

1                                   A bill to be entitled  
 2           An act relating to community associations; creating s.  
 3           718.1265, F.S.; authorizing a condominium association  
 4           board to exercise specified emergency powers during an  
 5           emergency created by declared disaster; amending s.  
 6           718.112, F.S.; authorizing the association to establish a  
 7           reserve account for uninsured casualty losses; extending a  
 8           period in which condominium common areas do not have to be  
 9           retrofitted with sprinkler systems; authorizing the bylaws  
 10          of an association to contain certain optional provisions;  
 11          creating s. 712.11, F.S.; providing for the revival of  
 12          certain declarations that have been extinguished;  
 13          providing an effective date.

14  
 15   Be It Enacted by the Legislature of the State of Florida:

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 17           Section 1.   Section 718.1265, Florida Statutes, is created  
 18   to read:

19           718.1265 Association emergency powers.--

20           (1) To the extent allowed by law and unless specifically  
 21 prohibited by the declaration, the articles, or the bylaws of an  
 22 association, and consistent with the provisions of s. 617.0830,  
 23 the board of administration, in response to damage caused by an  
 24 event for which a state of emergency is declared pursuant to s.  
 25 252.36 in the locale in which the condominium is located, may,  
 26 but is not required to, exercise the following powers:

27           (a) Conduct board meetings and membership meetings with  
 28 notice given as is practicable. Such notice may be given in any

29 practicable manner, including publication, radio, United States  
 30 mail, the Internet, public service announcements, and  
 31 conspicuous posting on the condominium property or any other  
 32 means the board deems reasonable under the circumstances. Notice  
 33 of board decisions may be communicated as provided in this  
 34 paragraph.

35 (b) Cancel and reschedule any association meeting.

36 (c) Name as assistant officers persons who are not  
 37 directors, which assistant officers shall have the same  
 38 authority as the executive officers to whom they are assistants  
 39 during the state of emergency to accommodate the incapacity or  
 40 unavailability of any officer of the association.

41 (d) Relocate the association's principal office or  
 42 designate alternative principal offices.

43 (e) Enter into agreements with local counties and  
 44 municipalities to assist counties and municipalities with debris  
 45 removal.

46 (f) Implement a disaster plan before or immediately  
 47 following the event for which a state of emergency is declared  
 48 that may include, but is not limited to, shutting down or off  
 49 elevators; electricity; water, sewer, or security systems; or  
 50 air conditioners.

51 (g) Declare any portion of the condominium property  
 52 unavailable for entry or occupancy by unit owners, family  
 53 members, tenants, guests, agents, or invitees to protect the  
 54 health, safety, or welfare of such persons.

55 (h) Order the evacuation of the condominium property in  
 56 the event of a mandatory evacuation order in the locale in which

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57 the condominium is located. Should any unit owner or other  
58 occupant of a condominium fail or refuse to evacuate the  
59 condominium property upon such an order, the association shall  
60 be immune from liability or injury to persons or property  
61 arising from such failure or refusal.

62 (i) Determine whether the condominium property can be  
63 safely inhabited or occupied. However, such determination is not  
64 conclusive as to any determination of habitability pursuant to  
65 the declaration.

66 (j) Mitigate further damage, including taking action to  
67 contract for the removal of debris; and prevent or mitigate the  
68 spread of fungus, including, but not limited to, mold or mildew,  
69 by removing and disposing of wet drywall, insulation, carpet,  
70 cabinetry, or other fixtures, on or within the condominium  
71 property, even if the unit owner is obligated by the declaration  
72 or law to insure or replace those fixtures and to remove  
73 personal property from a unit.

74 (k) Contract, on behalf of unit owners with unit owners  
75 responsible for reimbursing the association, for items or  
76 services for which the owners are otherwise responsible but  
77 which may be necessary to prevent further damage. Without  
78 limitation, such items or services may include the drying of  
79 units, the boarding of broken windows or doors, and the  
80 replacement of damaged air conditioners or air handlers to  
81 provide climate control in the units or other portions of the  
82 property.

83 (l) Levy special assessments.

84 (m) Without unit owner approval, borrow money and pledge

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85 association assets as collateral to fund emergency repairs and  
86 carry out the duties of the association when operating funds are  
87 insufficient. This paragraph does not limit the general  
88 authority of the association to borrow money, subject to such  
89 restrictions as are contained in the declaration, articles, or  
90 bylaws.

91 (2) The special powers authorized under subsection (1)  
92 shall be limited to that time reasonably necessary to protect  
93 the health, safety, and welfare of the association, the unit  
94 owners, their family members, tenants, guests, agents, or  
95 invitees and shall be reasonably necessary to mitigate further  
96 damage and make emergency repairs.

97 Section 2. Paragraphs (f) and (l) of subsection (2) of  
98 section 718.112, Florida Statutes, are amended, and paragraph  
99 (e) is added to subsection (3) of that section, to read:

100 718.112 Bylaws.--

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

104 (f) Annual budget.--

105 1. The proposed annual budget of common expenses shall be  
106 detailed and shall show the amounts budgeted by accounts and  
107 expense classifications, including, if applicable, but not  
108 limited to, those expenses listed in s. 718.504(21). A  
109 multicondominium association shall adopt a separate budget of  
110 common expenses for each condominium the association operates  
111 and shall adopt a separate budget of common expenses for the  
112 association. In addition, if the association maintains limited

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113 common elements with the cost to be shared only by those  
114 entitled to use the limited common elements as provided for in  
115 s. 718.113(1), the budget or a schedule attached thereto shall  
116 show amounts budgeted therefor. If, after turnover of control of  
117 the association to the unit owners, any of the expenses listed  
118 in s. 718.504(21) are not applicable, they need not be listed.

119 2. In addition to annual operating expenses, the budget  
120 shall include reserve accounts for capital expenditures and  
121 deferred maintenance. These accounts shall include, but are not  
122 limited to, roof replacement, building painting, and pavement  
123 resurfacing, regardless of the amount of deferred maintenance  
124 expense or replacement cost, and for any other item for which  
125 the deferred maintenance expense or replacement cost exceeds  
126 \$10,000. The amount to be reserved shall be computed by means of  
127 a formula which is based upon estimated remaining useful life  
128 and estimated replacement cost or deferred maintenance expense  
129 of each reserve item. The association may adjust replacement  
130 reserve assessments annually to take into account any changes in  
131 estimates or extension of the useful life of a reserve item  
132 caused by deferred maintenance. This subsection does not apply  
133 to an adopted budget in which the members of an association have  
134 determined, by a majority vote at a duly called meeting of the  
135 association, to provide no reserves or less reserves than  
136 required by this subsection. However, prior to turnover of  
137 control of an association by a developer to unit owners other  
138 than a developer pursuant to s. 718.301, the developer may vote  
139 to waive the reserves or reduce the funding of reserves for the  
140 first 2 fiscal years of the association's operation, beginning

141 with the fiscal year in which the initial declaration is  
142 recorded, after which time reserves may be waived or reduced  
143 only upon the vote of a majority of all nondeveloper voting  
144 interests voting in person or by limited proxy at a duly called  
145 meeting of the association. If a meeting of the unit owners has  
146 been called to determine whether to waive or reduce the funding  
147 of reserves, and no such result is achieved or a quorum is not  
148 attained, the reserves as included in the budget shall go into  
149 effect. After the turnover, the developer may vote its voting  
150 interest to waive or reduce the funding of reserves.

151 3. Reserve funds and any interest accruing thereon shall  
152 remain in the reserve account or accounts, and shall be used  
153 only for authorized reserve expenditures unless their use for  
154 other purposes is approved in advance by a majority vote at a  
155 duly called meeting of the association. Prior to turnover of  
156 control of an association by a developer to unit owners other  
157 than the developer pursuant to s. 718.301, the developer-  
158 controlled association shall not vote to use reserves for  
159 purposes other than that for which they were intended without  
160 the approval of a majority of all nondeveloper voting interests,  
161 voting in person or by limited proxy at a duly called meeting of  
162 the association.

163 4. The only voting interests which are eligible to vote on  
164 questions that involve waiving or reducing the funding of  
165 reserves, or using existing reserve funds for purposes other  
166 than purposes for which the reserves were intended, are the  
167 voting interests of the units subject to assessment to fund the  
168 reserves in question.

169           5. In addition to reserves required by this paragraph, the  
 170 association may establish a reserve account for uninsured  
 171 casualty losses based upon such formula as the board deems  
 172 appropriate.

173           (1) Certificate of compliance.--There shall be a provision  
 174 that a certificate of compliance from a licensed electrical  
 175 contractor or electrician may be accepted by the association's  
 176 board as evidence of compliance of the condominium units with  
 177 the applicable fire and life safety code. Notwithstanding the  
 178 provisions of chapter 633 or of any other code, statute,  
 179 ordinance, administrative rule, or regulation, or any  
 180 interpretation of the foregoing, an association, condominium, or  
 181 unit owner is not obligated to retrofit the common elements or  
 182 units of a residential condominium with a fire sprinkler system  
 183 or other engineered lifesafety system in a building that has  
 184 been certified for occupancy by the applicable governmental  
 185 entity, if the unit owners have voted to forego such  
 186 retrofitting and engineered lifesafety system by the affirmative  
 187 vote of two-thirds of all voting interests in the affected  
 188 condominium. However, a condominium association may not vote to  
 189 forego the retrofitting with a fire sprinkler system of common  
 190 areas in a high-rise building. For purposes of this subsection,  
 191 the term "high-rise building" means a building that is greater  
 192 than 75 feet in height where the building height is measured  
 193 from the lowest level of fire department access to the floor of  
 194 the highest occupiable story. For purposes of this subsection,  
 195 the term "common areas" means any enclosed hallway, corridor,  
 196 lobby, stairwell, or entryway. In no event shall the local

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197 authority having jurisdiction require completion of retrofitting  
198 of common areas with a sprinkler system before the end of 2020  
199 ~~2014~~.

200 1. A vote to forego retrofitting may be obtained by  
201 limited proxy or by a ballot personally cast at a duly called  
202 membership meeting, or by execution of a written consent by the  
203 member, and shall be effective upon the recording of a  
204 certificate attesting to such vote in the public records of the  
205 county where the condominium is located. The association shall  
206 mail, hand deliver, or electronically transmit to each unit  
207 owner written notice at least 14 days prior to such membership  
208 meeting in which the vote to forego retrofitting of the required  
209 fire sprinkler system is to take place. Within 30 days after the  
210 association's opt-out vote, notice of the results of the opt-out  
211 vote shall be mailed, hand delivered, or electronically  
212 transmitted to all unit owners. Evidence of compliance with this  
213 30-day notice shall be made by an affidavit executed by the  
214 person providing the notice and filed among the official records  
215 of the association. After such notice is provided to each owner,  
216 a copy of such notice shall be provided by the current owner to  
217 a new owner prior to closing and shall be provided by a unit  
218 owner to a renter prior to signing a lease.

219 2. As part of the information collected annually from  
220 condominiums, the division shall require condominium  
221 associations to report the membership vote and recording of a  
222 certificate under this subsection and, if retrofitting has been  
223 undertaken, the per-unit cost of such work. The division shall  
224 annually report to the Division of State Fire Marshal of the



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225 Department of Financial Services the number of condominiums that  
226 have elected to forego retrofitting.

227 (3) OPTIONAL PROVISIONS.--The bylaws as originally  
228 recorded or as amended under the procedures provided therein may  
229 provide for the following:

230 (e) Other provisions which are not inconsistent with this  
231 chapter or with the declaration, as may be desired.

232 Section 3. Section 712.11, Florida Statutes, is created to  
233 read:

234 712.11 Covenants and restrictions.--A homeowners'  
235 association that is not otherwise subject to chapter 720 may use  
236 the procedures provided in ss. 720.403-720.407 to revive a  
237 declaration of covenants and restrictions that has been  
238 extinguished by this chapter entitled Marketable Record Titles  
239 to Real Property.

240 Section 4. This act shall take effect upon becoming a law.