

1                   A bill to be entitled  
2           An act relating to community associations; amending s.  
3           718.110, F.S.; requiring notice of a proposed amendment to  
4           the declaration to be sent to the unit owner by certified  
5           mail; amending s. 718.111, F.S.; restricting a condominium  
6           association from waiving a financial report for more than  
7           2 consecutive years; providing duties for condominium  
8           boards of administration in the event of certain  
9           casualties; providing that certain assessments may be made  
10          against unit owners under certain conditions; providing  
11          condominium association guidelines for the designation of  
12          disabled parking spaces; amending s. 718.112, F.S.;  
13          authorizing the board or membership to determine the  
14          composition of the board of administration under certain  
15          circumstances; requiring the board to respond to certain  
16          inquiries by certified mail, return receipt requested;  
17          removing a provision allowing a condominium association to  
18          only respond once every 30 days to unit owner inquiries;  
19          providing that no action shall be taken or resolution made  
20          without an open meeting of the board; requiring the board  
21          to address agenda items proposed by a petition of 20  
22          percent of the unit owners; revising notice procedures;  
23          revising the terms of office and reelection of the members  
24          of a condominium association board; providing that certain  
25          persons providing notice of a meeting must provide an  
26          affidavit affirming that the notices were delivered;  
27          authorizing the association's representative to provide  
28          certain notices; removing a provision allowing an

29 association to print or duplicate certain information  
30 sheets on both sides of the paper; revising procedures  
31 relating to the filling of a vacancy on the board;  
32 removing a provision allowing an association to provide  
33 for different voting and election procedures in its  
34 bylaws; authorizing unit owners the right to have items  
35 placed on the agenda of the annual meeting and to be voted  
36 upon under certain conditions; requiring a vote to provide  
37 for no reserves or percentage of reserves to be made at  
38 certain times; authorizing the association to use reserve  
39 funds for nonscheduled purposes under certain conditions;  
40 requiring that assessments be made against units on a  
41 quarter-annual or more frequent basis; providing that  
42 certain provisions shall not preclude the right of an  
43 association to accelerate assessments of certain owners  
44 delinquent in payment of common expenses; providing that  
45 accelerated assessments shall be due and payable after the  
46 claim of lien is filed; amending s. 718.113, F.S.;

47 requiring boards of administration to adopt or restate  
48 hurricane shutter specifications yearly at the annual  
49 meeting; authorizing the board to install hurricane  
50 protection that complies with the applicable building  
51 code; requiring the board to have the condominium  
52 buildings periodically inspected for structural and  
53 electrical soundness by a professional engineer or  
54 professional architect registered in the state; requiring  
55 the inspector to provide a report to the association;  
56 amending s. 718.115, F.S.; providing that a bulk contract

57 | for basic service may be deemed a common expense; amending  
58 | s. 718.116, F.S.; removing provisions limiting the  
59 | liability of a first mortgagee or its successor or  
60 | assignees who acquire title to a unit by foreclosure or by  
61 | deed; revising the order in which payments received by the  
62 | association must be applied; restricting certain liens  
63 | from being filed on a condominium parcel until 30 days  
64 | after service of a notice of intent to file the lien;  
65 | requiring that itemized expenses and a payment schedule be  
66 | included in certain special assessments; providing that  
67 | funds collected pursuant to a special assessment shall not  
68 | be commingled with any other association funds; creating  
69 | s. 718.1223, F.S.; requiring any complaint of abuse filed  
70 | with the Division of Florida Land Sales, Condominiums, and  
71 | Mobile Homes shall immediately be investigated by the  
72 | division; requiring the division to institute enforcement  
73 | proceedings under certain circumstances; defining the term  
74 | "abuse" for purposes of the section; creating s. 718.1224,  
75 | F.S.; prohibiting certain lawsuits arising from unit  
76 | owners' appearances and presentations before a  
77 | governmental entity; providing a definition; amending s.  
78 | 718.1255, F.S.; requiring the division to promptly refer  
79 | certain cases to mediation; providing that an arbitrator  
80 | may refer a dispute to mediation at any time; amending s.  
81 | 718.302, F.S.; conforming provisions; amending s.  
82 | 718.3026, F.S.; providing that certain contracts between a  
83 | service provider and an association shall not be for a  
84 | term in excess of 3 years and shall not contain an

85 automatic renewal clause; requiring that certain contracts  
86 for construction must have the approval of an attorney  
87 hired by the association; amending s. 718.303, F.S.;  
88 requiring that persons subject to certain actions be  
89 notified of their violation in a certain manner; providing  
90 a timeframe in which the person must respond; amending s.  
91 718.501, F.S.; requiring the division to prepare and  
92 disseminate a prospectus and other information for use by  
93 owners, purchasers, lessees, and developers of residential  
94 condominiums; providing that the board member training  
95 provided by the division shall be provided in conjunction  
96 with recommendations by the ombudsman; amending s.  
97 718.5011, F.S.; restricting location of the Office of the  
98 Condominium Ombudsman; providing that the ombudsman shall  
99 exercise his or her policymaking and other functions  
100 independently of the Department of Business and  
101 Professional Regulation and without approval or control of  
102 the department; requiring the department to render  
103 administrative support for certain matters; requiring that  
104 revenues collected by the department for the Office of the  
105 Condominium Ombudsman be deposited in a separate fund or  
106 account; amending s. 718.5012, F.S.; providing that the  
107 division shall process the ombudsman's recommendations and  
108 petitions in an expedited manner and defer to his or her  
109 findings; providing the ombudsman with the power to order  
110 meetings between certain parties; authorizing the  
111 ombudsman to make recommendations to the division to  
112 pursue enforcement action in circuit court on behalf of a

113 class of unit owners, lessees, or purchasers; authorizing  
 114 the ombudsman to order that any aspect of an association  
 115 election be conducted by an election monitor; authorizing  
 116 the ombudsman to order an association to implement certain  
 117 remedies; authorizing the ombudsman to order certain  
 118 persons to cease and desist from unlawful practices;  
 119 repealing s. 718.50151, F.S., to abolish the Advisory  
 120 Council on Condominiums and its functions; amending s.  
 121 719.1055, F.S.; providing that amendments restricting  
 122 cooperative owners' rights relating to the rental of units  
 123 apply only to certain unit owners; creating s. 720.4016,  
 124 F.S.; creating the Advisory Council on Mandated Properties  
 125 to be located within the division; providing membership;  
 126 providing that members of the council shall serve without  
 127 compensation but are entitled to receive per diem and  
 128 travel expenses; providing that vacancies shall be filled  
 129 in the same manner as original appointments; providing an  
 130 effective date.

131  
 132 Be It Enacted by the Legislature of the State of Florida:

133  
 134 Section 1. Paragraph (d) is added to subsection (1) of  
 135 section 718.110, Florida Statutes, to read:

136 718.110 Amendment of declaration; correction of error or  
 137 omission in declaration by circuit court.--

138 (1)

139 (d) Notice of a proposed amendment to the declaration  
 140 shall be sent to the unit owner by certified mail.

141 Section 2. Paragraph (d) of subsection (13) of section  
 142 718.111, Florida Statutes, is amended, and subsections (15) and  
 143 (16) are added to that section, to read:

144 718.111 The association.--

145 (13) FINANCIAL REPORTING.--Within 90 days after the end of  
 146 the fiscal year, or annually on a date provided in the bylaws,  
 147 the association shall prepare and complete, or contract for the  
 148 preparation and completion of, a financial report for the  
 149 preceding fiscal year. Within 21 days after the final financial  
 150 report is completed by the association or received from the  
 151 third party, but not later than 120 days after the end of the  
 152 fiscal year or other date as provided in the bylaws, the  
 153 association shall mail to each unit owner at the address last  
 154 furnished to the association by the unit owner, or hand deliver  
 155 to each unit owner, a copy of the financial report or a notice  
 156 that a copy of the financial report will be mailed or hand  
 157 delivered to the unit owner, without charge, upon receipt of a  
 158 written request from the unit owner. The division shall adopt  
 159 rules setting forth uniform accounting principles and standards  
 160 to be used by all associations and shall adopt rules addressing  
 161 financial reporting requirements for multicondominium  
 162 associations. In adopting such rules, the division shall  
 163 consider the number of members and annual revenues of an  
 164 association. Financial reports shall be prepared as follows:

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

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

170 2. A report of cash receipts and expenditures or a  
 171 compiled financial statement in lieu of a reviewed or audited  
 172 financial statement; or

173 3. A report of cash receipts and expenditures, a compiled  
 174 financial statement, or a reviewed financial statement in lieu  
 175 of an audited financial statement.

176  
 177 Such meeting and approval must occur prior to the end of the  
 178 fiscal year and is effective only for the fiscal year in which  
 179 the vote is taken. With respect to an association to which the  
 180 developer has not turned over control of the association, all  
 181 unit owners, including the developer, may vote on issues related  
 182 to the preparation of financial reports for the first 2 fiscal  
 183 years of the association's operation, beginning with the fiscal  
 184 year in which the declaration is recorded. Thereafter, all unit  
 185 owners except the developer may vote on such issues until  
 186 control is turned over to the association by the developer.

187 Under no circumstances may an association or board of  
 188 administration waive the financial reporting requirements of  
 189 this section for more than 2 consecutive years.

190 (15) RECONSTRUCTION AFTER CASUALTY.--

191 (a) In the event of a casualty whereby the condominium  
 192 property and units are damaged, the board of administration  
 193 shall obtain reliable and detailed estimates of the cost  
 194 necessary to repair and replace the damaged property to  
 195 substantially the same condition existing immediately prior to

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196 the casualty and substantially in accordance with the original  
197 plans and specifications of the condominium as soon as possible  
198 and not later than 60 days after the casualty. If the damage to  
199 the condominium property exceeds 50 percent of the property's  
200 value, the condominium may be terminated unless, within 90 days  
201 after the casualty, 75 percent of the unit owners agree to  
202 reconstruction and repair.

203 (b) The board of administration shall engage the services  
204 of a registered architect and knowledgeable construction  
205 specialists to prepare any necessary plans and specifications  
206 and shall receive and approve bids for reconstruction, shall  
207 execute all necessary contracts for restoration, and shall  
208 arrange for disbursement of construction funds, the approval of  
209 work, and all other matters pertaining to the repairs and  
210 reconstruction required.

211 (c) At any time during reconstruction and repair, or if  
212 the proceeds of the hazard insurance policy maintained by the  
213 association pursuant to paragraph (11)(b) are insufficient to  
214 pay the estimated costs of reconstruction, assessments shall be  
215 made against all unit owners according to their share of the  
216 common elements and expenses as set forth in the declaration of  
217 condominium.

218 (d) Assessments shall be made against unit owners for  
219 damage to their units according to the cost of reconstruction or  
220 repair of their respective units. The assessments shall be  
221 levied and collected as all other assessments are provided for  
222 in this chapter.



223       (16) GUEST DISABLED PARKING SPACES.--Where guest disabled  
 224 parking is provided, the guest disabled parking spaces shall be  
 225 configured and signed pursuant to s. 553.5041. The association  
 226 may increase the number of guest disabled parking spaces, if  
 227 needed. Residents with disabilities shall not park in a disabled  
 228 guest space unless their assigned parking space is in use  
 229 illegally. Resident disabled parking shall be assigned by the  
 230 board of directors from the spaces made available by the  
 231 association pursuant to state and federal fair housing law. When  
 232 a resident has two vehicles, one equipped with a lift, the  
 233 association shall assign a second space that satisfies the needs  
 234 of the vehicle and lift operation if additional parking space is  
 235 available and unassigned.

236       Section 3. Paragraphs (a), (b), (c), (d), (f), and (g) of  
 237 subsection (2) of section 718.112, Florida Statutes, are amended  
 238 to read:

239       718.112 Bylaws.--

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

243       (a) Administration.--

244       1. The form of administration of the association shall be  
 245 described indicating the title of the officers and board of  
 246 administration and specifying the powers, duties, manner of  
 247 selection and removal, and compensation, if any, of officers and  
 248 boards. In the absence of such a provision, or determination by  
 249 the board or membership, the board of administration shall be  
 250 composed of five members, except in the case of a condominium

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251 | which has five or fewer units, in which case in a not-for-profit  
252 | corporation the board shall consist of not fewer than three  
253 | members. In the absence of provisions to the contrary in the  
254 | bylaws, the board of administration shall have a president, a  
255 | secretary, and a treasurer, who shall perform the duties of such  
256 | officers customarily performed by officers of corporations.  
257 | Unless prohibited in the bylaws, the board of administration may  
258 | appoint other officers and grant them the duties it deems  
259 | appropriate. Unless otherwise provided in the bylaws, the  
260 | officers shall serve without compensation and at the pleasure of  
261 | the board of administration. Unless otherwise provided in the  
262 | bylaws, the members of the board shall serve without  
263 | compensation.

264 |         2. When a unit owner files a written inquiry by certified  
265 | mail with the board of administration, the board shall respond  
266 | in writing by certified mail, return receipt requested, to the  
267 | unit owner within 30 days of receipt of the inquiry. The board's  
268 | response shall either give a substantive response to the  
269 | inquirer, notify the inquirer that a legal opinion has been  
270 | requested, or notify the inquirer that advice has been requested  
271 | from the division. If the board requests advice from the  
272 | division, the board shall, within 10 days of its receipt of the  
273 | advice, provide in writing a substantive response to the  
274 | inquirer. If a legal opinion is requested, the board shall,  
275 | within 60 days after the receipt of the inquiry, provide in  
276 | writing a substantive response to the inquiry. The failure to  
277 | provide a substantive response to the inquiry as provided herein  
278 | precludes the board from recovering attorney's fees and costs in

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279 any subsequent litigation, administrative proceeding, or  
280 arbitration arising out of the inquiry. ~~The association may~~  
281 ~~through its board of administration adopt reasonable rules and~~  
282 ~~regulations regarding the frequency and manner of responding to~~  
283 ~~unit owner inquiries, one of which may be that the association~~  
284 ~~is only obligated to respond to one written inquiry per unit in~~  
285 ~~any given 30 day period. In such a case, any additional inquiry~~  
286 ~~or inquiries must be responded to in the subsequent 30 day~~  
287 ~~period, or periods, as applicable.~~

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

289 1. Unless a lower number is provided in the bylaws, the  
290 percentage of voting interests required to constitute a quorum  
291 at a meeting of the members shall be a majority of the voting  
292 interests. Unless otherwise provided in this chapter or in the  
293 declaration, articles of incorporation, or bylaws, and except as  
294 provided in subparagraph (d)3., decisions shall be made by  
295 owners of a majority of the voting interests represented at a  
296 meeting at which a quorum is present.

297 2. Except as specifically otherwise provided herein, after  
298 January 1, 1992, unit owners may not vote by general proxy, but  
299 may vote by limited proxies substantially conforming to a  
300 limited proxy form adopted by the division. Limited proxies and  
301 general proxies may be used to establish a quorum. Limited  
302 proxies shall be used for votes taken to waive or reduce  
303 reserves in accordance with subparagraph (f)2.; for votes taken  
304 to waive the financial reporting requirements of s. 718.111(13);  
305 for votes taken to amend the declaration pursuant to s. 718.110;  
306 for votes taken to amend the articles of incorporation or bylaws

307 pursuant to this section; and for any other matter for which  
 308 this chapter requires or permits a vote of the unit owners.  
 309 ~~Except as provided in paragraph (d), after January 1, 1992,~~ No  
 310 proxy, limited or general, shall be used in the election of  
 311 board members. General proxies may be used for other matters for  
 312 which limited proxies are not required, and may also be used in  
 313 voting for nonsubstantive changes to items for which a limited  
 314 proxy is required and given. Notwithstanding the provisions of  
 315 this subparagraph, unit owners may vote in person at unit owner  
 316 meetings. Nothing contained herein shall limit the use of  
 317 general proxies or require the use of limited proxies for any  
 318 agenda item or election at any meeting of a timeshare  
 319 condominium association.

320 3. Any proxy given shall be effective only for the  
 321 specific meeting for which originally given and any lawfully  
 322 adjourned meetings thereof. In no event shall any proxy be valid  
 323 for a period longer than 90 days after the date of the first  
 324 meeting for which it was given. Every proxy is revocable at any  
 325 time at the pleasure of the unit owner executing it.

326 4. A member of the board of administration or a committee  
 327 may submit in writing his or her agreement or disagreement with  
 328 any action taken at a meeting that the member did not attend.  
 329 This agreement or disagreement may not be used as a vote for or  
 330 against the action taken and may not be used for the purposes of  
 331 creating a quorum.

332 5. When any of the board or committee members meet by  
 333 telephone conference, those board or committee members attending  
 334 by telephone conference may be counted toward obtaining a quorum

335 and may vote by telephone. A telephone speaker must be used so  
336 that the conversation of those board or committee members  
337 attending by telephone may be heard by the board or committee  
338 members attending in person as well as by any unit owners  
339 present at a meeting.

340 (c) Board of administration meetings.--Meetings of the  
341 board of administration at which a quorum of the members is  
342 present shall be open to all unit owners. No action shall be  
343 taken or resolution made without an open meeting of the board of  
344 administration. The board of administration shall address agenda  
345 items proposed by a petition of 20 percent of the unit owners.

346 Any unit owner may tape record or videotape meetings of the  
347 board of administration. The right to attend such meetings  
348 includes the right to speak at such meetings with reference to  
349 all designated agenda items. The division shall adopt reasonable  
350 rules governing the tape recording and videotaping of the  
351 meeting. The association may adopt written reasonable rules  
352 governing the frequency, duration, and manner of unit owner  
353 statements. Adequate notice of all meetings, which notice shall  
354 specifically incorporate an identification of agenda items,  
355 shall be posted conspicuously on the condominium property at  
356 least 48 continuous hours preceding the meeting except in an  
357 emergency. Any item not included on the notice may be taken up  
358 on an emergency basis by at least a majority plus one of the  
359 members of the board or by a petition of 20 percent of the unit  
360 owners. Such emergency action shall be noticed and ratified at  
361 the next regular meeting of the board. However, written notice  
362 of any meeting at which nonemergency special assessments, or at

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363 which amendment to rules regarding unit use, will be considered  
364 shall be mailed, delivered, or electronically transmitted to the  
365 unit owners and posted conspicuously on the condominium property  
366 not less than 14 days prior to the meeting. Evidence of  
367 compliance with this 14-day notice shall be made by an affidavit  
368 executed by the person providing the notice and filed among the  
369 official records of the association. Upon notice to the unit  
370 owners, the board shall by duly adopted rule designate a  
371 specific location on the condominium property or association  
372 property upon which all notices of board meetings shall be  
373 posted. If there is no condominium property or association  
374 property upon which notices can be posted, notices of board  
375 meetings shall be mailed, delivered, or electronically  
376 transmitted at least 14 days before the meeting to the owner of  
377 each unit. In lieu of or in addition to the physical posting of  
378 notice of any meeting of the board of administration on the  
379 condominium property, the association may, by reasonable rule,  
380 adopt a procedure for conspicuously posting and repeatedly  
381 broadcasting the notice and the agenda on a closed-circuit cable  
382 television system serving the condominium association. However,  
383 if broadcast notice is used in lieu of a notice posted  
384 physically on the condominium property, the notice and agenda  
385 must be broadcast at least four times every broadcast hour of  
386 each day that a posted notice is otherwise required under this  
387 section. When broadcast notice is provided, the notice and  
388 agenda must be broadcast in a manner and for a sufficient  
389 continuous length of time so as to allow an average reader to  
390 observe the notice and read and comprehend the entire content of

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391 the notice and the agenda. Notice of any meeting in which  
392 regular or special assessments against unit owners are to be  
393 considered for any reason shall specifically contain a statement  
394 that assessments will be considered and the nature, cost, and  
395 breakdown of any such assessments. Meetings of a committee to  
396 take final action on behalf of the board or make recommendations  
397 to the board regarding the association budget are subject to the  
398 provisions of this paragraph. Meetings of a committee that does  
399 not take final action on behalf of the board or make  
400 recommendations to the board regarding the association budget  
401 are subject to the provisions of this section, unless those  
402 meetings are exempted from this section by the bylaws of the  
403 association. Notwithstanding any other law, the requirement that  
404 board meetings and committee meetings be open to the unit owners  
405 is inapplicable to meetings between the board or a committee and  
406 the association's attorney, with respect to proposed or pending  
407 litigation, when the meeting is held for the purpose of seeking  
408 or rendering legal advice.

409 (d) Unit owner meetings.--

410 1. There shall be an annual meeting of the unit owners.  
411 Unless the bylaws provide otherwise, a vacancy on the board  
412 caused by the expiration of a director's term shall be filled by  
413 electing a new board member, and the election shall be by secret  
414 ballot; however, if the number of vacancies equals or exceeds  
415 the number of candidates, no election is required. If there is  
416 no provision in the bylaws for terms of the members of the  
417 board, the terms of all members of the board shall expire upon  
418 the election of their successors at the annual meeting. A unit

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419 owner may not serve on the board as a director for more than two  
420 terms or longer than 4 years. A member may not serve as an  
421 officer of the corporation for more that one term. Coowners of a  
422 unit may not serve as members of the board of administration  
423 during the same fiscal year. Any unit owner desiring to be a  
424 candidate for board membership shall comply with subparagraph 3.  
425 A person who has been convicted of any felony by any court of  
426 record in the United States and who has not had his or her right  
427 to vote restored pursuant to law in the jurisdiction of his or  
428 her residence is not eligible for board membership. The validity  
429 of an action by the board is not affected if it is later  
430 determined that a member of the board is ineligible for board  
431 membership due to having been convicted of a felony.

432 2. The bylaws shall provide the method of calling meetings  
433 of unit owners, including annual meetings. Written notice, which  
434 notice must include an agenda, shall be mailed, hand delivered,  
435 or electronically transmitted to each unit owner at least 14  
436 days prior to the annual meeting and shall be posted in a  
437 conspicuous place on the condominium property at least 14  
438 continuous days preceding the annual meeting. Upon notice to the  
439 unit owners, the board shall by duly adopted rule designate a  
440 specific location on the condominium property or association  
441 property upon which all notices of unit owner meetings shall be  
442 posted; however, if there is no condominium property or  
443 association property upon which notices can be posted, this  
444 requirement does not apply. In lieu of or in addition to the  
445 physical posting of notice of any meeting of the unit owners on  
446 the condominium property, the association may, by reasonable



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447 rule, adopt a procedure for conspicuously posting and repeatedly  
448 broadcasting the notice and the agenda on a closed-circuit cable  
449 television system serving the condominium association. However,  
450 if broadcast notice is used in lieu of a notice posted  
451 physically on the condominium property, the notice and agenda  
452 must be broadcast at least four times every broadcast hour of  
453 each day that a posted notice is otherwise required under this  
454 section. When broadcast notice is provided, the notice and  
455 agenda must be broadcast in a manner and for a sufficient  
456 continuous length of time so as to allow an average reader to  
457 observe the notice and read and comprehend the entire content of  
458 the notice and the agenda. Unless a unit owner waives in writing  
459 the right to receive notice of the annual meeting, such notice  
460 shall be hand delivered, mailed, or electronically transmitted  
461 to each unit owner. Notice for meetings and notice for all other  
462 purposes shall be mailed to each unit owner at the address last  
463 furnished to the association by the unit owner, or hand  
464 delivered to each unit owner. However, if a unit is owned by  
465 more than one person, the association shall provide notice, for  
466 meetings and all other purposes, to that one address which the  
467 developer initially identifies for that purpose and thereafter  
468 as one or more of the owners of the unit shall so advise the  
469 association in writing, or if no address is given or the owners  
470 of the unit do not agree, to the address provided on the deed of  
471 record. An officer of the association, or the manager or other  
472 person providing the first notice of the association meeting,  
473 and the second notice as set forth in subparagraph 3., shall  
474 provide an affidavit or United States Postal Service certificate

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475 of mailing, to be included in the official records of the  
476 association affirming that the first and second notices were  
477 ~~notice was~~ mailed or hand delivered, in accordance with this  
478 provision.

479 3. The members of the board shall be elected by written  
480 ballot or voting machine. Proxies shall in no event be used in  
481 electing the board, either in general elections or elections to  
482 fill vacancies caused by recall, resignation, or otherwise,  
483 unless otherwise provided in this chapter. Not less than 60 days  
484 before a scheduled election, the association or its  
485 representative shall mail, deliver, or electronically transmit,  
486 whether by separate association mailing or included in another  
487 association mailing, delivery, or transmission, including  
488 regularly published newsletters, to each unit owner entitled to  
489 a vote, a first notice of the date of the election. Any unit  
490 owner or other eligible person desiring to be a candidate for  
491 the board must give written notice to the association or its  
492 representative not less than 40 days before a scheduled  
493 election. Together with the written notice and agenda as set  
494 forth in subparagraph 2., the association or its representative  
495 shall mail, deliver, or electronically transmit a second notice  
496 of the election to all unit owners entitled to vote therein,  
497 together with a ballot which shall list all candidates. Upon  
498 request of a candidate, the association or its representative  
499 shall include an information sheet, no larger than 8 1/2 inches  
500 by 11 inches, which must be furnished by the candidate not less  
501 than 35 days before the election, to be included with the  
502 mailing, delivery, or transmission of the ballot, with the costs

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503 of mailing, delivery, or electronic transmission and copying to  
 504 be borne by the association. The association is not liable for  
 505 the contents of the information sheets prepared by the  
 506 candidates. ~~In order to reduce costs, the association may print~~  
 507 ~~or duplicate the information sheets on both sides of the paper.~~  
 508 The division shall by rule establish voting procedures  
 509 consistent with the provisions contained herein, including rules  
 510 establishing procedures for giving notice by electronic  
 511 transmission and rules providing for the secrecy of ballots.  
 512 Elections shall be decided by a plurality of those ballots cast.  
 513 There shall be no quorum requirement; however, at least 20  
 514 percent of the eligible voters must cast a ballot in order to  
 515 have a valid election of members of the board. No unit owner  
 516 shall permit any other person to vote his or her ballot, and any  
 517 such ballots improperly cast shall be deemed invalid, provided  
 518 any unit owner who violates this provision may be fined by the  
 519 association in accordance with s. 718.303. A unit owner who  
 520 needs assistance in casting the ballot for the reasons stated in  
 521 s. 101.051 may obtain assistance in casting the ballot. The  
 522 regular election shall occur on the date of the annual meeting.  
 523 The provisions of this subparagraph shall not apply to timeshare  
 524 condominium associations. Notwithstanding the provisions of this  
 525 subparagraph, an election is not required unless more candidates  
 526 file notices of intent to run or are nominated than board  
 527 vacancies exist.

528 4. Any approval by unit owners called for by this chapter  
 529 or the applicable declaration or bylaws, including, but not  
 530 limited to, the approval requirement in s. 718.111(8), shall be

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531 made at a duly noticed meeting of unit owners and shall be  
532 subject to all requirements of this chapter or the applicable  
533 condominium documents relating to unit owner decisionmaking,  
534 except that unit owners may take action by written agreement,  
535 without meetings, on matters for which action by written  
536 agreement without meetings is expressly allowed by the  
537 applicable bylaws or declaration or any statute that provides  
538 for such action.

539 5. Unit owners may waive notice of specific meetings if  
540 allowed by the applicable bylaws or declaration or any statute.  
541 If authorized by the bylaws, notice of meetings of the board of  
542 administration, unit owner meetings, except unit owner meetings  
543 called to recall board members under paragraph (j), and  
544 committee meetings may be given by electronic transmission to  
545 unit owners who consent to receive notice by electronic  
546 transmission.

547 6. Unit owners shall have the right to participate in  
548 meetings of unit owners with reference to all designated agenda  
549 items. However, the association may adopt reasonable rules  
550 governing the frequency, duration, and manner of unit owner  
551 participation.

552 7. Any unit owner may tape record or videotape a meeting  
553 of the unit owners subject to reasonable rules adopted by the  
554 division.

555 8. Unless otherwise provided in the bylaws, any vacancy  
556 occurring on the board before the expiration of a term may be  
557 filled by the affirmative vote of the majority of the remaining  
558 directors, even if the remaining directors constitute less than

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559 a quorum, or by the sole remaining director. In the alternative,  
 560 a board may hold an election to fill the vacancy, in which case  
 561 the election procedures must conform to the requirements of  
 562 subparagraph 3. ~~unless the association has opted out of the~~  
 563 ~~statutory election process, in which case the bylaws of the~~  
 564 ~~association control.~~ Unless otherwise provided in the bylaws, a  
 565 board member appointed or elected under this section shall fill  
 566 the vacancy for the unexpired term of the seat being filled.  
 567 Filling vacancies created by recall is governed by paragraph (j)  
 568 and rules adopted by the division.

569  
 570 ~~Notwithstanding subparagraphs (b)2. and (d)3., an association~~  
 571 ~~may, by the affirmative vote of a majority of the total voting~~  
 572 ~~interests, provide for different voting and election procedures~~  
 573 ~~in its bylaws, which vote may be by a proxy specifically~~  
 574 ~~delineating the different voting and election procedures. The~~  
 575 ~~different voting and election procedures may provide for~~  
 576 ~~elections to be conducted by limited or general proxy.~~

577 9. Unit owners have the right to have items placed on the  
 578 agenda of the annual meeting and to be voted upon if a written  
 579 request is made to the board of administration by 20 percent or  
 580 more of all voting interests at least 90 days before the date of  
 581 the annual meeting.

582 (f) Annual budget.--

583 1. The proposed annual budget of common expenses shall be  
 584 detailed and shall show the amounts budgeted by accounts and  
 585 expense classifications, including, if applicable, but not  
 586 limited to, those expenses listed in s. 718.504(21). A

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587 multicondominium association shall adopt a separate budget of  
588 common expenses for each condominium the association operates  
589 and shall adopt a separate budget of common expenses for the  
590 association. In addition, if the association maintains limited  
591 common elements with the cost to be shared only by those  
592 entitled to use the limited common elements as provided for in  
593 s. 718.113(1), the budget or a schedule attached thereto shall  
594 show amounts budgeted therefor. If, after turnover of control of  
595 the association to the unit owners, any of the expenses listed  
596 in s. 718.504(21) are not applicable, they need not be listed.

597 2. In addition to annual operating expenses, the budget  
598 shall include reserve accounts for capital expenditures and  
599 deferred maintenance. These accounts shall include, but are not  
600 limited to, roof replacement, building painting, and pavement  
601 resurfacing, regardless of the amount of deferred maintenance  
602 expense or replacement cost, and for any other item for which  
603 the deferred maintenance expense or replacement cost exceeds  
604 \$10,000. The amount to be reserved shall be computed by means of  
605 a formula which is based upon estimated remaining useful life  
606 and estimated replacement cost or deferred maintenance expense  
607 of each reserve item. The association may adjust replacement  
608 reserve assessments annually to take into account any changes in  
609 estimates or extension of the useful life of a reserve item  
610 caused by deferred maintenance. This subsection does not apply  
611 to an adopted budget in which the members of an association have  
612 determined, by a majority vote at a duly called meeting of the  
613 association, to provide no reserves or less reserves than  
614 required by this subsection. However, prior to turnover of

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615 control of an association by a developer to unit owners other  
616 than a developer pursuant to s. 718.301, the developer may vote  
617 to waive the reserves or reduce the funding of reserves for the  
618 first 2 fiscal years of the association's operation, beginning  
619 with the fiscal year in which the initial declaration is  
620 recorded, after which time reserves may be waived or reduced  
621 only upon the vote of a majority of all nondeveloper voting  
622 interests voting in person or by limited proxy at a duly called  
623 meeting of the association. If a meeting of the unit owners has  
624 been called to determine whether to waive or reduce the funding  
625 of reserves, and no such result is achieved or a quorum is not  
626 attained, the reserves as included in the budget shall go into  
627 effect. After the turnover, the developer may vote its voting  
628 interest to waive or reduce the funding of reserves.

629 3. Reserve funds and any interest accruing thereon shall  
630 remain in the reserve account or accounts, and shall be used  
631 only for authorized reserve expenditures unless their use for  
632 other purposes is approved in advance by a majority vote at a  
633 duly called meeting of the association. Prior to turnover of  
634 control of an association by a developer to unit owners other  
635 than the developer pursuant to s. 718.301, the developer-  
636 controlled association shall not vote to use reserves for  
637 purposes other than that for which they were intended without  
638 the approval of a majority of all nondeveloper voting interests,  
639 voting in person or by limited proxy at a duly called meeting of  
640 the association.

641 4. The only voting interests which are eligible to vote on  
642 questions that involve waiving or reducing the funding of

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643 reserves, or using existing reserve funds for purposes other  
644 than purposes for which the reserves were intended, are the  
645 voting interests of the units subject to assessment to fund the  
646 reserves in question.

647 5. A vote to provide for no reserves or percentage of  
648 reserves shall be made at the annual meeting of the unit owners  
649 called under paragraph (d). The division shall adopt the form  
650 for the ballot for no reserves or percentage of reserves.

651 6. Notwithstanding the provisions of subparagraph 3., the  
652 association after turnover of control of the association may, in  
653 case of a catastrophic event, use reserve funds for nonscheduled  
654 purposes to mitigate further damage to units or common elements  
655 or to make the condominium accessible for repairs.

656 (g) Assessments.--The manner of collecting from the unit  
657 owners their shares of the common expenses shall be stated in  
658 the bylaws. Assessments shall be made against units on a  
659 quarter-annual, or more frequent, basis ~~not less frequently than~~  
660 ~~quarterly~~ in an amount which is not less than that required to  
661 provide funds in advance for payment of all of the anticipated  
662 current operating expenses and for all of the unpaid operating  
663 expenses previously incurred. Nothing in this paragraph shall  
664 preclude the right of an association to accelerate assessments  
665 of an owner delinquent in payment of common expenses against  
666 whom a lien has been filed. Accelerated assessments shall be due  
667 and payable after ~~on the date~~ the claim of lien is filed. Such  
668 accelerated assessments shall include the amounts due for the  
669 remainder of the budget year in which the claim of lien was  
670 filed.



671 Section 4. Subsection (5) of section 718.113, Florida  
 672 Statutes, is amended, and subsection (6) is added to that  
 673 section, to read:

674 718.113 Maintenance; limitation upon improvement; display  
 675 of flag; hurricane shutters.--

676 (5) Each board of administration shall adopt or, yearly at  
 677 the annual meeting, restate hurricane shutter specifications for  
 678 each building within each condominium operated by the  
 679 association which shall include color, style, and other factors  
 680 deemed relevant by the board. All specifications adopted by the  
 681 board shall comply with the applicable building code.

682 Notwithstanding any provision to the contrary in the condominium  
 683 documents, if approval is required by the documents, a board  
 684 shall not refuse to approve the installation or replacement of  
 685 hurricane shutters conforming to the specifications adopted by  
 686 the board. The board may, subject to the provisions of s.

687 718.3026, and the approval of a majority of voting interests of  
 688 the condominium, install hurricane shutters or hurricane  
 689 protection that complies with the applicable building code and  
 690 may maintain, repair, or replace such approved hurricane  
 691 shutters, whether on or within common elements, limited common  
 692 elements, units, or association property. However, where  
 693 laminated glass or window film architecturally designed to  
 694 function as hurricane protection which complies with the  
 695 applicable building code has been installed, the board may not  
 696 install hurricane shutters. The board may operate shutters  
 697 installed pursuant to this subsection without permission of the  
 698 unit owners only where such operation is necessary to preserve

699 and protect the condominium property and association property.  
 700 The installation, replacement, operation, repair, and  
 701 maintenance of such shutters in accordance with the procedures  
 702 set forth herein shall not be deemed a material alteration to  
 703 the common elements or association property within the meaning  
 704 of this section.

705 (6) Every 5 years the board of administration shall have  
 706 the condominium buildings inspected by a professional engineer  
 707 or professional architect registered in the state for the  
 708 purpose of determining that the building is structurally and  
 709 electrically safe. The engineer or architect shall render a  
 710 report that shall indicate the manner and type of inspection  
 711 forming the basis for the report and description of any matters  
 712 identified as requiring remedial action. The report shall become  
 713 an official record of the association to be provided to the  
 714 members upon request pursuant to section 718.111(12).

715 Section 5. Paragraph (d) of subsection (1) of section  
 716 718.115, Florida Statutes, is amended to read:

717 718.115 Common expenses and common surplus.--

718 (1)

719 (d) If so provided in the declaration, the cost of a  
 720 master antenna television system or duly franchised cable  
 721 television service obtained pursuant to a bulk contract for  
 722 basic service shall be deemed a common expense. If the  
 723 declaration does not provide for the cost of a master antenna  
 724 television system or duly franchised basic cable television  
 725 service obtained under a basic bulk contract as a common  
 726 expense, the board may enter into such a contract, and the cost

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727 of the service will be a common expense but allocated on a per-  
728 unit basis rather than a percentage basis if the declaration  
729 provides for other than an equal sharing of common expenses, and  
730 any contract entered into before July 1, 1998, in which the cost  
731 of the service is not equally divided among all unit owners, may  
732 be changed by vote of a majority of the voting interests present  
733 at a regular or special meeting of the association, to allocate  
734 the cost equally among all units. The contract shall be for a  
735 term of not less than 2 years.

736 1. Any contract made by the board after the effective date  
737 hereof for a community antenna system or duly franchised basic  
738 cable television service may be canceled by a majority of the  
739 voting interests present at the next regular or special meeting  
740 of the association. Any member may make a motion to cancel said  
741 contract, but if no motion is made or if such motion fails to  
742 obtain the required majority at the next regular or special  
743 meeting, whichever is sooner, following the making of the  
744 contract, then such contract shall be deemed ratified for the  
745 term therein expressed.

746 2. Any such contract shall provide, and shall be deemed to  
747 provide if not expressly set forth, that any hearing-impaired or  
748 legally blind unit owner who does not occupy the unit with a  
749 non-hearing-impaired or sighted person, or any unit owner  
750 receiving supplemental security income under Title XVI of the  
751 Social Security Act or food stamps as administered by the  
752 Department of Children and Family Services pursuant to s.  
753 414.31, may discontinue the service without incurring disconnect  
754 fees, penalties, or subsequent service charges, and, as to such

755 units, the owners shall not be required to pay any common  
 756 expenses charge related to such service. If less than all  
 757 members of an association share the expenses of cable  
 758 television, the expense shall be shared equally by all  
 759 participating unit owners. The association may use the  
 760 provisions of s. 718.116 to enforce payment of the shares of  
 761 such costs by the unit owners receiving cable television.

762 Section 6. Subsections (1) and (3), paragraph (a) of  
 763 subsection (5), and subsection (10) of section 718.116, Florida  
 764 Statutes, are amended to read:

765 718.116 Assessments; liability; lien and priority;  
 766 interest; collection.--

767 (1) (a) A unit owner, regardless of how his or her title  
 768 has been acquired, including by purchase at a foreclosure sale  
 769 or by deed in lieu of foreclosure, is liable for all assessments  
 770 which come due while he or she is the unit owner. Additionally,  
 771 a unit owner is jointly and severally liable with the previous  
 772 owner for all unpaid assessments that came due up to the time of  
 773 transfer of title. This liability is without prejudice to any  
 774 right the owner may have to recover from the previous owner the  
 775 amounts paid by the owner.

776 ~~(b) The liability of a first mortgagee or its successor or~~  
 777 ~~assignees who acquire title to a unit by foreclosure or by deed~~  
 778 ~~in lieu of foreclosure for the unpaid assessments that became~~  
 779 ~~due prior to the mortgagee's acquisition of title is limited to~~  
 780 ~~the lesser of:~~

781 ~~1. The unit's unpaid common expenses and regular periodic~~  
 782 ~~assessments which accrued or came due during the 6 months~~

783 ~~immediately preceding the acquisition of title and for which~~  
 784 ~~payment in full has not been received by the association; or~~  
 785 ~~2. One percent of the original mortgage debt. The~~  
 786 ~~provisions of this paragraph apply only if the first mortgagee~~  
 787 ~~joined the association as a defendant in the foreclosure action.~~  
 788 ~~Joinder of the association is not required if, on the date the~~  
 789 ~~complaint is filed, the association was dissolved or did not~~  
 790 ~~maintain an office or agent for service of process at a location~~  
 791 ~~which was known to or reasonably discoverable by the mortgagee.~~

792 (b)~~(e)~~ The person acquiring title shall pay the amount  
 793 owed to the association within 30 days after transfer of title.  
 794 Failure to pay the full amount when due shall entitle the  
 795 association to record a claim of lien against the parcel and  
 796 proceed in the same manner as provided in this section for the  
 797 collection of unpaid assessments.

798 (c)~~(d)~~ With respect to each timeshare unit, each owner of  
 799 a timeshare estate therein is jointly and severally liable for  
 800 the payment of all assessments and other charges levied against  
 801 or with respect to that unit pursuant to the declaration or  
 802 bylaws, except to the extent that the declaration or bylaws may  
 803 provide to the contrary.

804 (d)~~(e)~~ ~~Notwithstanding the provisions of paragraph (b),~~ A  
 805 first mortgagee or its successor or assignees who acquire title  
 806 to a condominium unit as a result of the foreclosure of the  
 807 mortgage or by deed in lieu of foreclosure of the mortgage shall  
 808 be exempt from liability for all unpaid assessments attributable  
 809 to the parcel or chargeable to the previous owner which came due  
 810 prior to acquisition of title if the first mortgage was recorded

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811 prior to April 1, 1992. ~~If, however, the first mortgage was~~  
812 ~~recorded on or after April 1, 1992, or on the date the mortgage~~  
813 ~~was recorded, the declaration included language incorporating by~~  
814 ~~reference future amendments to this chapter, the provisions of~~  
815 ~~paragraph (b) shall apply.~~

816 (e) ~~(f)~~ The provisions of this subsection are intended to  
817 clarify existing law, and shall not be available in any case  
818 where the unpaid assessments sought to be recovered by the  
819 association are secured by a lien recorded prior to the  
820 recording of the mortgage. Notwithstanding the provisions of  
821 chapter 48, the association shall be a proper party to intervene  
822 in any foreclosure proceeding to seek equitable relief.

823 (f) ~~(g)~~ For purposes of this subsection, the term  
824 "successor or assignee" as used with respect to a first  
825 mortgagee includes only a subsequent holder of the first  
826 mortgage.

827 (3) Assessments and installments on them which are not  
828 paid when due bear interest at the rate provided in the  
829 declaration, from the due date until paid. This rate may not  
830 exceed the rate allowed by law, and, if no rate is provided in  
831 the declaration, interest shall accrue at the rate of 18 percent  
832 per year. Also, if the declaration or bylaws so provide, the  
833 association may charge an administrative late fee in addition to  
834 such interest, in an amount not to exceed the greater of \$25 or  
835 5 percent of each installment of the assessment for each  
836 delinquent installment that the payment is late. Any payment  
837 received by an association shall be applied first to any  
838 interest accrued by the association, then to any administrative

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839 late fee, then to the delinquent assessment, and then to any  
840 costs and reasonable attorney's fees incurred in collection,~~and~~  
841 ~~then to the delinquent assessment.~~ The foregoing shall be  
842 applicable notwithstanding any restrictive endorsement,  
843 designation, or instruction placed on or accompanying a payment.  
844 A late fee shall not be subject to the provisions in chapter 687  
845 or s. 718.303(3).

846 (5)(a) The association has a lien on each condominium  
847 parcel to secure the payment of assessments. A lien may not be  
848 filed on a condominium parcel until 30 days after the date of a  
849 notice of intent to file a lien has been served on the owner of  
850 the condominium parcel by certified mail or by personal service  
851 in the manner authorized by chapter 48 and the Florida Rules of  
852 Civil Procedure. Except as otherwise provided in subsection (1)  
853 and as set forth below, the lien is effective from and shall  
854 relate back to the recording of the original declaration of  
855 condominium, or, in the case of lien on a parcel located in a  
856 phase condominium, the last to occur of the recording of the  
857 original declaration or amendment thereto creating the parcel.  
858 However, as to first mortgages of record, the lien is effective  
859 from and after recording of a claim of lien in the public  
860 records of the county in which the condominium parcel is  
861 located. Nothing in this subsection shall be construed to bestow  
862 upon any lien, mortgage, or certified judgment of record on  
863 April 1, 1992, including the lien for unpaid assessments created  
864 herein, a priority which, by law, the lien, mortgage, or  
865 judgment did not have before that date.

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867 After notice of contest of lien has been recorded, the clerk of  
868 the circuit court shall mail a copy of the recorded notice to  
869 the association by certified mail, return receipt requested, at  
870 the address shown in the claim of lien or most recent amendment  
871 to it and shall certify to the service on the face of the  
872 notice. Service is complete upon mailing. After service, the  
873 association has 90 days in which to file an action to enforce  
874 the lien; and, if the action is not filed within the 90-day  
875 period, the lien is void. However, the 90-day period shall be  
876 extended for any length of time that the association is  
877 prevented from filing its action because of an automatic stay  
878 resulting from the filing of a bankruptcy petition by the unit  
879 owner or by any other person claiming an interest in the parcel.

880 (10) The specific purpose or purposes including itemized  
881 expenses of any special assessment approved in accordance with  
882 the condominium documents shall be set forth in a written notice  
883 of such assessment sent or delivered to each unit owner. A  
884 payment schedule shall be provided with due regard to the  
885 financial burden of the assessment on the unit owner. The funds  
886 collected pursuant to a special assessment shall not be  
887 commingled with any of the other association funds and shall be  
888 used only for the specific purpose or purposes set forth in such  
889 notice. However, upon completion of such specific purpose or  
890 purposes, any excess funds will be considered common surplus,  
891 and may, at the discretion of the board, either be returned to  
892 the unit owners or applied as a credit toward future  
893 assessments.



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894 Section 7. Section 718.1223, Florida Statutes, is created  
895 to read:

896 718.1223 Protection against abuse.--

897 (1) In order to protect the safety, health, and welfare of  
898 the people of this state and to ensure protection of condominium  
899 owners, especially the infirm, and elderly, any complaint of  
900 abuse filed with the Division of Florida Land Sales,  
901 Condominiums, and Mobile Homes shall immediately be investigated  
902 by the division. Where the division then has reasonable cause to  
903 believe that abuse has occurred against any unit owner, the  
904 division shall institute enforcement proceedings pursuant to its  
905 powers and duties as set forth in s. 718.501.

906 (2) For purposes of this section, the term "abuse" means  
907 any willful act or threatened act by a member of the board of  
908 directors of a condominium association or any member of a  
909 committee or subcommittee appointed by the board of directors,  
910 any employee, volunteer, or agent purporting to act on behalf of  
911 the board of directors, or any officer, director, employee, or  
912 agent of any management company acting on behalf of a  
913 condominium association who denies or is likely to deny a  
914 condominium unit owner or dweller any of the rights and  
915 protections afforded to the unit owner or dweller under  
916 applicable state and federal laws, administrative rules, and the  
917 governing documents of the condominium association.

918 Section 8. Section 718.1224, Florida Statutes, is created  
919 to read:

920 718.1224 Prohibition against SLAPP suits.--

921       (1) It is the intent of the Legislature to protect the  
922 right of condominium unit owners to exercise their rights to  
923 instruct their representatives and petition for redress of  
924 grievances before the various governmental entities of this  
925 state as protected by the First Amendment to the United States  
926 Constitution and s. 5, Art. I of the State Constitution. The  
927 Legislature recognizes that strategic lawsuits against public  
928 participation, or "SLAPP" suits as they are typically referred  
929 to, have occurred when association members are sued by  
930 individuals, business entities, or governmental entities arising  
931 out of a condominium unit owner's appearance and presentation  
932 before a governmental entity on matters related to the  
933 condominium association. However, it is the public policy of  
934 this state that governmental entities, business organizations,  
935 and individuals not engage in SLAPP suits, because such actions  
936 are inconsistent with the right of condominium unit owners to  
937 participate in the state's institutions of government.  
938 Therefore, the Legislature finds and declares that prohibiting  
939 such lawsuits by governmental entities, business entities, and  
940 individuals against condominium unit owners who address matters  
941 concerning their condominium association will preserve this  
942 fundamental state policy, preserve the constitutional rights of  
943 condominium unit owners, and ensure the continuation of  
944 representative government in this state. It is the intent of the  
945 Legislature that such lawsuits be expeditiously disposed of by  
946 the courts. As used in this subsection, the term "governmental  
947 entity" means the state, including the executive, legislative,  
948 and judicial branches of government, the independent

949 establishments of the state, counties, municipalities,  
950 districts, authorities, boards, or commissions, or any agencies  
951 of these branches that are subject to chapter 286.

952 (2) No governmental entity, business organization, or  
953 individual in this state shall file or cause to be filed through  
954 its employees or agents, any lawsuit, cause of action, claim,  
955 cross-claim, or counterclaim against a condominium unit owner  
956 without merit and solely because such condominium unit owner has  
957 exercised the right to instruct his or her representatives of  
958 the right to petition for redress of grievances before the  
959 various governmental entities of this state, as protected by the  
960 First Amendment to the United States Constitution and s. 5, Art.  
961 I of the State Constitution.

962 (3) A condominium unit owner sued by a governmental  
963 entity, business organization, or individual in violation of  
964 this section has a right to an expeditious resolution of a claim  
965 that the suit is in violation of this section. A condominium  
966 unit owner may petition the court for an order dismissing the  
967 action or granting final judgment in favor of that condominium  
968 unit owner. The petitioner may file a motion for summary  
969 judgment, together with supplemental affidavits, seeking a  
970 determination that the governmental entity's, business  
971 organization's, or individual's lawsuit has been brought in  
972 violation of this section. The governmental entity, business  
973 organization, or individual shall thereafter file its response  
974 and any supplemental affidavits. As soon as practicable, the  
975 court shall set a hearing on the petitioner's motion, which  
976 shall be held at the earliest possible time after the filing of

977 the governmental entity's, business organization's, or  
 978 individual's response. The court may award the condominium unit  
 979 owner sued by the governmental entity, business organization, or  
 980 individual actual damages arising from the governmental  
 981 entity's, individual's, or business organization's violation of  
 982 this section. A court may treble the damages awarded to a  
 983 prevailing condominium unit owner and shall state the basis for  
 984 the treble damages award in its judgment. The court shall award  
 985 the prevailing party reasonable attorney's fees and costs  
 986 incurred in connection with a claim that an action was filed in  
 987 violation of this section.

988 (4) Condominium associations may not expend association  
 989 funds in prosecuting a SLAPP suit against a condominium unit  
 990 owner.

991 Section 9. Paragraphs (e) and (h) of subsection (4) of  
 992 section 718.1255, Florida Statutes, are amended to read:

993 718.1255 Alternative dispute resolution; voluntary  
 994 mediation; mandatory nonbinding arbitration; legislative  
 995 findings.--

996 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF  
 997 DISPUTES.--The Division of Florida Land Sales, Condominiums, and  
 998 Mobile Homes of the Department of Business and Professional  
 999 Regulation shall employ full-time attorneys to act as  
 1000 arbitrators to conduct the arbitration hearings provided by this  
 1001 chapter. The division may also certify attorneys who are not  
 1002 employed by the division to act as arbitrators to conduct the  
 1003 arbitration hearings provided by this section. No person may be  
 1004 employed by the department as a full-time arbitrator unless he

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1005 or she is a member in good standing of The Florida Bar. The  
 1006 department shall promulgate rules of procedure to govern such  
 1007 arbitration hearings including mediation incident thereto. The  
 1008 decision of an arbitrator shall be final; however, such a  
 1009 decision shall not be deemed final agency action. Nothing in  
 1010 this provision shall be construed to foreclose parties from  
 1011 proceeding in a trial de novo unless the parties have agreed  
 1012 that the arbitration is binding. If such judicial proceedings  
 1013 are initiated, the final decision of the arbitrator shall be  
 1014 admissible in evidence in the trial de novo.

1015 (e) Either before or after the filing of the respondents'  
 1016 answer to the petition, any party may request that the  
 1017 arbitrator refer the case to mediation under this section and  
 1018 any rules adopted by the division. Upon receipt of a request for  
 1019 mediation, the division shall promptly refer the case ~~contact~~  
 1020 ~~the parties to determine if there is agreement that mediation~~  
 1021 ~~would be appropriate. If all parties agree, the dispute must be~~  
 1022 ~~referred to mediation. Notwithstanding a lack of an agreement by~~  
 1023 ~~all parties,~~ The arbitrator may refer a dispute to mediation at  
 1024 any time.

1025 (h) Mediation proceedings must generally be conducted in  
 1026 accordance with the Florida Rules of Civil Procedure, and these  
 1027 proceedings are privileged and confidential to the same extent  
 1028 as court-ordered mediation. Persons who are not parties to the  
 1029 dispute are not allowed to attend the mediation conference  
 1030 without the consent of all parties, with the exception of  
 1031 counsel for the parties and corporate representatives designated  
 1032 to appear for a party. If the mediator declares an impasse after

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1033 a mediation conference has been held, the arbitration proceeding  
 1034 terminates, unless all parties agree in writing to continue the  
 1035 arbitration proceeding, in which case the arbitrator's decision  
 1036 shall be either binding or nonbinding, as agreed upon by the  
 1037 parties; in the arbitration proceeding, the arbitrator shall not  
 1038 consider any evidence relating to the unsuccessful mediation  
 1039 except in a proceeding to impose sanctions for failure to appear  
 1040 at the mediation conference. If the parties do not agree to  
 1041 continue arbitration, the arbitrator shall enter an order of  
 1042 dismissal, and either party may institute a suit in a court of  
 1043 competent jurisdiction. The parties may seek to recover any  
 1044 costs and attorneys' fees incurred in connection with  
 1045 arbitration ~~and mediation~~ proceedings under this section as part  
 1046 of the costs and fees that may be recovered by the prevailing  
 1047 party in any subsequent litigation.

1048 Section 10. Subsection (1) of section 718.302, Florida  
 1049 Statutes, is amended to read:

1050 718.302 Agreements entered into by the association.--

1051 (1) Any grant or reservation made by a declaration, lease,  
 1052 or other document, and any contract made by an association prior  
 1053 to assumption of control of the association by unit owners other  
 1054 than the developer, that provides for services, products,  
 1055 operation, maintenance, or management of a condominium  
 1056 association or property serving the unit owners of a condominium  
 1057 shall be fair and reasonable, and such grant, reservation, or  
 1058 contract may be canceled by unit owners other than the  
 1059 developer:

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1060 (a) If the association operates only one condominium and  
1061 the unit owners other than the developer have assumed control of  
1062 the association, or if unit owners other than the developer own  
1063 not less than 75 percent of the voting interests in the  
1064 condominium, the cancellation shall be by concurrence of the  
1065 owners of not less than 75 percent of the voting interests other  
1066 than the voting interests owned by the developer. If a grant,  
1067 reservation, or contract is so canceled and the unit owners  
1068 other than the developer have not assumed control of the  
1069 association, the association shall make a new contract or  
1070 otherwise provide for maintenance, management, or operation in  
1071 lieu of the canceled obligation, at the direction of the owners  
1072 of not less than a majority of the voting interests in the  
1073 condominium other than the voting interests owned by the  
1074 developer.

1075 (b) If the association operates more than one condominium  
1076 and the unit owners other than the developer have not assumed  
1077 control of the association, and if unit owners other than the  
1078 developer own at least 75 percent of the voting interests in a  
1079 condominium operated by the association, any grant, reservation,  
1080 or contract for maintenance, management, or operation of  
1081 buildings containing the units in that condominium or of  
1082 improvements used only by unit owners of that condominium may be  
1083 canceled by concurrence of the owners of at least 75 percent of  
1084 the voting interests in the condominium other than the voting  
1085 interests owned by the developer. No grant, reservation, or  
1086 contract for maintenance, management, or operation of  
1087 recreational areas or any other property serving more than one

1088 condominium, and operated by more than one association, may be  
 1089 canceled except pursuant to paragraph (d).

1090 (c) If the association operates more than one condominium  
 1091 and the unit owners other than the developer have assumed  
 1092 control of the association, the cancellation shall be by  
 1093 concurrence of the owners of not less than 75 percent of the  
 1094 total number of voting interests in all condominiums operated by  
 1095 the association other than the voting interests owned by the  
 1096 developer.

1097 (d) If the owners of units in a condominium have the right  
 1098 to use property in common with owners of units in other  
 1099 condominiums and those condominiums are operated by more than  
 1100 one association, no grant, reservation, or contract for  
 1101 maintenance, management, or operation of the property serving  
 1102 more than one condominium may be canceled until unit owners  
 1103 other than the developer have assumed control of all of the  
 1104 associations operating the condominiums that are to be served by  
 1105 the recreational area or other property, after which  
 1106 cancellation may be effected by concurrence of the owners of not  
 1107 less than 75 percent of the total number of voting interests in  
 1108 those condominiums other than voting interests owned by the  
 1109 developer.

1110 Section 11. Paragraph (a) of subsection (2) of section  
 1111 718.3026, Florida Statutes, is amended to read:

1112 718.3026 Contracts for products and services; in writing;  
 1113 bids; exceptions.--Associations with less than 100 units may opt  
 1114 out of the provisions of this section if two-thirds of the unit  
 1115 owners vote to do so, which opt-out may be accomplished by a



1116 proxy specifically setting forth the exception from this  
 1117 section.

1118 (2) (a) 1. Notwithstanding the foregoing, contracts with  
 1119 employees of the association, and contracts for attorney,  
 1120 accountant, architect, community association manager, timeshare  
 1121 management firm, engineering, and landscape architect services  
 1122 are not subject to the provisions of this section.

1123 2. A contract executed before January 1, 1992, and any  
 1124 renewal thereof, is not subject to the competitive bid  
 1125 requirements of this section. If a contract was awarded under  
 1126 the competitive bid procedures of this section, any renewal of  
 1127 that contract is not subject to such competitive bid  
 1128 requirements if the contract contains a provision that allows  
 1129 the board to cancel the contract on 30 days' notice. Materials,  
 1130 equipment, or services provided to a condominium under a local  
 1131 government franchise agreement by a franchise holder are not  
 1132 subject to the competitive bid requirements of this section. A  
 1133 contract with a manager, if made by a competitive bid, may be  
 1134 made for up to 3 years. A condominium whose declaration or  
 1135 bylaws provides for competitive bidding for services may operate  
 1136 under the provisions of that declaration or bylaws in lieu of  
 1137 this section if those provisions are not less stringent than the  
 1138 requirements of this section.

1139 3. A contract by and between a service provider and an  
 1140 association shall not be for a term in excess of 3 years and  
 1141 shall not contain an automatic renewal clause.

1142 4. A contract for construction or repair of the property  
 1143 that exceeds 10 percent of the total annual budget of the

1144 association, including reserves, must have the approval of an  
 1145 attorney hired by the association.

1146 Section 12. Subsection (4) is added to section 718.303,  
 1147 Florida Statutes, to read:

1148 718.303 Obligations of owners; waiver; levy of fine  
 1149 against unit by association.--

1150 (4) Anyone subject to an action under this section shall  
 1151 be notified of the violation by certified mail, return receipt  
 1152 requested, and, except in the case of imminent danger to person  
 1153 or property, shall have 30 days in which to respond in writing.  
 1154 If no response is provided and the violation continues or is  
 1155 repeated, the association may proceed under subsections (1) and  
 1156 (2) without further notice except as provided in subsection (3).

1157 Section 13. Paragraphs (e) and (j) of subsection (1) of  
 1158 section 718.501, Florida Statutes, are amended to read:

1159 718.501 Powers and duties of Division of Florida Land  
 1160 Sales, Condominiums, and Mobile Homes.--

1161 (1) The Division of Florida Land Sales, Condominiums, and  
 1162 Mobile Homes of the Department of Business and Professional  
 1163 Regulation, referred to as the "division" in this part, in  
 1164 addition to other powers and duties prescribed by chapter 498,  
 1165 has the power to enforce and ensure compliance with the  
 1166 provisions of this chapter and rules promulgated pursuant hereto  
 1167 relating to the development, construction, sale, lease,  
 1168 ownership, operation, and management of residential condominium  
 1169 units. In performing its duties, the division has the following  
 1170 powers and duties:

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1171 (e) The division shall ~~is authorized to~~ prepare and  
1172 disseminate a prospectus and other information to assist  
1173 prospective owners, purchasers, lessees, and developers of  
1174 residential condominiums in assessing the rights, privileges,  
1175 and duties pertaining thereto.

1176 (j) The division shall provide training programs for  
1177 condominium association board members and unit owners in  
1178 conjunction with the recommendations of the ombudsman.

1179 Section 14. Subsection (1) of section 718.5011, Florida  
1180 Statutes, is amended to read:

1181 718.5011 Ombudsman; appointment; administration.--

1182 (1) There is created an Office of the Condominium  
1183 Ombudsman, to be located for administrative purposes only within  
1184 the Division of Florida Land Sales, Condominiums, and Mobile  
1185 Homes. The ombudsman shall exercise his or her policymaking and  
1186 other functions authorized by this chapter independently of the  
1187 Department of Business and Professional Regulation and without  
1188 approval or control of the department. The department shall  
1189 render administrative support to the office in matters  
1190 pertaining to budget, personnel, office space, equipment, and  
1191 supplies. All revenues collected for the office by the  
1192 department shall be deposited in a separate fund or account from  
1193 which the department may not use or divert the revenues. The  
1194 functions of the office shall be funded by the Division of  
1195 Florida Land Sales, Condominiums, and Mobile Homes Trust Fund.  
1196 The ombudsman shall be a bureau chief of the division, and the  
1197 office shall be set within the division in the same manner as  
1198 any other bureau is staffed and funded.

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1199 Section 15. Section 718.5012, Florida Statutes, is amended  
 1200 to read:

1201 718.5012 Ombudsman; powers and duties.--

1202 (1) The ombudsman shall have the powers that are necessary  
 1203 to carry out the duties of his or her office, including the  
 1204 following specific powers:

1205 (a)~~(1)~~ To have access to and use of all files and records  
 1206 of the division.

1207 (b)~~(2)~~ To employ professional and clerical staff as  
 1208 necessary for the efficient operation of the office.

1209 (c)~~(3)~~ To prepare and issue reports and recommendations to  
 1210 the Governor, the department, the division, ~~the Advisory Council~~  
 1211 ~~on Condominiums~~, the President of the Senate, and the Speaker of  
 1212 the House of Representatives on any matter or subject within the  
 1213 jurisdiction of the division. The ombudsman shall make  
 1214 recommendations he or she deems appropriate for legislation  
 1215 relative to division procedures, rules, jurisdiction, personnel,  
 1216 and functions.

1217 (d)~~(4)~~ To act as liaison between the division, unit  
 1218 owners, boards of directors, board members, community  
 1219 association managers, and other affected parties. The ombudsman  
 1220 shall develop policies and procedures to assist unit owners,  
 1221 boards of directors, board members, community association  
 1222 managers, and other affected parties to understand their rights  
 1223 and responsibilities as set forth in this chapter and the  
 1224 condominium documents governing their respective association.  
 1225 The ombudsman shall coordinate and assist in the preparation and  
 1226 adoption of educational and reference material, and shall

1227 endeavor to coordinate with private or volunteer providers of  
 1228 these services, so that the availability of these resources is  
 1229 made known to the largest possible audience.

1230 (e)~~(5)~~ To monitor and review procedures and disputes  
 1231 concerning condominium elections or meetings, including, but not  
 1232 limited to, recommending that the division pursue enforcement  
 1233 action in any manner where there is reasonable cause to believe  
 1234 that election misconduct has occurred. The division shall  
 1235 process the ombudsman's recommendations and petitions in an  
 1236 expedited manner and shall defer to his or her findings.

1237 (f)~~(6)~~ To make recommendations to the division for changes  
 1238 in rules and procedures for the filing, investigation, and  
 1239 resolution of complaints filed by unit owners, associations, and  
 1240 managers.

1241 (g)~~(7)~~ To provide resources to assist members of boards of  
 1242 directors and officers of associations to carry out their powers  
 1243 and duties consistent with this chapter, division rules, and the  
 1244 condominium documents governing the association.

1245 (h)~~(8)~~ To order, encourage, and facilitate ~~voluntary~~  
 1246 meetings with and between unit owners, boards of directors,  
 1247 board members, community association managers, and other  
 1248 affected parties when the meetings may assist in resolving a  
 1249 dispute within a community association before a person submits a  
 1250 dispute for a formal or administrative remedy. It is the intent  
 1251 of the Legislature that the ombudsman act as a neutral resource  
 1252 for both the rights and responsibilities of unit owners,  
 1253 associations, and board members.

1254        (i) To make recommendations to the division to pursue  
 1255 enforcement action in circuit court on behalf of a class of unit  
 1256 owners, lessees, or purchasers for declaratory relief,  
 1257 injunctive relief, or restitution against any developer,  
 1258 association, officer, or member of the board of administration  
 1259 or its assignees or agents when there is reasonable cause to  
 1260 believe misconduct has occurred. The division shall process the  
 1261 ombudsman's recommendations and petitions in an expedited manner  
 1262 and shall defer to his or her findings.

1263        (2)~~(9)~~ Fifteen percent of the total voting interests in a  
 1264 condominium association, or six unit owners, whichever is  
 1265 greater, may petition the ombudsman to appoint an election  
 1266 monitor to attend the annual meeting of the unit owners and  
 1267 conduct the election of directors. The ombudsman upon petition  
 1268 may order any aspect of the election process as set forth in s.  
 1269 718.112(2)(d)3. to be conducted by the election monitor. No  
 1270 association or person may reject an election monitor appointed  
 1271 by the ombudsman or interfere with an election monitor in the  
 1272 performance of his or her duties. The ombudsman may order an  
 1273 association to implement a known division remedy for a  
 1274 procedural violation of s. 718.112(2)(d)3. prior to and during a  
 1275 monitored election. The ombudsman shall appoint a division  
 1276 employee, a person or persons specializing in condominium  
 1277 election monitoring, or an attorney licensed to practice in this  
 1278 state as the election monitor. All costs associated with the  
 1279 election monitoring process shall be paid by the association.  
 1280 The division shall adopt a rule establishing procedures for the

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1281 appointment of election monitors and the scope and extent of the  
 1282 monitor's role in the election process.

1283 (3) Any unit owner or association acting in good faith on  
 1284 the advice or opinion of the office of the ombudsman shall be  
 1285 immune from any penalties or actions.

1286 (4) If the ombudsman has reasonable cause to believe that  
 1287 a violation of any provision of this chapter or of any rule  
 1288 adopted hereto has occurred, the ombudsman may issue an order  
 1289 requiring any developer, association, officer, or member of the  
 1290 board of administration, or its assignees or agents, to cease  
 1291 and desist from the unlawful practice and to take affirmative  
 1292 action to carry out the purposes of this chapter.

1293 Section 16. Section 718.50151, Florida Statutes, is  
 1294 repealed.

1295 Section 17. Subsection (7) is added to section 719.1055,  
 1296 Florida Statutes, to read:

1297 719.1055 Amendment of cooperative documents; alteration  
 1298 and acquisition of property.--

1299 (7) Any amendment restricting cooperative owners' rights  
 1300 relating to the rental of units applies only to unit owners who  
 1301 consent to the amendment and unit owners who purchase their  
 1302 units after the effective date of that amendment.

1303 Section 18. Section 720.4016, Florida Statutes, is created  
 1304 to read:

1305 720.4016 Advisory Council on Mandated Properties.--There  
 1306 is created the Advisory Council on Mandated Properties. The  
 1307 council shall consist of seven appointed members. Two members  
 1308 shall be appointed by the President of the Senate, two members

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1309 shall be appointed by the Speaker of the House of  
1310 Representatives, and three members shall be appointed by the  
1311 Governor. At least one member each appointed by the Governor, by  
1312 the President, and by the Speaker shall be a homeowners' rights  
1313 advocate and parcel owner. Members shall be appointed to 2-year  
1314 terms; however, one of the persons initially appointed by the  
1315 Governor, by the President, and by the Speaker shall be  
1316 appointed to a 1-year term. A member of the division, appointed  
1317 by the secretary, shall serve as an ex officio nonvoting member.  
1318 The selection of council members shall be made in a manner that  
1319 ensures a fair and balanced representation from the service-  
1320 provider sector and consumer advocates with a substantial public  
1321 record of endeavors on behalf of homeowners' rights and consumer  
1322 interests. The council shall be located within the division for  
1323 administrative purposes. Members of the council shall serve  
1324 without compensation but are entitled to receive per diem and  
1325 travel expenses pursuant to s. 112.061 while on official  
1326 business. A vacancy on the advisory council shall be filled in  
1327 the same manner as the original appointment.

1328 Section 19. This act shall take effect July 1, 2006.