Advisory Council on Condominiums.
682 | The council shall consist of seven appointed members. Two
683 | members shall be appointed by the President of the Senate, two
684 | members shall be appointed by the Speaker of the House of
685 | Representatives, and three members shall be appointed by the
686 | Governor. At least one member that is appointed by the Governor
687 | shall represent timeshare condominiums. Members shall be
688 | appointed to 2-year terms; however, one of the persons initially
689 | appointed by the Governor, by the President of the Senate, and
690 | by the Speaker of the House of Representatives shall be
691 | appointed to a 1-year term. The director of the division shall
692 | appoint a designee to serve as an ex officio nonvoting member.

693 The Legislature intends that the persons appointed represent a
 694 cross-section of persons interested in condominium issues. The
 695 council shall be located within the division for administrative
 696 purposes. Members of the council shall serve without
 697 compensation but are entitled to receive per diem and travel
 698 expenses pursuant to s. 112.061 while on official business.

699 Section 12. Paragraph (b) of subsection (4) of section
 700 719.104, Florida Statutes, is amended to read:

701 719.104 Cooperatives; access to units; records; financial
 702 reports; assessments; purchase of leases.--

703 (4) FINANCIAL REPORT.--

704 (b) The division shall adopt rules that may require that
 705 the association deliver to the unit owners, in lieu of the
 706 financial report required by this section, a complete set of
 707 financial statements for the preceding fiscal year. The
 708 financial statements shall be delivered within 90 days following
 709 the end of the previous fiscal year or annually on such other
 710 date as provided in the bylaws. The rules of the division may
 711 require that the financial statements be compiled, reviewed, or
 712 audited, and the rules shall take into consideration the
 713 criteria set forth in s. 719.501(1)(j). The requirement to have
 714 the financial statements compiled, reviewed, or audited does not
 715 apply to associations if a majority of the voting interests of
 716 the association present at a duly called meeting of the
 717 association have determined for a fiscal year to waive this
 718 requirement. In an association in which turnover of control by
 719 the developer has not occurred, the developer may vote to waive
 720 the audit requirement for the first 2 years of the operation of

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721 the association, after which time, waiver of an applicable audit
722 requirement shall be by a majority of voting interests other
723 than the developer. In no event shall an association waive its
724 requirement for an audit, if applicable, for more than 2
725 consecutive years. The meeting shall be held prior to the end of
726 the fiscal year, and the waiver shall be effective for only one
727 fiscal year. This subsection does not apply to a cooperative
728 that consists of 50 or fewer units.

729 Section 13. Subsection (7) is added to section 719.1055,
730 Florida Statutes, to read:

731 719.1055 Amendment of cooperative documents; alteration
732 and acquisition of property.--

733 (7) Any amendment restricting cooperative unit owners'
734 rights relating to the rental of units applies only to unit
735 owners who consent to the amendment and unit owners who purchase
736 their units after the effective date of that amendment.

737 Section 14. This act shall take effect July 1, 2005.