

1 A bill to be entitled
2 An act relating to community associations; amending s.
3 718.104, F.S.; revising required contents of a condominium
4 declaration relating to ownership share of the common
5 elements; amending s. 718.110, F.S.; requiring notice of
6 proposed amendments to be provided to unit owners;
7 amending s. 718.111, F.S.; providing requirements for
8 condominium associations to access units for specified
9 purposes; requiring official records of the association to
10 be made available at certain locations; providing that
11 certain records shall not be accessible to unit owners;
12 removing the requirement that the association's annual
13 financial report be provided only to unit owners providing
14 a written request for the report; restricting a
15 condominium association from waiving a financial report
16 for more than 2 years; providing duties for condominium
17 boards of administration in the event of certain
18 casualties; providing that certain assessments may be made
19 against unit owners under certain conditions; amending s.
20 718.112, F.S.; authorizing the board or membership to
21 determine the composition of the board of administration
22 under certain circumstances; requiring members of the
23 board of administration to be unit owners, absent
24 provisions indicating board member requirements; requiring
25 the board to respond to certain inquiries by certified
26 mail, return receipt requested; authorizing a condominium
27 association to limit its response to unit owner inquiries
28 to twice every 30 days; providing board of administration

29 | and unit owners' meeting requirements; requiring the board
30 | to address certain agenda items proposed by a petition of
31 | 20 percent of the unit owners; revising notice procedures,
32 | including those involving meetings at which regular or
33 | special assessments are to be considered; revising
34 | eligibility requirements for members of a condominium
35 | association board; providing that certain persons
36 | providing notice of a meeting must provide an affidavit
37 | affirming that the notices were delivered; authorizing the
38 | association's representative to provide certain notices;
39 | providing for the securing of ballots; revising procedures
40 | relating to the filling of a vacancy on the board;
41 | removing a provision allowing an association to provide
42 | for different voting and election procedures in its
43 | bylaws; providing unit owners with the right to have items
44 | placed on the agenda of the annual meeting and voted upon
45 | under certain conditions; requiring the association to
46 | prepare an annual budget of estimated revenues and
47 | expenses; requiring the budget to include reserve accounts
48 | for certain purposes; requiring certain ballot statements
49 | to contain certain statements; requiring a vote to provide
50 | for no reserves or percentage of reserves to be made at
51 | certain times; authorizing the association to use reserve
52 | funds for nonscheduled purposes under certain conditions;
53 | prohibiting the board from applying for or accepting
54 | certain loans or lines of credit; requiring common
55 | expenses to be paid by the developer during a specified
56 | time; requiring that assessments be made against units on

57 a quarter-annual or more frequent basis; providing that
58 certain provisions shall not preclude the right of an
59 association to accelerate assessments of certain owners
60 delinquent in payment of common expenses; providing that
61 accelerated assessments shall be due and payable after the
62 claim of lien is filed; revising assessment requirements;
63 deleting the requirement that the bylaws include an
64 element for mandatory nonbinding arbitration; amending s.
65 718.113, F.S.; revising responsibility for the cost of
66 maintenance of the common areas; requiring boards of
67 administration to adopt or restate hurricane shutter
68 specifications yearly at the annual meeting; authorizing
69 the board to install hurricane protection that complies
70 with the applicable building code; requiring the board to
71 have the condominium buildings periodically inspected for
72 structural and electrical soundness by a professional
73 engineer or professional architect registered in the
74 state; requiring the inspector to provide a report to the
75 association and unit owners; prohibiting the board from
76 prohibiting the display of certain religious items on the
77 front-door area of a unit; creating s. 718.1224, F.S.;
78 prohibiting certain lawsuits arising from unit owners'
79 appearances and presentations before a governmental
80 entity; providing a definition; providing for award of
81 damages and attorney's fees; amending s. 718.1255, F.S.;
82 requiring the Division of Florida Land Sales,
83 Condominiums, and Mobile Homes of the Department of
84 Business and Professional Regulation to promptly refer

85 | certain cases to mediation; deleting certain authorization
86 | to recover costs and attorney fees in connection with
87 | mediation proceedings; creating s. 718.1257, F.S.;
88 | providing that condominium unit owners and renters have
89 | the right to own a companion animal and to have that
90 | animal live with them under specified conditions;
91 | requiring condominium developers to pay monthly
92 | maintenance fees on certain rented or leased units;
93 | amending s. 718.302, F.S.; providing that certain grants
94 | or reservations made by governing documents, that provide
95 | for services or products, may be cancelled by unit owners
96 | under certain circumstances; amending s. 718.3025, F.S.;
97 | providing requirements for certain contracts between a
98 | party contracting to provide maintenance or management
99 | services and an association; amending s. 718.3026, F.S.;
100 | providing that certain contracts between a service
101 | provider and an association shall not be for a term in
102 | excess of 3 years and shall not contain an automatic
103 | renewal clause; requiring that certain contracts for
104 | construction occur under the advisement of an attorney;
105 | amending s. 718.303, F.S.; requiring hearings to levy
106 | fines to be held before a committee of unit owners who are
107 | not members of the board; requiring that persons subject
108 | to certain actions be notified of their violations in a
109 | certain manner; providing a timeframe in which a person
110 | must respond; amending S. 718.404, F.S.; providing for
111 | retroactive application of certain provisions relating to
112 | mixed-use condominiums; amending s. 718.501, F.S.;

113 requiring the division to prepare and disseminate a
114 prospectus and other information for use by owners,
115 purchasers, lessees, and developers of residential
116 condominiums; providing that the board member training
117 provided by the division shall be provided in conjunction
118 with recommendations by the ombudsman; providing powers
119 and duties of the division with respect to association
120 violations; requiring associations to provide certain
121 notice and to participate in certain educational training;
122 amending s. 718.5011, F.S.; restricting location of the
123 Office of the Condominium Ombudsman; providing that the
124 ombudsman shall exercise his or her policymaking and other
125 functions independently of the department and without
126 approval or control of the department; requiring the
127 department to render administrative support for certain
128 matters; requiring that revenues collected by the
129 department for the office be deposited in a separate fund
130 or account under specified conditions; amending s.
131 718.5012, F.S.; removing requirement that the ombudsman
132 develop certain policies and procedures and to require
133 direct assistance instead; providing unit owners and
134 associations certain immunity when acting in good faith on
135 advice or opinions of the office; amending s. 718.504,
136 F.S.; revising and providing information to be contained
137 in the condominium prospectus or offering circular;
138 amending s. 720.303, F.S.; revising procedures used in
139 preparing a homeowners' association's annual financial
140 report; authorizing the budget to include reserve accounts

141 for capital expenditures and deferred maintenance;
142 providing a formula for calculating the amount to be
143 reserved; authorizing the association to adjust
144 replacement reserve assessments annually; authorizing the
145 developer to vote to waive the reserves or reduce the
146 funding of reserves for a certain period; revising
147 provisions relating to financial reporting; revising time
148 periods in which the association must complete its
149 reporting; amending s. 720.307, F.S., relating to
150 transition of association control in a community; revising
151 criteria with respect to election of members to the board
152 of directors; requiring certain developers and owners to
153 convey title to all common areas prior to turnover;
154 revising requirements for turnover of documents; requiring
155 certain information to be included in the records and for
156 the records to be prepared in a specified manner; revising
157 application to include certain associations; amending s.
158 720.3075, F.S.; prohibiting associations from restricting
159 the use of hurricane shutters in certain circumstances;
160 providing guidelines for the use of hurricane shutters;
161 authorizing associations to enforce certain hurricane
162 shutter restrictions; providing an effective date.

163

164 Be It Enacted by the Legislature of the State of Florida:

165

166 Section 1. Paragraph (f) of subsection (4) of section
167 718.104, Florida Statutes, is amended to read:

168 718.104 Creation of condominiums; contents of

169 | declaration.--Every condominium created in this state shall be
 170 | created pursuant to this chapter.

171 | (4) The declaration must contain or provide for the
 172 | following matters:

173 | (f) The undivided share of ownership of the common
 174 | elements and common surplus of the condominium that is
 175 | appurtenant to each unit stated as a percentage or a fraction of
 176 | the whole. In the declaration of condominium for residential
 177 | condominiums created after April 1, 2007 ~~1992~~, the ownership
 178 | share of the common elements assigned to each residential unit
 179 | shall be based ~~either~~ upon the total square footage of each
 180 | residential unit in uniform relationship to the total square
 181 | footage of each other residential unit in the condominium ~~or on~~
 182 | ~~an equal fractional basis.~~

183 | Section 2. Paragraph (d) is added to subsection (1) of
 184 | section 718.110, Florida Statutes, to read:

185 | 718.110 Amendment of declaration; correction of error or
 186 | omission in declaration by circuit court.--

187 | (1)

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

190 | Section 3. Subsection (5), paragraph (b) of subsection
 191 | (7), paragraphs (b) and (c) of subsection (12), and subsection
 192 | (13) of section 718.111, Florida Statutes, are amended, and
 193 | subsection (15) is added to that section, to read:

194 | 718.111 The association.--

195 | (5) RIGHT OF ACCESS TO UNITS.--The association has the
 196 | irrevocable right of access to each unit during reasonable

197 hours, when necessary for the maintenance, repair, or
 198 replacement of any common elements or of any portion of a unit
 199 to be maintained by the association pursuant to the declaration
 200 or as necessary to prevent damage to the common elements or to a
 201 unit or units. Except in cases of emergency, the association
 202 must give the unit owner 24 hours' advance written notice of
 203 intent to access the unit.

204 (7) TITLE TO PROPERTY.--

205 (b) Subject to the provisions of s. 718.112(2) (1) ~~(m)~~, the
 206 association, through its board, has the limited power to convey
 207 a portion of the common elements to a condemning authority for
 208 the purposes of providing utility easements, right-of-way
 209 expansion, or other public purposes, whether negotiated or as a
 210 result of eminent domain proceedings.

211 (12) OFFICIAL RECORDS.--

212 (b) The official records of the association shall be
 213 maintained within the state. The records of the association
 214 shall be made available to a unit owner, at a location within
 215 the county in which the condominium property is located, within
 216 5 working days after receipt of written request by the board or
 217 its designee. This paragraph may be complied with by having a
 218 copy of the official records of the association available for
 219 inspection or copying on the condominium property or association
 220 property.

221 (c) The official records of the association are open to
 222 inspection by any association member or the authorized
 223 representative of such member at all reasonable times. The right
 224 to inspect the records includes the right to make or obtain

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225 | copies, at the reasonable expense, if any, of the association
226 | member. The association may adopt reasonable rules regarding the
227 | frequency, time, location, notice, and manner of record
228 | inspections and copying. The failure of an association to
229 | provide the records within 10 working days after receipt of a
230 | written request shall create a rebuttable presumption that the
231 | association willfully failed to comply with this paragraph. A
232 | unit owner who is denied access to official records is entitled
233 | to the actual damages or minimum damages for the association's
234 | willful failure to comply with this paragraph. The minimum
235 | damages shall be \$50 per calendar day up to 10 days, the
236 | calculation to begin on the 11th working day after receipt of
237 | the written request. The failure to permit inspection of the
238 | association records as provided herein entitles any person
239 | prevailing in an enforcement action to recover reasonable
240 | attorney's fees from the person in control of the records who,
241 | directly or indirectly, knowingly denied access to the records
242 | for inspection. The association shall maintain an adequate
243 | number of copies of the declaration, articles of incorporation,
244 | bylaws, and rules, and all amendments to each of the foregoing,
245 | as well as the question and answer sheet provided for in s.
246 | 718.504 and year-end financial information required in this
247 | section on the condominium property to ensure their availability
248 | to unit owners and prospective purchasers, and may charge its
249 | actual costs for preparing and furnishing these documents to
250 | those requesting the same. Notwithstanding the provisions of
251 | this paragraph, the following records shall not be accessible to
252 | unit owners:

253 1. Any record protected by the lawyer-client privilege as
 254 described in s. 90.502; and any record protected by the work-
 255 product privilege, including any record prepared by an
 256 association attorney or prepared at the attorney's express
 257 direction; which reflects a mental impression, conclusion,
 258 litigation strategy, or legal theory of the attorney or the
 259 association, and which was prepared exclusively for civil or
 260 criminal litigation or for adversarial administrative
 261 proceedings, or which was prepared in anticipation of imminent
 262 civil or criminal litigation or imminent adversarial
 263 administrative proceedings until the conclusion of the
 264 litigation or adversarial administrative proceedings.

265 2. Information obtained by an association in connection
 266 with the approval of the lease, sale, or other transfer of a
 267 unit.

268 3. Medical records of unit owners.

269 4. Social security numbers, driver's license numbers,
 270 credit card numbers, and other personal identifying information
 271 of unit owners, occupants, or tenants.

272 (13) FINANCIAL REPORTING.--Within 90 days after the end of
 273 the fiscal year, or annually on a date provided in the bylaws,
 274 the association shall prepare and complete, or contract for the
 275 preparation and completion of, a financial report for the
 276 preceding fiscal year. Within 21 days after the final financial
 277 report is completed by the association or received from the
 278 third party, but not later than 120 days after the end of the
 279 fiscal year or other date as provided in the bylaws, the
 280 association shall mail to each unit owner at the address last

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281 furnished to the association by the unit owner, or hand deliver
282 to each unit owner, a copy of the financial report or a notice
283 that a copy of the financial report will be mailed or hand
284 delivered to the unit owner, ~~without charge, upon receipt of a~~
285 ~~written request from the unit owner.~~ The division shall adopt
286 rules setting forth uniform accounting principles and standards
287 to be used by all associations and shall adopt rules addressing
288 financial reporting requirements for multicondominium
289 associations. In adopting such rules, the division shall
290 consider the number of members and annual revenues of an
291 association. Financial reports shall be prepared as follows:

292 (a) An association that meets the criteria of this
293 paragraph shall prepare or cause to be prepared a complete set
294 of financial statements in accordance with generally accepted
295 accounting principles. The financial statements shall be based
296 upon the association's total annual revenues, as follows:

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

300 2. An association with total annual revenues of at least
301 \$200,000, but less than \$400,000, shall prepare reviewed
302 financial statements.

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

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

308 2. An association which operates less than 50 units,

309 | regardless of the association's annual revenues, shall prepare a
 310 | report of cash receipts and expenditures in lieu of financial
 311 | statements required by paragraph (a).

312 | 3. A report of cash receipts and disbursements must
 313 | disclose the amount of receipts by accounts and receipt
 314 | classifications and the amount of expenses by accounts and
 315 | expense classifications, including, but not limited to, the
 316 | following, as applicable: costs for security, professional and
 317 | management fees and expenses, taxes, costs for recreation
 318 | facilities, expenses for refuse collection and utility services,
 319 | expenses for lawn care, costs for building maintenance and
 320 | repair, insurance costs, administration and salary expenses, and
 321 | reserves accumulated and expended for capital expenditures,
 322 | deferred maintenance, and any other category for which the
 323 | association maintains reserves.

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

326 | 1. Compiled, reviewed, or audited financial statements, if
 327 | the association is required to prepare a report of cash receipts
 328 | and expenditures;

329 | 2. Reviewed or audited financial statements, if the
 330 | association is required to prepare compiled financial
 331 | statements; or

332 | 3. Audited financial statements if the association is
 333 | required to prepare reviewed financial statements.

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

- 337 1. A report of cash receipts and expenditures in lieu of a
 338 compiled, reviewed, or audited financial statement;
 339 2. A report of cash receipts and expenditures or a
 340 compiled financial statement in lieu of a reviewed or audited
 341 financial statement; or
 342 3. A report of cash receipts and expenditures, a compiled
 343 financial statement, or a reviewed financial statement in lieu
 344 of an audited financial statement.

345
 346 Such meeting and approval must occur prior to the end of the
 347 fiscal year and is effective only for the fiscal year in which
 348 the vote is taken. With respect to an association to which the
 349 developer has not turned over control of the association, all
 350 unit owners, including the developer, may vote on issues related
 351 to the preparation of financial reports for the first 2 fiscal
 352 years of the association's operation, beginning with the fiscal
 353 year in which the declaration is recorded. Thereafter, all unit
 354 owners except the developer may vote on such issues until
 355 control is turned over to the association by the developer. An
 356 association or board of administration may not waive the
 357 financial reporting requirements of this section for more than 2
 358 consecutive years.

359 (15) RECONSTRUCTION AFTER CASUALTY.--
 360 (a) In the event the condominium property and units are
 361 damaged after a casualty, the board of administration shall
 362 obtain reliable and detailed estimates of the cost necessary to
 363 repair and replace the damaged property to substantially the
 364 same condition existing immediately prior to the casualty and

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365 substantially in accordance with the original plans and
366 specifications of the condominium as soon as possible and not
367 later than 60 days after the casualty. If the damage to the
368 condominium property exceeds 50 percent of the property's value,
369 the condominium may be terminated unless 75 percent of the unit
370 owners agree to reconstruction and repair within 90 days after
371 the casualty.

372 (b) The board of administration shall engage the services
373 of a registered architect and knowledgeable construction
374 specialists to prepare any necessary plans and specifications
375 and shall receive and approve bids for reconstruction, execute
376 all necessary contracts for restoration, and arrange for
377 disbursement of construction funds, the approval of work, and
378 all other matters pertaining to the repairs and reconstruction
379 required.

380 (c) If the proceeds of the hazard insurance policy
381 maintained by the association pursuant to paragraph (11)(b) are
382 insufficient to pay the estimated costs of reconstruction or at
383 any time during reconstruction and repair, assessments shall be
384 made against all unit owners according to their share of the
385 common elements and expenses as set forth in the declaration of
386 condominium.

387 (d) Assessments shall be made against unit owners for
388 damage to their units according to the cost of reconstruction or
389 repair of their respective units. The assessments shall be
390 levied and collected as all other assessments are provided for
391 in this chapter.

392 Section 4. Subsection (2) of section 718.112, Florida

393 Statutes, is amended to read:

394 718.112 Bylaws.--

395 (2) REQUIRED PROVISIONS.--The bylaws of the association
 396 shall provide for the following and, if they do not do so, shall
 397 be deemed to include the following:

398 (a) Administration.--

399 1. The form of administration of the association shall be
 400 described indicating the title of the officers and board of
 401 administration and specifying the powers, duties, manner of
 402 selection and removal, and compensation, if any, of officers and
 403 boards. In the absence of such a provision or determination by
 404 the board or membership, the board of administration shall be
 405 composed of five members who are unit owners, except in the case
 406 of a condominium which has five or fewer units, in which case in
 407 a not-for-profit corporation the board shall consist of not
 408 fewer than three members who are unit owners. In the absence of
 409 provisions to the contrary in the bylaws, the board of
 410 administration shall have a president, a secretary, and a
 411 treasurer, who shall perform the duties of such officers
 412 customarily performed by officers of corporations. Unless
 413 prohibited in the bylaws, the board of administration may
 414 appoint other officers and grant them the duties it deems
 415 appropriate. Unless otherwise provided in the bylaws, the
 416 officers shall serve without compensation and at the pleasure of
 417 the board of administration. Unless otherwise provided in the
 418 bylaws, the members of the board shall serve without
 419 compensation.

420 2. When a unit owner files a written inquiry by certified

421 mail with the board of administration, the board shall respond
422 in writing by certified mail, return receipt requested, to the
423 unit owner within 30 days after ~~of~~ receipt of the inquiry. The
424 board's response shall either give a substantive response to the
425 inquirer, notify the inquirer that a legal opinion has been
426 requested, or notify the inquirer that advice has been requested
427 from the division. If the board requests advice from the
428 division, the board shall, within 10 days after ~~of~~ its receipt
429 of the advice, provide in writing by certified mail a
430 substantive response to the inquirer. If a legal opinion is
431 requested, the board shall, within 60 days after the receipt of
432 the inquiry, provide in writing by certified mail a substantive
433 response to the inquiry. The failure to provide a substantive
434 response to the inquiry as provided herein precludes the board
435 from recovering attorney's fees and costs in any subsequent
436 litigation, administrative proceeding, or arbitration arising
437 out of the inquiry. The association may through its board of
438 administration adopt reasonable rules and regulations regarding
439 the frequency and manner of responding to unit owner inquiries,
440 one of which may be that the association is only obligated to
441 respond to two ~~one~~ written inquiries ~~inquiry~~ per unit in any
442 given 30-day period. In such a case, any additional inquiry or
443 inquiries must be responded to in the subsequent 30-day period,
444 or periods, as applicable.

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

446 1. Unless a lower number is provided in the bylaws, the
447 percentage of voting interests required to constitute a quorum
448 at a meeting of the members shall be a majority of the voting

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449 interests. Unless otherwise provided in this chapter or in the
450 declaration, articles of incorporation, or bylaws, and except as
451 provided in subparagraph (d)3., decisions shall be made by
452 owners of a majority of the voting interests represented at a
453 meeting at which a quorum is present.

454 2. Except as specifically otherwise provided herein, after
455 January 1, 1992, unit owners may not vote by general proxy, but
456 may vote by limited proxies substantially conforming to a
457 limited proxy form adopted by the division. Limited proxies and
458 general proxies may be used to establish a quorum. Limited
459 proxies shall be used for votes taken to waive or reduce
460 reserves in accordance with subparagraph (f)2.; for votes taken
461 to waive the financial reporting requirements of s. 718.111(13);
462 for votes taken to amend the declaration pursuant to s. 718.110;
463 for votes taken to amend the articles of incorporation or bylaws
464 pursuant to this section; and for any other matter for which
465 this chapter requires or permits a vote of the unit owners.
466 ~~Except as provided in paragraph (d), after January 1, 1992, No~~
467 proxy, limited or general, shall be used in the election of
468 board members. General proxies may be used for other matters for
469 which limited proxies are not required, and may also be used in
470 voting for nonsubstantive changes to items for which a limited
471 proxy is required and given. Notwithstanding the provisions of
472 this subparagraph, unit owners may vote in person at unit owner
473 meetings. Nothing contained herein shall limit the use of
474 general proxies or require the use of limited proxies for any
475 agenda item or election at any meeting of a timeshare
476 condominium association.

477 3. Any proxy given shall be effective only for the
478 specific meeting for which originally given and any lawfully
479 adjourned meetings thereof. In no event shall any proxy be valid
480 for a period longer than 90 days after the date of the first
481 meeting for which it was given. Every proxy is revocable at any
482 time at the pleasure of the unit owner executing it.

483 4. A member of the board of administration or a committee
484 may submit in writing his or her agreement or disagreement with
485 any action taken at a meeting that the member did not attend.
486 This agreement or disagreement may not be used as a vote for or
487 against the action taken and may not be used for the purposes of
488 creating a quorum.

489 5. When any of the board or committee members meet by
490 telephone conference, those board or committee members attending
491 by telephone conference may be counted toward obtaining a quorum
492 and may vote by telephone. A telephone speaker must be used so
493 that the conversation of those board or committee members
494 attending by telephone may be heard by the board or committee
495 members attending in person as well as by any unit owners
496 present at a meeting.

497 (c) Board of administration meetings.--Meetings of the
498 board of administration at which a quorum of the members is
499 present shall be open to all unit owners. The board of
500 administration shall address agenda items proposed by a petition
501 of 20 percent of the unit owners submitted at least 48 hours
502 prior to the meeting date, in time for the directors to study
503 and understand the agenda items, and in time to post the updated
504 agenda prior to the meeting. A unit owner's facsimile signature

505 shall constitute the unit owner's original signature in any
506 matter under this chapter that requires the unit owner's
507 signature. Correspondence from the board of administration to
508 unit owners shall be accomplished by the same, or a more secure,
509 delivery method used by the unit owner except as otherwise
510 provided in this paragraph. Any unit owner may tape record or
511 videotape meetings of the board of administration. The right to
512 attend such meetings includes the right to speak at such
513 meetings with reference to all designated agenda items. The
514 division shall adopt reasonable rules governing the tape
515 recording and videotaping of the meeting. The association may
516 adopt written reasonable rules governing the frequency,
517 duration, and manner of unit owner statements. Adequate notice
518 of all meetings, which notice shall specifically incorporate an
519 identification of agenda items, shall be posted conspicuously on
520 the condominium property at least 48 continuous hours preceding
521 the meeting except in an emergency. Any item not included on the
522 notice may be taken up on an emergency basis by at least a
523 majority plus one of the members of the board or by a petition
524 of 20 percent of the unit owners. Such emergency action shall be
525 noticed and ratified at the next regular meeting of the board.
526 However, written notice of any meeting at which nonemergency
527 special assessments, or at which amendment to rules regarding
528 unit use, will be considered shall be mailed, delivered, or
529 electronically transmitted to the unit owners and posted
530 conspicuously on the condominium property not less than 14 days
531 prior to the meeting. Evidence of compliance with this 14-day
532 notice shall be made by an affidavit executed by the person

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533 providing the notice and filed among the official records of the
534 association. Upon notice to the unit owners, the board shall by
535 duly adopted rule designate a specific location on the
536 condominium property or association property upon which all
537 notices of board meetings shall be posted. If there is no
538 condominium property or association property upon which notices
539 can be posted, notices of board meetings shall be mailed,
540 delivered, or electronically transmitted at least 14 days before
541 the meeting to the owner of each unit. In lieu of or in addition
542 to the physical posting of notice of any meeting of the board of
543 administration on the condominium property, the association may,
544 by reasonable rule, adopt a procedure for conspicuously posting
545 and repeatedly broadcasting the notice and the agenda on a
546 closed-circuit cable television system serving the condominium
547 association. However, if broadcast notice is used in lieu of a
548 notice posted physically on the condominium property, the notice
549 and agenda must be broadcast at least four times every broadcast
550 hour of each day that a posted notice is otherwise required
551 under this section. When broadcast notice is provided, the
552 notice and agenda must be broadcast in a manner and for a
553 sufficient continuous length of time so as to allow an average
554 reader to observe the notice and read and comprehend the entire
555 content of the notice and the agenda. Notice of any meeting in
556 which regular or special assessments against unit owners are to
557 be considered for any reason shall specifically state ~~contain a~~
558 ~~statement~~ that assessments will be considered and the nature,
559 cost, and breakdown of any such assessments. Meetings of a
560 committee to take final action on behalf of the board or make

561 recommendations to the board regarding the association budget
562 are subject to the provisions of this paragraph. Meetings of a
563 committee that does not take final action on behalf of the board
564 or make recommendations to the board regarding the association
565 budget are subject to the provisions of this section, unless
566 those meetings are exempted from this section by the bylaws of
567 the association. Notwithstanding any other law, the requirement
568 that board meetings and committee meetings be open to the unit
569 owners is inapplicable to meetings between the board or a
570 committee and the association's attorney, with respect to
571 proposed or pending litigation, when the meeting is held for the
572 purpose of seeking or rendering legal advice.

573 (d) Unit owner meetings.--

574 1. There shall be an annual meeting of the unit owners.
575 Unless the bylaws provide otherwise, a vacancy on the board
576 caused by the expiration of a director's term shall be filled by
577 electing a new board member, and the election shall be by secret
578 ballot; however, if the number of vacancies equals or exceeds
579 the number of candidates, no election is required. If there is
580 no provision in the bylaws for terms of the members of the
581 board, the terms of all members of the board shall expire upon
582 the election of their successors at the annual meeting. Any unit
583 owner desiring to be a candidate for board membership shall
584 comply with subparagraph 3. The only prohibition against
585 eligibility for board membership shall be for a person who has
586 been convicted of any felony by any court of record in the
587 United States and who has not had his or her right to vote
588 restored pursuant to law in the jurisdiction of his or her

589 ~~residence is not eligible for board membership.~~ The validity of
590 an action by the board is not affected if it is later determined
591 that a member of the board is ineligible for board membership
592 due to having been convicted of a felony.

593 2. The bylaws shall provide the method of calling meetings
594 of unit owners, including annual meetings. Written notice, which
595 notice must include an agenda, shall be mailed, hand delivered,
596 or electronically transmitted to each unit owner at least 14
597 days prior to the annual meeting and shall be posted in a
598 conspicuous place on the condominium property at least 14
599 continuous days preceding the annual meeting. Upon notice to the
600 unit owners, the board shall by duly adopted rule designate a
601 specific location on the condominium property or association
602 property upon which all notices of unit owner meetings shall be
603 posted; however, if there is no condominium property or
604 association property upon which notices can be posted, this
605 requirement does not apply. In lieu of or in addition to the
606 physical posting of notice of any meeting of the unit owners on
607 the condominium property, the association may, by reasonable
608 rule, adopt a procedure for conspicuously posting and repeatedly
609 broadcasting the notice and the agenda on a closed-circuit cable
610 television system serving the condominium association. However,
611 if broadcast notice is used in lieu of a notice posted
612 physically on the condominium property, the notice and agenda
613 must be broadcast at least four times every broadcast hour of
614 each day that a posted notice is otherwise required under this
615 section. When broadcast notice is provided, the notice and
616 agenda must be broadcast in a manner and for a sufficient

617 continuous length of time so as to allow an average reader to
618 observe the notice and read and comprehend the entire content of
619 the notice and the agenda. Unless a unit owner waives in writing
620 the right to receive notice of the annual meeting, such notice
621 shall be hand delivered, mailed, or electronically transmitted
622 to each unit owner. Notice for meetings and notice for all other
623 purposes shall be mailed to each unit owner at the address last
624 furnished to the association by the unit owner, or hand
625 delivered to each unit owner. However, if a unit is owned by
626 more than one person, the association shall provide notice, for
627 meetings and all other purposes, to that one address which the
628 developer initially identifies for that purpose and thereafter
629 as one or more of the owners of the unit shall so advise the
630 association in writing, or if no address is given or the owners
631 of the unit do not agree, to the address provided on the deed of
632 record. An officer of the association, or the manager or other
633 person providing the first notice of the association meeting,
634 and the second notice as provided for in subparagraph 3., shall
635 provide an affidavit or United States Postal Service certificate
636 of mailing, to be included in the official records of the
637 association affirming that the notices were ~~notice was~~ mailed or
638 hand delivered, in accordance with this provision.

639 3. The members of the board shall be elected by written
640 ballot or voting machine. Proxies shall in no event be used in
641 electing the board, either in general elections or elections to
642 fill vacancies caused by recall, resignation, or otherwise,
643 unless otherwise provided in this chapter. Not less than 60 days
644 before a scheduled election, the association or its

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645 representative shall mail, deliver, or electronically transmit,
646 whether by separate association mailing or included in another
647 association mailing, delivery, or transmission, including
648 regularly published newsletters, to each unit owner entitled to
649 a vote, a first notice of the date of the election. Any unit
650 owner or other eligible person desiring to be a candidate for
651 the board must give written notice to the association or its
652 representative not less than 40 days before a scheduled
653 election. Together with the written notice and agenda as set
654 forth in subparagraph 2., the association or its representative
655 shall mail, deliver, or electronically transmit a second notice
656 of the election to all unit owners entitled to vote therein,
657 together with a ballot which shall list all candidates. Upon
658 request of a candidate, the association or its representative
659 shall include an information sheet, no larger than 8 1/2 inches
660 by 11 inches, which must be furnished by the candidate not less
661 than 35 days before the election, to be included with the
662 mailing, delivery, or transmission of the ballot, with the costs
663 of mailing, delivery, or electronic transmission and copying to
664 be borne by the association. The association or its
665 representative is not liable for the contents of the information
666 sheets prepared by the candidates. In order to reduce costs, the
667 association may print or duplicate the information sheets on
668 both sides of the paper. The division shall by rule establish
669 voting procedures consistent with the provisions contained
670 herein, including rules establishing procedures for giving
671 notice by electronic transmission and rules providing for the
672 secrecy of ballots. All ballot envelopes must be placed in a

673 locked or sealed ballot drop box immediately upon receipt, and
674 the box shall not be opened in advance of the election meeting.
675 Elections shall be decided by a plurality of those ballots cast.
676 There shall be no quorum requirement; however, at least 20
677 percent of the eligible voters must cast a ballot in order to
678 have a valid election of members of the board. No unit owner
679 shall permit any other person to vote his or her ballot, and any
680 such ballots improperly cast shall be deemed invalid, provided
681 any unit owner who violates this provision may be fined by the
682 association in accordance with s. 718.303. A unit owner who
683 needs assistance in casting the ballot for the reasons stated in
684 s. 101.051 may obtain assistance in casting the ballot. The
685 regular election shall occur on the date of the annual meeting.
686 The provisions of this subparagraph shall not apply to timeshare
687 condominium associations. Notwithstanding the provisions of this
688 subparagraph, an election is not required unless more candidates
689 file notices of intent to run or are nominated than board
690 vacancies exist.

691 4. Any approval by unit owners called for by this chapter
692 or the applicable declaration or bylaws, including, but not
693 limited to, the approval requirement in s. 718.111(8), shall be
694 made at a duly noticed meeting of unit owners and shall be
695 subject to all requirements of this chapter or the applicable
696 condominium documents relating to unit owner decisionmaking,
697 except that unit owners may take action by written agreement,
698 without meetings, on matters for which action by written
699 agreement without meetings is expressly allowed by the
700 applicable bylaws or declaration or any statute that provides

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701 for such action.

702 5. Unit owners may waive notice of specific meetings if
703 allowed by the applicable bylaws or declaration or any statute.
704 If authorized by the bylaws, notice of meetings of the board of
705 administration, unit owner meetings, except unit owner meetings
706 called to recall board members under paragraph (j), and
707 committee meetings may be given by electronic transmission to
708 unit owners who consent to receive notice by electronic
709 transmission.

710 6. Unit owners shall have the right to participate in
711 meetings of unit owners with reference to all designated agenda
712 items. However, the association may adopt reasonable rules
713 governing the frequency, duration, and manner of unit owner
714 participation.

715 7. Any unit owner may tape record or videotape a meeting
716 of the unit owners subject to reasonable rules adopted by the
717 division.

718 8. Unless otherwise provided in the bylaws, any vacancy
719 occurring on the board before the expiration of a term may be
720 filled by the affirmative vote of the majority of the remaining
721 directors, even if the remaining directors constitute less than
722 a quorum, or by the sole remaining director. In the alternative,
723 a board may hold an election to fill the vacancy, in which case
724 the election procedures must conform to the requirements of
725 subparagraph 3. ~~unless the association has opted out of the~~
726 ~~statutory election process, in which case the bylaws of the~~
727 ~~association control.~~ Unless otherwise provided in the bylaws, a
728 board member appointed or elected under this section shall fill

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729 the vacancy for the unexpired term of the seat being filled.
730 Filling vacancies created by recall is governed by paragraph (j)
731 and rules adopted by the division.

732 9. Unit owners shall have the right to have items not
733 related to the budget placed on the agenda of the annual meeting
734 and voted upon if a written request is made to the board of
735 administration by 20 percent or more of all voting interests at
736 least 90 days before the date of the annual meeting.

737
738 ~~Notwithstanding subparagraphs (b)2. and (d)3., an association~~
739 ~~may, by the affirmative vote of a majority of the total voting~~
740 ~~interests, provide for different voting and election procedures~~
741 ~~in its bylaws, which vote may be by a proxy specifically~~
742 ~~delineating the different voting and election procedures. The~~
743 ~~different voting and election procedures may provide for~~
744 ~~elections to be conducted by limited or general proxy.~~

745 (e) Budget meeting.--

746 1. Any meeting at which a proposed annual budget of an
747 association will be considered by the board or unit owners shall
748 be open to all unit owners. At least 14 days prior to such a
749 meeting, the board shall hand deliver to each unit owner, mail
750 to each unit owner at the address last furnished to the
751 association by the unit owner, or electronically transmit to the
752 location furnished by the unit owner for that purpose a notice
753 of such meeting and a copy of the proposed annual budget. An
754 officer or manager of the association, or other person providing
755 notice of such meeting, shall execute an affidavit evidencing
756 compliance with such notice requirement, and such affidavit

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757 shall be filed among the official records of the association.

758 2.a. If a board adopts in any fiscal year an annual budget
759 which requires assessments against unit owners which exceed 115
760 percent of assessments for the preceding fiscal year, the board
761 shall conduct a special meeting of the unit owners to consider a
762 substitute budget if the board receives, within 21 days after
763 adoption of the annual budget, a written request for a special
764 meeting from at least 10 percent of all voting interests. The
765 special meeting shall be conducted within 60 days after adoption
766 of the annual budget. At least 14 days prior to such special
767 meeting, the board shall hand deliver to each unit owner, or
768 mail to each unit owner at the address last furnished to the
769 association, a notice of the meeting. An officer or manager of
770 the association, or other person providing notice of such
771 meeting shall execute an affidavit evidencing compliance with
772 this notice requirement, and such affidavit shall be filed among
773 the official records of the association. Unit owners may
774 consider and adopt a substitute budget at the special meeting. A
775 substitute budget is adopted if approved by a majority of all
776 voting interests unless the bylaws require adoption by a greater
777 percentage of voting interests. If there is not a quorum at the
778 special meeting or a substitute budget is not adopted, the
779 annual budget previously adopted by the board shall take effect
780 as scheduled.

781 b. Any determination of whether assessments exceed 115
782 percent of assessments for the prior fiscal year shall exclude
783 any authorized provision for reasonable reserves for repair or
784 replacement of the condominium property, anticipated expenses of

785 the association which the board does not expect to be incurred
 786 on a regular or annual basis, or assessments for betterments to
 787 the condominium property.

788 c. If the developer controls the board, assessments shall
 789 not exceed 115 percent of assessments for the prior fiscal year
 790 unless approved by a majority of all voting interests.

791 (f) Annual budget.--

792 1. The association shall prepare an annual budget of
 793 estimated revenues and expenses. The adopted budget of the prior
 794 fiscal year shall remain in effect until the association has
 795 adopted a new budget for the current fiscal year. The proposed
 796 annual budget of estimated revenues and ~~common~~ expenses shall be
 797 detailed and shall show the amounts budgeted by accounts and
 798 expense classifications, including, if applicable, but not
 799 limited to, those expenses listed in s. 718.504(21). A
 800 multicondominium association shall adopt a separate budget of
 801 common expenses for each condominium the association operates
 802 and shall adopt a separate budget of common expenses for the
 803 association. In addition, if the association maintains limited
 804 common elements with the cost to be shared only by those
 805 entitled to use the limited common elements as provided for in
 806 s. 718.113(1), the budget or a schedule attached thereto shall
 807 show amounts budgeted therefor. If, after turnover of control of
 808 the association to the unit owners, any of the expenses listed
 809 in s. 718.504(21) are not applicable, they need not be listed.

810 2. In addition to annual operating expenses, the budget
 811 shall include reserve accounts for capital expenditures and
 812 deferred maintenance. These accounts shall include, but are not

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813 limited to, structural repairs, roof replacement, building
814 painting, and pavement resurfacing, regardless of the amount of
815 deferred maintenance expense or replacement cost, and for any
816 other item for which the deferred maintenance expense or
817 replacement cost exceeds \$10,000. The amount to be reserved
818 shall be computed by means of a formula which is based upon
819 estimated remaining useful life and estimated replacement cost
820 or deferred maintenance expense of each reserve item. The
821 association may adjust replacement reserve assessments annually
822 to take into account any changes in estimates or extension of
823 the useful life of a reserve item caused by deferred
824 maintenance. This subsection does not apply to an adopted budget
825 in which the members of an association have determined, by a
826 majority vote at a duly called meeting of the association, to
827 provide no reserves or less reserves than required by this
828 subsection. However, prior to turnover of control of an
829 association by a developer to unit owners other than a developer
830 pursuant to s. 718.301, the developer may vote to waive the
831 reserves or reduce the funding of reserves for the first 2
832 fiscal years of the association's operation, beginning with the
833 fiscal year in which the initial declaration is recorded, after
834 which time reserves may be waived or reduced only upon the vote
835 of a majority of all nondeveloper voting interests voting in
836 person or by limited proxy at a duly called meeting of the
837 association. If a meeting of the unit owners has been called to
838 determine whether to waive or reduce the funding of reserves,
839 and no such result is achieved or a quorum is not attained, the
840 reserves as included in the budget shall go into effect. After

841 the turnover, the developer may vote its voting interest to
 842 waive or reduce the funding of reserves.

843 3. Reserve funds and any interest accruing thereon shall
 844 remain in the reserve account or accounts, and shall be used
 845 only for authorized reserve expenditures unless their use for
 846 other purposes is approved in advance by a majority vote at a
 847 duly called meeting of the association. Prior to turnover of
 848 control of an association by a developer to unit owners other
 849 than the developer pursuant to s. 718.301, the developer-
 850 controlled association shall not vote to use reserves for
 851 purposes other than that for which they were intended without
 852 the approval of a majority of all nondeveloper voting interests,
 853 voting in person or by limited proxy at a duly called meeting of
 854 the association.

855 4. The only voting interests which are eligible to vote on
 856 questions that involve waiving or reducing the funding of
 857 reserves, or using existing reserve funds for purposes other
 858 than purposes for which the reserves were intended, are the
 859 voting interests of the units subject to assessment to fund the
 860 reserves in question. The face of all ballots that involve
 861 questions relating to waiving or reducing the funding of
 862 reserves, or using existing reserve funds for purposes other
 863 than purposes for which the reserves were intended, shall
 864 contain the following statement in capitalized, bold letters in
 865 a font size larger than any other used on the face of the
 866 ballot: WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING
 867 ALTERNATE USES OF EXISTING RESERVES, MAY RESULT IN UNIT OWNER
 868 LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS

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869 REGARDING THOSE RESERVE ITEMS.

870 5. A vote to provide for no reserves or a percentage of
871 reserves shall be made at the annual meeting of the unit owners
872 called under paragraph (d).

873 6. Notwithstanding subparagraph 3., the association after
874 turnover of control of the association may, in case of a
875 catastrophic event, use reserve funds for nonscheduled purposes
876 to mitigate further damage to units or common elements or to
877 make the condominium accessible for repairs.

878 7. Except in cases of emergency, or unless otherwise
879 provided for in the bylaws or approved by a vote of a majority
880 of the unit owners in advance, the board of administration may
881 not apply for or accept a loan or line of credit in an amount
882 that exceeds 10 percent of the association's annual budget for
883 the current year.

884 (g) Assessments.--After the declaration has been recorded,
885 and until such time as the association has been created, all
886 common expenses shall be paid by the developer. Assessments
887 shall be levied in an amount determined by the adopted budget or
888 an authorized special assessment. The manner of collecting from
889 the unit owners their shares of the common expenses shall be
890 stated in the bylaws. Assessments shall be made against units on
891 a quarter-annual, or more frequent, basis ~~not less frequently~~
892 ~~than quarterly~~ in an amount which is not less than that required
893 to provide funds in advance for payment of all of the
894 anticipated current operating expenses and for all of the unpaid
895 operating expenses previously incurred. Nothing in this
896 paragraph shall preclude the right of an association to

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897 accelerate assessments of an owner delinquent in payment of
898 common expenses against whom a lien has been filed. Accelerated
899 assessments shall be due and payable after ~~on the date~~ the claim
900 of lien is filed. Such accelerated assessments shall include the
901 amounts due for the remainder of the budget year in which the
902 claim of lien was filed.

903 (h) Amendment of bylaws.--

904 1. The method by which the bylaws may be amended
905 consistent with the provisions of this chapter shall be stated.
906 If the bylaws fail to provide a method of amendment, the bylaws
907 may be amended if the amendment is approved by the owners of not
908 less than two-thirds of the voting interests.

909 2. No bylaw shall be revised or amended by reference to
910 its title or number only. Proposals to amend existing bylaws
911 shall contain the full text of the bylaws to be amended; new
912 words shall be inserted in the text underlined, and words to be
913 deleted shall be lined through with hyphens. However, if the
914 proposed change is so extensive that this procedure would
915 hinder, rather than assist, the understanding of the proposed
916 amendment, it is not necessary to use underlining and hyphens as
917 indicators of words added or deleted, but, instead, a notation
918 must be inserted immediately preceding the proposed amendment in
919 substantially the following language: "Substantial rewording of
920 bylaw. See bylaw _____ for present text."

921 3. Nonmaterial errors or omissions in the bylaw process
922 will not invalidate an otherwise properly promulgated amendment.

923 (i) Transfer fees.--No charge shall be made by the
924 association or any body thereof in connection with the sale,

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925 mortgage, lease, sublease, or other transfer of a unit unless
926 the association is required to approve such transfer and a fee
927 for such approval is provided for in the declaration, articles,
928 or bylaws. Any such fee may be preset, but in no event may such
929 fee exceed \$100 per applicant other than husband/wife or
930 parent/dependent child, which are considered one applicant.
931 However, if the lease or sublease is a renewal of a lease or
932 sublease with the same lessee or sublessee, no charge shall be
933 made. The foregoing notwithstanding, an association may, if the
934 authority to do so appears in the declaration or bylaws, require
935 that a prospective lessee place a security deposit, in an amount
936 not to exceed the equivalent of 1 month's rent, into an escrow
937 account maintained by the association. The security deposit
938 shall protect against damages to the common elements or
939 association property. Payment of interest, claims against the
940 deposit, refunds, and disputes under this paragraph shall be
941 handled in the same fashion as provided in part II of chapter
942 83.

943 (j) Recall of board members.--Subject to the provisions of
944 s. 718.301, any member of the board of administration may be
945 recalled and removed from office with or without cause by the
946 vote or agreement in writing by a majority of all the voting
947 interests. A special meeting of the unit owners to recall a
948 member or members of the board of administration may be called
949 by 10 percent of the voting interests giving notice of the
950 meeting as required for a meeting of unit owners, and the notice
951 shall state the purpose of the meeting. Electronic transmission
952 may not be used as a method of giving notice of a meeting called

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953 | in whole or in part for this purpose.

954 | 1. If the recall is approved by a majority of all voting
955 | interests by a vote at a meeting, the recall will be effective
956 | as provided herein. The board shall duly notice and hold a board
957 | meeting within 5 full business days of the adjournment of the
958 | unit owner meeting to recall one or more board members. At the
959 | meeting, the board shall either certify the recall, in which
960 | case such member or members shall be recalled effective
961 | immediately and shall turn over to the board within 5 full
962 | business days any and all records and property of the
963 | association in their possession, or shall proceed as set forth
964 | in subparagraph 3.

965 | 2. If the proposed recall is by an agreement in writing by
966 | a majority of all voting interests, the agreement in writing or
967 | a copy thereof shall be served on the association by certified
968 | mail or by personal service in the manner authorized by chapter
969 | 48 and the Florida Rules of Civil Procedure. The board of
970 | administration shall duly notice and hold a meeting of the board
971 | within 5 full business days after receipt of the agreement in
972 | writing. At the meeting, the board shall either certify the
973 | written agreement to recall a member or members of the board, in
974 | which case such member or members shall be recalled effective
975 | immediately and shall turn over to the board within 5 full
976 | business days any and all records and property of the
977 | association in their possession, or proceed as described in
978 | subparagraph 3.

979 | 3. If the board determines not to certify the written
980 | agreement to recall a member or members of the board, or does

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981 not certify the recall by a vote at a meeting, the board shall,
982 within 5 full business days after the meeting, file with the
983 division a petition for arbitration pursuant to the procedures
984 in s. 718.1255. For the purposes of this section, the unit
985 owners who voted at the meeting or who executed the agreement in
986 writing shall constitute one party under the petition for
987 arbitration. If the arbitrator certifies the recall as to any
988 member or members of the board, the recall will be effective
989 upon mailing of the final order of arbitration to the
990 association. If the association fails to comply with the order
991 of the arbitrator, the division may take action pursuant to s.
992 718.501. Any member or members so recalled shall deliver to the
993 board any and all records of the association in their possession
994 within 5 full business days of the effective date of the recall.

995 4. If the board fails to duly notice and hold a board
996 meeting within 5 full business days of service of an agreement
997 in writing or within 5 full business days of the adjournment of
998 the unit owner recall meeting, the recall shall be deemed
999 effective and the board members so recalled shall immediately
1000 turn over to the board any and all records and property of the
1001 association.

1002 5. If a vacancy occurs on the board as a result of a
1003 recall and less than a majority of the board members are
1004 removed, the vacancy may be filled by the affirmative vote of a
1005 majority of the remaining directors, notwithstanding any
1006 provision to the contrary contained in this subsection. If
1007 vacancies occur on the board as a result of a recall and a
1008 majority or more of the board members are removed, the vacancies

1009 shall be filled in accordance with procedural rules to be
 1010 adopted by the division, which rules need not be consistent with
 1011 this subsection. The rules must provide procedures governing the
 1012 conduct of the recall election as well as the operation of the
 1013 association during the period after a recall but prior to the
 1014 recall election.

1015 ~~(k) Arbitration. There shall be a provision for mandatory~~
 1016 ~~nonbinding arbitration as provided for in s. 718.1255.~~

1017 (k)~~(l)~~ Certificate of compliance.--There shall be a
 1018 provision that a certificate of compliance from a licensed
 1019 electrical contractor or electrician may be accepted by the
 1020 association's board as evidence of compliance of the condominium
 1021 units with the applicable fire and life safety code.
 1022 Notwithstanding the provisions of chapter 633 or of any other
 1023 code, statute, ordinance, administrative rule, or regulation, or
 1024 any interpretation of the foregoing, an association,
 1025 condominium, or unit owner is not obligated to retrofit the
 1026 common elements or units of a residential condominium with a
 1027 fire sprinkler system or other engineered lifesafety system in a
 1028 building that has been certified for occupancy by the applicable
 1029 governmental entity, if the unit owners have voted to forego
 1030 such retrofitting and engineered lifesafety system by the
 1031 affirmative vote of two-thirds of all voting interests in the
 1032 affected condominium. However, a condominium association may not
 1033 vote to forego the retrofitting with a fire sprinkler system of
 1034 common areas in a high-rise building. For purposes of this
 1035 subsection, the term "high-rise building" means a building that
 1036 is greater than 75 feet in height where the building height is

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1037 measured from the lowest level of fire department access to the
1038 floor of the highest occupiable story. For purposes of this
1039 subsection, the term "common areas" means any enclosed hallway,
1040 corridor, lobby, stairwell, or entryway. In no event shall the
1041 local authority having jurisdiction require completion of
1042 retrofitting of common areas with a sprinkler system before the
1043 end of 2014.

1044 1. A vote to forego retrofitting may be obtained by
1045 limited proxy or by a ballot personally cast at a duly called
1046 membership meeting, or by execution of a written consent by the
1047 member, and shall be effective upon the recording of a
1048 certificate attesting to such vote in the public records of the
1049 county where the condominium is located. The association shall
1050 mail, hand deliver, or electronically transmit to each unit
1051 owner written notice at least 14 days prior to such membership
1052 meeting in which the vote to forego retrofitting of the required
1053 fire sprinkler system is to take place. Within 30 days after the
1054 association's opt-out vote, notice of the results of the opt-out
1055 vote shall be mailed, hand delivered, or electronically
1056 transmitted to all unit owners. Evidence of compliance with this
1057 30-day notice shall be made by an affidavit executed by the
1058 person providing the notice and filed among the official records
1059 of the association. After such notice is provided to each owner,
1060 a copy of such notice shall be provided by the current owner to
1061 a new owner prior to closing and shall be provided by a unit
1062 owner to a renter prior to signing a lease.

1063 2. As part of the information collected annually from
1064 condominiums, the division shall require condominium

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1065 associations to report the membership vote and recording of a
 1066 certificate under this subsection and, if retrofitting has been
 1067 undertaken, the per-unit cost of such work. The division shall
 1068 annually report to the Division of State Fire Marshal of the
 1069 Department of Financial Services the number of condominiums that
 1070 have elected to forego retrofitting.

1071 (1)~~(m)~~ Common elements; limited power to convey.--

1072 1. With respect to condominiums created on or after
 1073 October 1, 1994, the bylaws shall include a provision granting
 1074 the association a limited power to convey a portion of the
 1075 common elements to a condemning authority for the purpose of
 1076 providing utility easements, right-of-way expansion, or other
 1077 public purposes, whether negotiated or as a result of eminent
 1078 domain proceedings.

1079 2. In any case where the bylaws are silent as to the
 1080 association's power to convey common elements as described in
 1081 subparagraph 1., the bylaws shall be deemed to include the
 1082 provision described in subparagraph 1.

1083 Section 5. Section 718.113, Florida Statutes, is amended
 1084 to read:

1085 718.113 Maintenance; limitation upon improvement; display
 1086 of flag; display of religious decorations; hurricane shutters.--

1087 (1) Maintenance of the common elements is the
 1088 responsibility of the association. The declaration may provide
 1089 that certain limited common elements shall be maintained by
 1090 those entitled to use the limited common elements or that the
 1091 association shall provide the maintenance, ~~either as a common~~
 1092 ~~expense or~~ with the cost shared only by those entitled to use

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1093 the limited common elements. If the maintenance is to be by the
1094 association at the expense of only those entitled to use the
1095 limited common elements, the declaration shall describe in
1096 detail the method of apportioning such costs among those
1097 entitled to use the limited common elements, and the association
1098 may use the provisions of s. 718.116 to enforce payment of the
1099 shares of such costs by the unit owners entitled to use the
1100 limited common elements.

1101 (2) (a) Except as otherwise provided in this section, there
1102 shall be no material alteration or substantial additions to the
1103 common elements or to real property which is association
1104 property, except in a manner provided in the declaration as
1105 originally recorded or as amended under the procedures provided
1106 therein. If the declaration as originally recorded or as amended
1107 under the procedures provided therein does not specify the
1108 procedure for approval of material alterations or substantial
1109 additions, 75 percent of the total voting interests of the
1110 association must approve the alterations or additions.

1111 (b) There shall not be any material alteration of, or
1112 substantial addition to, the common elements of any condominium
1113 operated by a multicondominium association unless approved in
1114 the manner provided in the declaration of the affected
1115 condominium or condominiums as originally recorded or as amended
1116 under the procedures provided therein. If a declaration as
1117 originally recorded or as amended under the procedures provided
1118 therein does not specify a procedure for approving such an
1119 alteration or addition, the approval of 75 percent of the total
1120 voting interests of each affected condominium is required. This

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1121 subsection does not prohibit a provision in any declaration,
1122 articles of incorporation, or bylaws as originally recorded or
1123 as amended under the procedures provided therein requiring the
1124 approval of unit owners in any condominium operated by the same
1125 association or requiring board approval before a material
1126 alteration or substantial addition to the common elements is
1127 permitted. This paragraph is intended to clarify existing law
1128 and applies to associations existing on the effective date of
1129 this act.

1130 (c) There shall not be any material alteration or
1131 substantial addition made to association real property operated
1132 by a multicondominium association, except as provided in the
1133 declaration, articles of incorporation, or bylaws as originally
1134 recorded or as amended under the procedures provided therein. If
1135 the declaration, articles of incorporation, or bylaws as
1136 originally recorded or as amended under the procedures provided
1137 therein do not specify the procedure for approving an alteration
1138 or addition to association real property, the approval of 75
1139 percent of the total voting interests of the association is
1140 required. This paragraph is intended to clarify existing law and
1141 applies to associations existing on the effective date of this
1142 act.

1143 (3) A unit owner shall not do anything within his or her
1144 unit or on the common elements which would adversely affect the
1145 safety or soundness of the common elements or any portion of the
1146 association property or condominium property which is to be
1147 maintained by the association.

1148 (4) Any unit owner may display one portable, removable

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1149 United States flag in a respectful way and, on Armed Forces Day,
1150 Memorial Day, Flag Day, Independence Day, and Veterans Day, may
1151 display in a respectful way portable, removable official flags,
1152 not larger than 4 1/2 feet by 6 feet, that represent the United
1153 States Army, Navy, Air Force, Marine Corps, or Coast Guard,
1154 regardless of any declaration rules or requirements dealing with
1155 flags or decorations.

1156 (5) Each board of administration shall, at each annual
1157 meeting, adopt or restate hurricane shutter specifications for
1158 each building within each condominium operated by the
1159 association which shall include color, style, and other factors
1160 deemed relevant by the board. All specifications adopted or
1161 restated by the board shall comply with the applicable building
1162 code. Notwithstanding any provision to the contrary in the
1163 condominium documents, if approval is required by the documents,
1164 a board shall not refuse to approve the installation or
1165 replacement of hurricane shutters conforming to the
1166 specifications adopted by the board. The board may, subject to
1167 the provisions of s. 718.3026, and the approval of a majority of
1168 voting interests of the condominium, install hurricane shutters
1169 and may maintain, repair, or replace such approved hurricane
1170 shutters or hurricane protection that complies with the
1171 applicable building code, whether on or within common elements,
1172 limited common elements, units, or association property.
1173 However, where laminated glass or window film architecturally
1174 designed to function as hurricane protection which complies with
1175 the applicable building code has been installed, the board may
1176 not install hurricane shutters. The board may operate shutters

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1177 installed pursuant to this subsection without permission of the
 1178 unit owners only where such operation is necessary to preserve
 1179 and protect the condominium property and association property.
 1180 The installation, replacement, operation, repair, and
 1181 maintenance of such shutters in accordance with the procedures
 1182 set forth herein shall not be deemed a material alteration to
 1183 the common elements or association property within the meaning
 1184 of this section.

1185 (6) Every 5 years, the board of administration shall have
 1186 the condominium buildings inspected by a professional engineer
 1187 or professional architect registered in the state for the
 1188 purposes of determining whether the building is structurally and
 1189 electrically safe, and determining any immediate maintenance
 1190 required as well as any long-term maintenance necessary in the
 1191 form of a long-term maintenance plan. The long-term maintenance
 1192 plan shall include an executive summary, which shall be
 1193 distributed to all unit owners. The engineer or architect shall
 1194 provide a report indicating the manner and type of inspection
 1195 forming the basis for the report and description of any matters
 1196 identified as requiring remedial action. The report shall become
 1197 an official record of the association to be provided to the
 1198 members upon request pursuant to s. 718.111(12).

1199 (7) No association may prohibit the attachment of
 1200 religious items at the door or at the entrance of a unit. The
 1201 board may adopt reasonable size restrictions for such items.

1202 Section 6. Section 718.1224, Florida Statutes, is created
 1203 to read:

1204 718.1224 Prohibition against SLAPP suits.--

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1205 (1) It is the intent of the Legislature to protect the
1206 right of condominium unit owners to exercise their rights to
1207 instruct their representatives and petition for redress of
1208 grievances before the various governmental entities of this
1209 state as protected by the First Amendment to the United States
1210 Constitution and s. 5, Art. I of the State Constitution. The
1211 Legislature recognizes that strategic lawsuits against public
1212 participation, or "SLAPP" suits as they are typically referred
1213 to, have occurred when association members are sued by
1214 individuals, business entities, or governmental entities arising
1215 out of a condominium unit owner's appearance and presentation
1216 before a governmental entity on matters related to the
1217 condominium association. However, it is the public policy of
1218 this state that governmental entities, business organizations,
1219 and individuals not engage in SLAPP suits, because such actions
1220 are inconsistent with the right of condominium unit owners to
1221 participate in the state's institutions of government.
1222 Therefore, the Legislature finds and declares that prohibiting
1223 such lawsuits by governmental entities, business entities, and
1224 individuals against condominium unit owners who address matters
1225 concerning their condominium association will preserve this
1226 fundamental state policy, preserve the constitutional rights of
1227 condominium unit owners, and ensure the continuation of
1228 representative government in this state. It is the intent of the
1229 Legislature that such lawsuits be expeditiously disposed of by
1230 the courts. As used in this subsection, the term "governmental
1231 entity" means the state, including the executive, legislative,
1232 and judicial branches of government, the independent

1233 establishments of the state, counties, municipalities,
 1234 districts, authorities, boards, or commissions, or any agencies
 1235 of these branches which are subject to chapter 286.

1236 (2) A governmental entity, business organization, or
 1237 individual in this state may not file or cause to be filed
 1238 through its employees or agents any lawsuit, cause of action,
 1239 claim, cross-claim, or counterclaim against a condominium unit
 1240 owner without merit and solely because such condominium unit
 1241 owner has exercised the right to instruct his or her
 1242 representatives or the right to petition for redress of
 1243 grievances before the various governmental entities of this
 1244 state, as protected by the First Amendment to the United States
 1245 Constitution and s. 5, Art. I of the State Constitution.

1246 (3) A condominium unit owner sued by a governmental
 1247 entity, business organization, or individual in violation of
 1248 this section has a right to an expeditious resolution of a claim
 1249 that the suit is in violation of this section. A condominium
 1250 unit owner may petition the court for an order dismissing the
 1251 action or granting final judgment in favor of that condominium
 1252 unit owner. The petitioner may file a motion for summary
 1253 judgment, together with supplemental affidavits, seeking a
 1254 determination that the governmental entity's, business
 1255 organization's, or individual's lawsuit has been brought in
 1256 violation of this section. The governmental entity, business
 1257 organization, or individual shall thereafter file its response
 1258 and any supplemental affidavits. As soon as practicable, the
 1259 court shall set a hearing on the petitioner's motion, which
 1260 shall be held at the earliest possible time after the filing of

1261 the governmental entity's, business organization's, or
 1262 individual's response. The court may award the condominium unit
 1263 owner sued by the governmental entity, business organization, or
 1264 individual actual damages arising from the governmental
 1265 entity's, individual's, or business organization's violation of
 1266 this section. A court may treble the damages awarded to a
 1267 prevailing condominium unit owner and shall state the basis for
 1268 the treble-damages award in its judgment. The court shall award
 1269 the prevailing party reasonable attorney's fees and costs
 1270 incurred in connection with a claim that an action was filed in
 1271 violation of this section.

1272 (4) Condominium associations may not expend association
 1273 funds in prosecuting a SLAPP suit against a condominium unit
 1274 owner.

1275 Section 7. Subsection (4) of section 718.1255, Florida
 1276 Statutes, is amended to read:

1277 718.1255 Alternative dispute resolution; voluntary
 1278 mediation; mandatory nonbinding arbitration; legislative
 1279 findings.--

1280 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF
 1281 DISPUTES.--The Division of Florida Land Sales, Condominiums, and
 1282 Mobile Homes of the Department of Business and Professional
 1283 Regulation shall employ full-time attorneys to act as
 1284 arbitrators to conduct the arbitration hearings provided by this
 1285 chapter. The division may also certify attorneys who are not
 1286 employed by the division to act as arbitrators to conduct the
 1287 arbitration hearings provided by this section. No person may be
 1288 employed by the department as a full-time arbitrator unless he

1289 or she is a member in good standing of The Florida Bar. The
 1290 department shall promulgate rules of procedure to govern such
 1291 arbitration hearings including mediation incident thereto. The
 1292 decision of an arbitrator shall be final; however, such a
 1293 decision shall not be deemed final agency action. Nothing in
 1294 this provision shall be construed to foreclose parties from
 1295 proceeding in a trial de novo unless the parties have agreed
 1296 that the arbitration is binding. If such judicial proceedings
 1297 are initiated, the final decision of the arbitrator shall be
 1298 admissible in evidence in the trial de novo.

1299 (a) Prior to the institution of court litigation, a party
 1300 to a dispute shall petition the division for nonbinding
 1301 arbitration. The petition must be accompanied by a filing fee in
 1302 the amount of \$50. Filing fees collected under this section must
 1303 be used to defray the expenses of the alternative dispute
 1304 resolution program.

1305 (b) The petition must recite, and have attached thereto,
 1306 supporting proof that the petitioner gave the respondents:

1307 1. Advance written notice of the specific nature of the
 1308 dispute;

1309 2. A demand for relief, and a reasonable opportunity to
 1310 comply or to provide the relief; and

1311 3. Notice of the intention to file an arbitration petition
 1312 or other legal action in the absence of a resolution of the
 1313 dispute.

1314
 1315 Failure to include the allegations or proof of compliance with
 1316 these prerequisites requires dismissal of the petition without

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1317 prejudice.

1318 (c) Upon receipt, the petition shall be promptly reviewed
 1319 by the division to determine the existence of a dispute and
 1320 compliance with the requirements of paragraphs (a) and (b). If
 1321 emergency relief is required and is not available through
 1322 arbitration, a motion to stay the arbitration may be filed. The
 1323 motion must be accompanied by a verified petition alleging facts
 1324 that, if proven, would support entry of a temporary injunction,
 1325 and if an appropriate motion and supporting papers are filed,
 1326 the division may abate the arbitration pending a court hearing
 1327 and disposition of a motion for temporary injunction.

1328 (d) Upon determination by the division that a dispute
 1329 exists and that the petition substantially meets the
 1330 requirements of paragraphs (a) and (b) and any other applicable
 1331 rules, a copy of the petition shall forthwith be served by the
 1332 division upon all respondents.

1333 (e) Either before or after the filing of the respondents'
 1334 answer to the petition, any party may request that the
 1335 arbitrator refer the case to mediation under this section and
 1336 any rules adopted by the division. Upon receipt of a request for
 1337 mediation, the division shall promptly refer the case ~~contact~~
 1338 ~~the parties to determine if there is agreement that mediation~~
 1339 ~~would be appropriate. If all parties agree, the dispute must be~~
 1340 ~~referred to mediation. Notwithstanding a lack of an agreement by~~
 1341 ~~all parties,~~ The arbitrator may refer a dispute to mediation at
 1342 any time.

1343 (f) Upon referral of a case to mediation, the parties must
 1344 select a mutually acceptable mediator. To assist in the

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1345 selection, the arbitrator shall provide the parties with a list
1346 of both volunteer and paid mediators that have been certified by
1347 the division under s. 718.501. If the parties are unable to
1348 agree on a mediator within the time allowed by the arbitrator,
1349 the arbitrator shall appoint a mediator from the list of
1350 certified mediators. If a case is referred to mediation, the
1351 parties shall attend a mediation conference, as scheduled by the
1352 parties and the mediator. If any party fails to attend a duly
1353 noticed mediation conference, without the permission or approval
1354 of the arbitrator or mediator, the arbitrator must impose
1355 sanctions against the party, including the striking of any
1356 pleadings filed, the entry of an order of dismissal or default
1357 if appropriate, and the award of costs and attorneys' fees
1358 incurred by the other parties. Unless otherwise agreed to by the
1359 parties or as provided by order of the arbitrator, a party is
1360 deemed to have appeared at a mediation conference by the
1361 physical presence of the party or its representative having full
1362 authority to settle without further consultation, provided that
1363 an association may comply by having one or more representatives
1364 present with full authority to negotiate a settlement and
1365 recommend that the board of administration ratify and approve
1366 such a settlement within 5 days from the date of the mediation
1367 conference. The parties shall share equally the expense of
1368 mediation, unless they agree otherwise.

1369 (g) The purpose of mediation as provided for by this
1370 section is to present the parties with an opportunity to resolve
1371 the underlying dispute in good faith, and with a minimum
1372 expenditure of time and resources.

1373 (h) Mediation proceedings must generally be conducted in
 1374 accordance with the Florida Rules of Civil Procedure, and these
 1375 proceedings are privileged and confidential to the same extent
 1376 as court-ordered mediation. Persons who are not parties to the
 1377 dispute are not allowed to attend the mediation conference
 1378 without the consent of all parties, with the exception of
 1379 counsel for the parties and corporate representatives designated
 1380 to appear for a party. If the mediator declares an impasse after
 1381 a mediation conference has been held, the arbitration proceeding
 1382 terminates, unless all parties agree in writing to continue the
 1383 arbitration proceeding, in which case the arbitrator's decision
 1384 shall be either binding or nonbinding, as agreed upon by the
 1385 parties; in the arbitration proceeding, the arbitrator shall not
 1386 consider any evidence relating to the unsuccessful mediation
 1387 except in a proceeding to impose sanctions for failure to appear
 1388 at the mediation conference. If the parties do not agree to
 1389 continue arbitration, the arbitrator shall enter an order of
 1390 dismissal, and either party may institute a suit in a court of
 1391 competent jurisdiction. The parties may seek to recover any
 1392 costs and attorneys' fees incurred in connection with
 1393 arbitration ~~and mediation~~ proceedings under this section as part
 1394 of the costs and fees that may be recovered by the prevailing
 1395 party in any subsequent litigation.

1396 (i) Arbitration shall be conducted according to rules
 1397 promulgated by the division. The filing of a petition for
 1398 arbitration shall toll the applicable statute of limitations.

1399 (j) At the request of any party to the arbitration, such
 1400 arbitrator shall issue subpoenas for the attendance of witnesses

1401 and the production of books, records, documents, and other
1402 evidence and any party on whose behalf a subpoena is issued may
1403 apply to the court for orders compelling such attendance and
1404 production. Subpoenas shall be served and shall be enforceable
1405 in the manner provided by the Florida Rules of Civil Procedure.
1406 Discovery may, in the discretion of the arbitrator, be permitted
1407 in the manner provided by the Florida Rules of Civil Procedure.
1408 Rules adopted by the division may authorize any reasonable
1409 sanctions except contempt for a violation of the arbitration
1410 procedural rules of the division or for the failure of a party
1411 to comply with a reasonable nonfinal order issued by an
1412 arbitrator which is not under judicial review.

1413 (k) The arbitration decision shall be presented to the
1414 parties in writing. An arbitration decision is final in those
1415 disputes in which the parties have agreed to be bound. An
1416 arbitration decision is also final if a complaint for a trial de
1417 novo is not filed in a court of competent jurisdiction in which
1418 the condominium is located within 30 days. The right to file for
1419 a trial de novo entitles the parties to file a complaint in the
1420 appropriate trial court for a judicial resolution of the
1421 dispute. The prevailing party in an arbitration proceeding shall
1422 be awarded the costs of the arbitration and reasonable
1423 attorney's fees in an amount determined by the arbitrator. Such
1424 an award shall include the costs and reasonable attorney's fees
1425 incurred in the arbitration proceeding as well as the costs and
1426 reasonable attorney's fees incurred in preparing for and
1427 attending any scheduled mediation.

1428 (l) The party who files a complaint for a trial de novo

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1429 shall be assessed the other party's arbitration costs, court
 1430 costs, and other reasonable costs, including attorney's fees,
 1431 investigation expenses, and expenses for expert or other
 1432 testimony or evidence incurred after the arbitration hearing if
 1433 the judgment upon the trial de novo is not more favorable than
 1434 the arbitration decision. If the judgment is more favorable, the
 1435 party who filed a complaint for trial de novo shall be awarded
 1436 reasonable court costs and attorney's fees.

1437 (m) Any party to an arbitration proceeding may enforce an
 1438 arbitration award by filing a petition in a court of competent
 1439 jurisdiction in which the condominium is located. A petition may
 1440 not be granted unless the time for appeal by the filing of a
 1441 complaint for trial de novo has expired. If a complaint for a
 1442 trial de novo has been filed, a petition may not be granted with
 1443 respect to an arbitration award that has been stayed. If the
 1444 petition for enforcement is granted, the petitioner shall
 1445 recover reasonable attorney's fees and costs incurred in
 1446 enforcing the arbitration award. A mediation settlement may also
 1447 be enforced through the county or circuit court, as applicable,
 1448 and any costs and fees incurred in the enforcement of a
 1449 settlement agreement reached at mediation must be awarded to the
 1450 prevailing party in any enforcement action.

1451 Section 8. Section 718.1257, Florida Statutes, is created
 1452 to read:

1453 718.1257 Companion animals.--

1454 (1) Every unit owner or renter of a condominium unit in
 1455 this state shall have the right to own a companion animal and to
 1456 have that animal live with him or her in the condominium unit if

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1457 the animal is deemed helpful to the person's physical or
1458 psychological well-being as attested to by at least two
1459 qualified health care professionals.

1460 (2) Any municipal or county code or ordinance or any
1461 purported rule, declaration, bylaw, or other form of restriction
1462 contrary to the right provided in subsection (1) contained in
1463 any governing document of any condominium association shall be
1464 deemed unconscionable and thus unenforceable, invalid, and of no
1465 legal effect.

1466 (3) An animal does not require specialized training or
1467 skill in assisting its owner to be classified as a companion
1468 animal pursuant to this section. The animal can be a cat, dog,
1469 ferret, bird, gerbil, or any other commonly accepted
1470 domesticated animal. However, if such training can be
1471 documented, a letter from only one qualified health care
1472 professional is required, in accordance with preexisting federal
1473 disability and fair housing laws.

1474 (4) Qualified health care professionals include any
1475 physician or advanced registered nurse practitioner who is
1476 licensed in this state to prescribe medications for emotional or
1477 mental conditions or any mental health worker, mental health
1478 counselor, psychologist, or social worker who is licensed in
1479 this state to practice counseling therapy. The letter must say
1480 that the animal is necessary to ameliorate and help with life
1481 functions for a condition covered under the Americans with
1482 Disabilities Act. The letter does not have to give details of
1483 the nature of the unit owner's or renter's disorder, in order
1484 not to invade the patient's privacy as required under the Health

1485 Insurance Portability and Accountability Act. If the primary
 1486 residence of the owner or renter is in another state, the
 1487 qualified health care professional is defined as a qualified
 1488 health care professional licensed in the owner's or renter's
 1489 home state.

1490 (5) If it becomes necessary for an owner or renter of any
 1491 condominium unit to enforce this section in court against an
 1492 association that has threatened to limit his or her right to own
 1493 and reside with a companion animal, either orally or in writing,
 1494 the unit owner or renter shall be entitled to recover his or her
 1495 reasonable costs and attorney's fees if the unit owner or renter
 1496 is the prevailing party. This attorney's fee provision is not
 1497 reciprocal.

1498 Section 9. Notwithstanding any provision to the contrary
 1499 contained in a declaration of condominium, condominium bylaws,
 1500 or other documents, a condominium developer who rents or leases
 1501 any unsold units in a condominium must pay all monthly
 1502 maintenance fees on those units to the association as if the
 1503 units were owned by individual owners.

1504 Section 10. Subsection (1) of section 718.302, Florida
 1505 Statutes, is amended to read:

1506 718.302 Agreements entered into by the association.--

1507 (1) Any grant or reservation made by a declaration, lease,
 1508 or other document, and any contract made by an association prior
 1509 to assumption of control of the association by unit owners other
 1510 than the developer, that provides for services, products,
 1511 operation, maintenance, or management of a condominium
 1512 association or property serving the unit owners of a condominium

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1513 shall be fair and reasonable, and such grant, reservation, or
1514 contract may be canceled by unit owners other than the
1515 developer:

1516 (a) If the association operates only one condominium and
1517 the unit owners other than the developer have assumed control of
1518 the association, or if unit owners other than the developer own
1519 not less than 75 percent of the voting interests in the
1520 condominium, the cancellation shall be by concurrence of the
1521 owners of not less than 75 percent of the voting interests other
1522 than the voting interests owned by the developer. If a grant,
1523 reservation, or contract is so canceled and the unit owners
1524 other than the developer have not assumed control of the
1525 association, the association shall make a new contract or
1526 otherwise provide for maintenance, management, or operation in
1527 lieu of the canceled obligation, at the direction of the owners
1528 of not less than a majority of the voting interests in the
1529 condominium other than the voting interests owned by the
1530 developer.

1531 (b) If the association operates more than one condominium
1532 and the unit owners other than the developer have not assumed
1533 control of the association, and if unit owners other than the
1534 developer own at least 75 percent of the voting interests in a
1535 condominium operated by the association, any grant, reservation,
1536 or contract for maintenance, management, or operation of
1537 buildings containing the units in that condominium or of
1538 improvements used only by unit owners of that condominium may be
1539 canceled by concurrence of the owners of at least 75 percent of
1540 the voting interests in the condominium other than the voting

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1541 interests owned by the developer. No grant, reservation, or
1542 contract for maintenance, management, or operation of
1543 recreational areas or any other property serving more than one
1544 condominium, and operated by more than one association, may be
1545 canceled except pursuant to paragraph (d).

1546 (c) If the association operates more than one condominium
1547 and the unit owners other than the developer have assumed
1548 control of the association, the cancellation shall be by
1549 concurrence of the owners of not less than 75 percent of the
1550 total number of voting interests in all condominiums operated by
1551 the association other than the voting interests owned by the
1552 developer.

1553 (d) If the owners of units in a condominium have the right
1554 to use property in common with owners of units in other
1555 condominiums and those condominiums are operated by more than
1556 one association, no grant, reservation, or contract for
1557 maintenance, management, or operation of the property serving
1558 more than one condominium may be canceled until unit owners
1559 other than the developer have assumed control of all of the
1560 associations operating the condominiums that are to be served by
1561 the recreational area or other property, after which
1562 cancellation may be effected by concurrence of the owners of not
1563 less than 75 percent of the total number of voting interests in
1564 those condominiums other than voting interests owned by the
1565 developer.

1566 Section 11. Paragraphs (f) and (g) are added to subsection
1567 (1) of section 718.3025, Florida Statutes, to read:

1568 718.3025 Agreements for operation, maintenance, or

1569 management of condominiums; specific requirements.--

1570 (1) No written contract between a party contracting to
 1571 provide maintenance or management services and an association
 1572 which contract provides for operation, maintenance, or
 1573 management of a condominium association or property serving the
 1574 unit owners of a condominium shall be valid or enforceable
 1575 unless the contract:

1576 (f) Requires that all obligations under the contract be
 1577 completed within a 1-year period.

1578 (g) Contains a provision expressly prohibiting automatic
 1579 renewal of the contract.

1580 Section 12. Paragraph (a) of subsection (2) of section
 1581 718.3026, Florida Statutes, is amended to read:

1582 718.3026 Contracts for products and services; in writing;
 1583 bids; exceptions.--Associations with less than 100 units may opt
 1584 out of the provisions of this section if two-thirds of the unit
 1585 owners vote to do so, which opt-out may be accomplished by a
 1586 proxy specifically setting forth the exception from this
 1587 section.

1588 (2) (a) 1. Notwithstanding the foregoing, contracts with
 1589 employees of the association, and contracts for attorney,
 1590 accountant, architect, community association manager, timeshare
 1591 management firm, engineering, and landscape architect services
 1592 are not subject to the provisions of this section.

1593 2. A contract executed before January 1, 1992, and any
 1594 renewal thereof, is not subject to the competitive bid
 1595 requirements of this section. If a contract was awarded under
 1596 the competitive bid procedures of this section, any renewal of

1597 that contract is not subject to such competitive bid
 1598 requirements if the contract contains a provision that allows
 1599 the board to cancel the contract on 30 days' notice. Materials,
 1600 equipment, or services provided to a condominium under a local
 1601 government franchise agreement by a franchise holder are not
 1602 subject to the competitive bid requirements of this section. A
 1603 contract with a manager, if made by a competitive bid, may be
 1604 made for up to 3 years. A condominium whose declaration or
 1605 bylaws provides for competitive bidding for services may operate
 1606 under the provisions of that declaration or bylaws in lieu of
 1607 this section if those provisions are not less stringent than the
 1608 requirements of this section.

1609 3. A contract by and between a service provider and an
 1610 association shall not be for a term in excess of 3 years and
 1611 shall not contain an automatic renewal clause.

1612 4. A contract for construction or repair of the property
 1613 that exceeds 10 percent of the total annual budget of the
 1614 association, including reserves, shall occur under the written
 1615 advisement of an attorney.

1616 Section 13. Subsection (3) of section 718.303, Florida
 1617 Statutes, is amended, and subsection (4) is added to that
 1618 section, to read:

1619 718.303 Obligations of owners; waiver; levy of fine
 1620 against unit by association.--

1621 (3) If the declaration or bylaws so provide, the
 1622 association may levy reasonable fines against a unit for the
 1623 failure of the owner of the unit, or its occupant, licensee, or
 1624 invitee, to comply with any provision of the declaration, the

1625 association bylaws, or reasonable rules of the association. No
 1626 fine will become a lien against a unit. No fine may exceed \$100
 1627 per violation. However, a fine may be levied on the basis of
 1628 each day of a continuing violation, with a single notice and
 1629 opportunity for hearing, provided that no such fine shall in the
 1630 aggregate exceed \$1,000. No fine may be levied except after
 1631 giving reasonable notice and opportunity for a hearing to the
 1632 unit owner and, if applicable, its licensee or invitee. The
 1633 hearing must be held before a committee of ~~other~~ unit owners who
 1634 are not members of the board of administration of the
 1635 association. If the committee does not agree with the fine, the
 1636 fine may not be levied. The provisions of this subsection do not
 1637 apply to unoccupied units.

1638 (4) Anyone subject to an action under this section shall
 1639 be notified of the violation by certified mail, return receipt
 1640 requested, and, except in the case of imminent danger to person
 1641 or property, have 30 days in which to respond in writing. If no
 1642 response is provided and the violation continues or is repeated,
 1643 the association may proceed under subsections (1) and (2)
 1644 without further notice except as provided in subsection (3).

1645 Section 14. Subsections (1) and (2) of section 718.404,
 1646 Florida Statutes, are amended to read:

1647 718.404 Mixed-use condominiums.--When a condominium
 1648 consists of both residential and commercial units, the following
 1649 provisions shall apply:

1650 (1) The condominium documents shall not provide that the
 1651 owner of any commercial unit shall have the authority to veto
 1652 amendments to the declaration, articles of incorporation,

1653 bylaws, or rules or regulations of the association. This
 1654 subsection shall apply retroactively as a remedial measure.

1655 (2) Subject to s. 718.301, where the number of residential
 1656 units in the condominium equals or exceeds 50 percent of the
 1657 total units operated by the association, owners of the
 1658 residential units shall be entitled to vote for a majority of
 1659 the seats on the board of administration. This subsection shall
 1660 apply retroactively as a remedial measure.

1661 Section 15. Section 718.501, Florida Statutes, is amended
 1662 to read:

1663 718.501 Powers and duties of Division of Florida Land
 1664 Sales, Condominiums, and Mobile Homes.--

1665 (1) The Division of Florida Land Sales, Condominiums, and
 1666 Mobile Homes of the Department of Business and Professional
 1667 Regulation, referred to as the "division" in this part, in
 1668 addition to other powers and duties prescribed by chapter 498,
 1669 has the power to enforce and ensure compliance with the
 1670 provisions of this chapter and rules promulgated pursuant hereto
 1671 relating to the development, construction, sale, lease,
 1672 ownership, operation, and management of residential condominium
 1673 units. In performing its duties, the division has the following
 1674 powers and duties:

1675 (a) The division may make necessary public or private
 1676 investigations within or outside this state to determine whether
 1677 any person has violated this chapter or any rule or order
 1678 hereunder, to aid in the enforcement of this chapter, or to aid
 1679 in the adoption of rules or forms hereunder.

1680 (b) The division may require or permit any person to file

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1681 a statement in writing, under oath or otherwise, as the division
1682 determines, as to the facts and circumstances concerning a
1683 matter to be investigated.

1684 (c) For the purpose of any investigation under this
1685 chapter, the division director or any officer or employee
1686 designated by the division director may administer oaths or
1687 affirmations, subpoena witnesses and compel their attendance,
1688 take evidence, and require the production of any matter which is
1689 relevant to the investigation, including the existence,
1690 description, nature, custody, condition, and location of any
1691 books, documents, or other tangible things and the identity and
1692 location of persons having knowledge of relevant facts or any
1693 other matter reasonably calculated to lead to the discovery of
1694 material evidence. Upon the failure by a person to obey a
1695 subpoena or to answer questions propounded by the investigating
1696 officer and upon reasonable notice to all persons affected
1697 thereby, the division may apply to the circuit court for an
1698 order compelling compliance.

1699 (d) Notwithstanding any remedies available to unit owners
1700 and associations, if the division has reasonable cause to
1701 believe that a violation of any provision of this chapter or
1702 rule promulgated pursuant hereto has occurred, the division may
1703 institute enforcement proceedings in its own name against any
1704 developer, association, officer, or member of the board of
1705 administration, or its assignees or agents, as follows:

1706 1. The division may permit a person whose conduct or
1707 actions may be under investigation to waive formal proceedings
1708 and enter into a consent proceeding whereby orders, rules, or

1709 letters of censure or warning, whether formal or informal, may
 1710 be entered against the person.

1711 2. The division may issue an order requiring the
 1712 developer, association, officer, or member of the board of
 1713 administration, or its assignees or agents, to cease and desist
 1714 from the unlawful practice and take such affirmative action as
 1715 in the judgment of the division will carry out the purposes of
 1716 this chapter. Such affirmative action may include, but is not
 1717 limited to, an order requiring a developer to pay moneys
 1718 determined to be owed to a condominium association.

1719 3. The division may bring an action in circuit court on
 1720 behalf of a class of unit owners, lessees, or purchasers for
 1721 declaratory relief, injunctive relief, or restitution.

1722 4. The division may impose a civil penalty against a
 1723 developer or association, or its assignee or agent, for any
 1724 violation of this chapter or a rule promulgated pursuant hereto.
 1725 The division may impose a civil penalty individually against any
 1726 officer or board member who willfully and knowingly violates a
 1727 provision of this chapter, a rule adopted pursuant hereto, or a
 1728 final order of the division. The term "willfully and knowingly"
 1729 means that the division informed the officer or board member
 1730 that his or her action or intended action violates this chapter,
 1731 a rule adopted under this chapter, or a final order of the
 1732 division and that the officer or board member refused to comply
 1733 with the requirements of this chapter, a rule adopted under this
 1734 chapter, or a final order of the division. The division, prior
 1735 to initiating formal agency action under chapter 120, shall
 1736 afford the officer or board member an opportunity to voluntarily

1737 | comply with this chapter, a rule adopted under this chapter, or
1738 | a final order of the division. An officer or board member who
1739 | complies within 10 days is not subject to a civil penalty. A
1740 | penalty may be imposed on the basis of each day of continuing
1741 | violation, but in no event shall the penalty for any offense
1742 | exceed \$5,000. By January 1, 1998, the division shall adopt, by
1743 | rule, penalty guidelines applicable to possible violations or to
1744 | categories of violations of this chapter or rules adopted by the
1745 | division. The guidelines must specify a meaningful range of
1746 | civil penalties for each such violation of the statute and rules
1747 | and must be based upon the harm caused by the violation, the
1748 | repetition of the violation, and upon such other factors deemed
1749 | relevant by the division. For example, the division may consider
1750 | whether the violations were committed by a developer or owner-
1751 | controlled association, the size of the association, and other
1752 | factors. The guidelines must designate the possible mitigating
1753 | or aggravating circumstances that justify a departure from the
1754 | range of penalties provided by the rules. It is the legislative
1755 | intent that minor violations be distinguished from those which
1756 | endanger the health, safety, or welfare of the condominium
1757 | residents or other persons and that such guidelines provide
1758 | reasonable and meaningful notice to the public of likely
1759 | penalties that may be imposed for proscribed conduct. This
1760 | subsection does not limit the ability of the division to
1761 | informally dispose of administrative actions or complaints by
1762 | stipulation, agreed settlement, or consent order. All amounts
1763 | collected shall be deposited with the Chief Financial Officer to
1764 | the credit of the Division of Florida Land Sales, Condominiums,

1765 and Mobile Homes Trust Fund. If a developer fails to pay the
1766 civil penalty, the division shall thereupon issue an order
1767 directing that such developer cease and desist from further
1768 operation until such time as the civil penalty is paid or may
1769 pursue enforcement of the penalty in a court of competent
1770 jurisdiction. If an association fails to pay the civil penalty,
1771 the division shall thereupon pursue enforcement in a court of
1772 competent jurisdiction, and the order imposing the civil penalty
1773 or the cease and desist order will not become effective until 20
1774 days after the date of such order. Any action commenced by the
1775 division shall be brought in the county in which the division
1776 has its executive offices or in the county where the violation
1777 occurred.

1778 (e) The division shall ~~is authorized to~~ prepare and
1779 disseminate a prospectus and other information to assist
1780 prospective owners, purchasers, lessees, and developers of
1781 residential condominiums in assessing the rights, privileges,
1782 and duties pertaining thereto.

1783 (f) The division has authority to adopt rules pursuant to
1784 ss. 120.536(1) and 120.54 to implement and enforce the
1785 provisions of this chapter.

1786 (g) The division shall establish procedures for providing
1787 notice to an association when the division is considering the
1788 issuance of a declaratory statement with respect to the
1789 declaration of condominium or any related document governing in
1790 such condominium community.

1791 (h) The division shall furnish each association which pays
1792 the fees required by paragraph (2)(a) a copy of this act,

1793 subsequent changes to this act on an annual basis, an amended
 1794 version of this act as it becomes available from the Secretary
 1795 of State's office on a biennial basis, and the rules promulgated
 1796 pursuant thereto on an annual basis.

1797 (i) The division shall annually provide each association
 1798 with a summary of declaratory statements and formal legal
 1799 opinions relating to the operations of condominiums which were
 1800 rendered by the division during the previous year.

1801 (j) The division shall provide training programs for
 1802 condominium association board members and unit owners in
 1803 conjunction with the recommendations of the ombudsman, at the
 1804 association's expense.

1805 (k) The division shall maintain a toll-free telephone
 1806 number accessible to condominium unit owners.

1807 (l) The division shall develop a program to certify both
 1808 volunteer and paid mediators to provide mediation of condominium
 1809 disputes. The division shall provide, upon request, a list of
 1810 such mediators to any association, unit owner, or other
 1811 participant in arbitration proceedings under s. 718.1255
 1812 requesting a copy of the list. The division shall include on the
 1813 list of volunteer mediators only the names of persons who have
 1814 received at least 20 hours of training in mediation techniques
 1815 or who have mediated at least 20 disputes. In order to become
 1816 initially certified by the division, paid mediators must be
 1817 certified by the Supreme Court to mediate court cases in either
 1818 county or circuit courts. However, the division may adopt, by
 1819 rule, additional factors for the certification of paid
 1820 mediators, which factors must be related to experience,

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1821 education, or background. Any person initially certified as a
1822 paid mediator by the division must, in order to continue to be
1823 certified, comply with the factors or requirements imposed by
1824 rules adopted by the division.

1825 (m) When a complaint is made, the division shall conduct
1826 its inquiry with due regard to the interests of the affected
1827 parties. Within 30 days after receipt of a complaint, the
1828 division shall acknowledge the complaint in writing and notify
1829 the complainant whether the complaint is within the jurisdiction
1830 of the division and whether additional information is needed by
1831 the division from the complainant. The division shall conduct
1832 its investigation and shall, within 90 days after receipt of the
1833 original complaint or of timely requested additional
1834 information, take action upon the complaint. However, the
1835 failure to complete the investigation within 90 days does not
1836 prevent the division from continuing the investigation,
1837 accepting or considering evidence obtained or received after 90
1838 days, or taking administrative action if reasonable cause exists
1839 to believe that a violation of this chapter or a rule of the
1840 division has occurred. If an investigation is not completed
1841 within the time limits established in this paragraph, the
1842 division shall, on a monthly basis, notify the complainant in
1843 writing of the status of the investigation. When reporting its
1844 action to the complainant, the division shall inform the
1845 complainant of any right to a hearing pursuant to ss. 120.569
1846 and 120.57.

1847 (n) Upon a finding that any association has committed a
1848 violation within the jurisdiction of the division, the division

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1849 shall require the association to mail and post a notice to all
 1850 unit owners setting forth the facts and findings relative to any
 1851 and all violations, as well as a description of the corrective
 1852 action required.

1853 (2) (a) Effective January 1, 1992, each condominium
 1854 association which operates more than two units shall pay to the
 1855 division an annual fee in the amount of \$4 for each residential
 1856 unit in condominiums operated by the association. If the fee is
 1857 not paid by March 1, then the association shall be assessed a
 1858 penalty of 10 percent of the amount due, and the association
 1859 will not have standing to maintain or defend any action in the
 1860 courts of this state until the amount due, plus any penalty, is
 1861 paid.

1862 (b) All fees shall be deposited in the Division of Florida
 1863 Land Sales, Condominiums, and Mobile Homes Trust Fund as
 1864 provided by law.

1865 Section 16. Subsection (1) of section 718.5011, Florida
 1866 Statutes, is amended to read:

1867 718.5011 Ombudsman; appointment; administration.--

1868 (1) There is created an Office of the Condominium
 1869 Ombudsman, to be located, solely for administrative purposes,
 1870 within the Division of Florida Land Sales, Condominiums, and
 1871 Mobile Homes. The ombudsman shall exercise his or her
 1872 policymaking and other functions delegated by this chapter
 1873 independently of the Department of Business and Professional
 1874 Regulation and without approval or control of the department.
 1875 The department shall render administrative support to the office
 1876 in matters pertaining to budget, personnel, office space,

1877 equipment, and supplies. All revenues collected for the office
 1878 by the department shall be deposited in a separate fund or
 1879 account from which the department may not use or divert the
 1880 revenues. The functions of the office shall be funded by the
 1881 Division of Florida Land Sales, Condominiums, and Mobile Homes
 1882 Trust Fund. The ombudsman shall be a bureau chief of the
 1883 division, and the office shall be set within the division in the
 1884 same manner as any other bureau is staffed and funded.

1885 Section 17. Section 718.5012, Florida Statutes, is amended
 1886 to read:

1887 718.5012 Ombudsman; powers and duties.--

1888 (1) The ombudsman shall have the powers that are necessary
 1889 to carry out the duties of his or her office, including the
 1890 following specific powers:

1891 (a)~~(1)~~ To have access to and use of all files and records
 1892 of the division.

1893 (b)~~(2)~~ To employ professional and clerical staff as
 1894 necessary for the efficient operation of the office.

1895 (c)~~(3)~~ To prepare and issue reports and recommendations to
 1896 the Governor, the department, the division, the Advisory Council
 1897 on Condominiums, the President of the Senate, and the Speaker of
 1898 the House of Representatives on any matter or subject within the
 1899 jurisdiction of the division. The ombudsman shall make
 1900 recommendations he or she deems appropriate for legislation
 1901 relative to division procedures, rules, jurisdiction, personnel,
 1902 and functions.

1903 (d)~~(4)~~ To act as liaison between the division, unit
 1904 owners, boards of directors, board members, community

1905 association managers, and other affected parties. The ombudsman
 1906 shall ~~develop policies and procedures to~~ assist unit owners,
 1907 boards of directors, board members, community association
 1908 managers, and other affected parties to understand their rights
 1909 and responsibilities as set forth in this chapter and the
 1910 condominium documents governing their respective association.
 1911 The ombudsman shall coordinate and assist in the preparation and
 1912 adoption of educational and reference material, and shall
 1913 endeavor to coordinate with private or volunteer providers of
 1914 these services, so that the availability of these resources is
 1915 made known to the largest possible audience.

1916 (e) ~~(5)~~ To monitor and review procedures and disputes
 1917 concerning condominium elections or meetings, including, but not
 1918 limited to, recommending that the division pursue enforcement
 1919 action in any manner where there is reasonable cause to believe
 1920 that election misconduct has occurred.

1921 (f) ~~(6)~~ To make recommendations to the division for changes
 1922 in rules and procedures for the filing, investigation, and
 1923 resolution of complaints filed by unit owners, associations, and
 1924 managers.

1925 (g) ~~(7)~~ To provide resources to assist members of boards of
 1926 directors and officers of associations to carry out their powers
 1927 and duties consistent with this chapter, division rules, and the
 1928 condominium documents governing the association.

1929 (h) ~~(8)~~ To order, encourage, and facilitate ~~voluntary~~
 1930 meetings with and between unit owners, boards of directors,
 1931 board members, community association managers, and other
 1932 affected parties when the meetings may assist in resolving a

1933 | dispute within a community association before a person submits a
 1934 | dispute for a formal or administrative remedy. It is the intent
 1935 | of the Legislature that the ombudsman act as a neutral resource
 1936 | for both the rights and responsibilities of unit owners,
 1937 | associations, and board members.

1938 | ~~(2)(9)~~ Fifteen percent of the total voting interests in a
 1939 | condominium association, or six unit owners, whichever is
 1940 | greater, may petition the ombudsman to appoint an election
 1941 | monitor to attend the annual meeting of the unit owners and
 1942 | conduct the election of directors. The ombudsman shall appoint a
 1943 | division employee, a person or persons specializing in
 1944 | condominium election monitoring, or an attorney licensed to
 1945 | practice in this state as the election monitor. All costs
 1946 | associated with the election monitoring process shall be paid by
 1947 | the association. The division shall adopt a rule establishing
 1948 | procedures for the appointment of election monitors and the
 1949 | scope and extent of the monitor's role in the election process.

1950 | (3) Any unit owner or association acting in good faith on
 1951 | the advice or opinion of the Office of the Condominium Ombudsman
 1952 | shall be immune from any penalties or actions.

1953 | Section 18. Subsection (21) of section 718.504, Florida
 1954 | Statutes, is amended to read:

1955 | 718.504 Prospectus or offering circular.--Every developer
 1956 | of a residential condominium which contains more than 20
 1957 | residential units, or which is part of a group of residential
 1958 | condominiums which will be served by property to be used in
 1959 | common by unit owners of more than 20 residential units, shall
 1960 | prepare a prospectus or offering circular and file it with the

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1961 Division of Florida Land Sales, Condominiums, and Mobile Homes
 1962 prior to entering into an enforceable contract of purchase and
 1963 sale of any unit or lease of a unit for more than 5 years and
 1964 shall furnish a copy of the prospectus or offering circular to
 1965 each buyer. In addition to the prospectus or offering circular,
 1966 each buyer shall be furnished a separate page entitled
 1967 "Frequently Asked Questions and Answers," which shall be in
 1968 accordance with a format approved by the division and a copy of
 1969 the financial information required by s. 718.111. This page
 1970 shall, in readable language, inform prospective purchasers
 1971 regarding their voting rights and unit use restrictions,
 1972 including restrictions on the leasing of a unit; shall indicate
 1973 whether and in what amount the unit owners or the association is
 1974 obligated to pay rent or land use fees for recreational or other
 1975 commonly used facilities; shall contain a statement identifying
 1976 that amount of assessment which, pursuant to the budget, would
 1977 be levied upon each unit type, exclusive of any special
 1978 assessments, and which shall further identify the basis upon
 1979 which assessments are levied, whether monthly, quarterly, or
 1980 otherwise; shall state and identify any court cases in which the
 1981 association is currently a party of record in which the
 1982 association may face liability in excess of \$100,000; and which
 1983 shall further state whether membership in a recreational
 1984 facilities association is mandatory, and if so, shall identify
 1985 the fees currently charged per unit type. The division shall by
 1986 rule require such other disclosure as in its judgment will
 1987 assist prospective purchasers. The prospectus or offering
 1988 circular may include more than one condominium, although not all

1989 such units are being offered for sale as of the date of the
 1990 prospectus or offering circular. The prospectus or offering
 1991 circular must contain the following information:

1992 (21) An estimated operating budget for the condominium and
 1993 the association, and a schedule of the unit owner's expenses
 1994 shall be attached as an exhibit and shall contain the following
 1995 information:

1996 (a) The estimated monthly and annual revenues and expenses
 1997 of the condominium and the association that are earned by the
 1998 association or collected from unit owners by assessments.

1999 (b) The estimated monthly and annual expenses of each unit
 2000 owner for a unit, other than common expenses paid by all unit
 2001 owners, payable by the unit owner to persons or entities other
 2002 than the association, as well as to the association, including
 2003 fees assessed pursuant to s. 718.113(1) for maintenance of
 2004 limited common elements where such costs are shared only by
 2005 those entitled to use the limited common element, and the total
 2006 estimated monthly and annual expense. There may be excluded from
 2007 this estimate expenses which are not provided for or
 2008 contemplated by the condominium documents, including, but not
 2009 limited to, the costs of private telephone; maintenance of the
 2010 interior of condominium units, which is not the obligation of
 2011 the association; maid or janitorial services privately
 2012 contracted for by the unit owners; utility bills billed directly
 2013 to each unit owner for utility services to his or her unit;
 2014 insurance premiums other than those incurred for policies
 2015 obtained by the condominium; and similar personal expenses of
 2016 the unit owner. A unit owner's estimated payments for

2017 assessments shall also be stated in the estimated amounts for
 2018 the times when they will be due.

2019 (c) The estimated items of expenses of the condominium and
 2020 the association, except as excluded under paragraph (b),
 2021 including, but not limited to, the following items, which shall
 2022 be stated either as an association expense collectible by
 2023 assessments or as unit owners' expenses payable to persons other
 2024 than the association:

2025 1. Expenses for the association and condominium:

2026 a. Administration of the association.

2027 b. Management fees.

2028 c. Maintenance.

2029 d. Rent for recreational and other commonly used
 2030 facilities.

2031 e. Taxes upon association property.

2032 f. Taxes upon leased areas.

2033 g. Insurance.

2034 h. Security provisions.

2035 i. Other expenses.

2036 j. Operating capital.

2037 k. Reserves.

2038 1. Fees payable to the division.

2039 2. Expenses for a unit owner:

2040 a. Rent for the unit, if subject to a lease.

2041 b. Rent payable by the unit owner directly to the lessor
 2042 or agent under any recreational lease or lease for the use of
 2043 commonly used facilities, which use and payment is a mandatory
 2044 condition of ownership and is not included in the common expense

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2045 or assessments for common maintenance paid by the unit owners to
2046 the association.

2047 ~~(d) The estimated amounts shall be stated for a period of~~
2048 ~~at least 12 months and may distinguish between the period prior~~
2049 ~~to the time unit owners other than the developer elect a~~
2050 ~~majority of the board of administration and the period after~~
2051 ~~that date.~~

2052 Section 19. Subsections (6) and (7) of section 720.303,
2053 Florida Statutes, are amended to read:

2054 720.303 Association powers and duties; meetings of board;
2055 official records; budgets; financial reporting; association
2056 funds; recalls.--

2057 (6) BUDGETS.--

2058 (a) The association shall prepare an annual budget that
2059 sets out the annual operating expenses. The budget must reflect
2060 the estimated revenues and expenses for that year and the
2061 estimated surplus or deficit as of the end of the current year.
2062 The budget must set out separately all fees or charges paid for
2063 by the association for recreational amenities, whether owned by
2064 the association, the developer, or another person. The
2065 association shall provide each member with a copy of the annual
2066 budget or a written notice that a copy of the budget is
2067 available upon request at no charge to the member. The copy must
2068 be provided to the member within the time limits set forth in
2069 subsection (5).

2070 (b) In addition to annual operating expenses, the budget
2071 may include reserve accounts for capital expenditures and
2072 deferred maintenance for which the association is responsible to

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2073 the extent that the governing documents do not limit increases
2074 in assessments, including reserves. If the budget of the
2075 association includes reserve accounts, such reserves shall be
2076 determined, maintained, and waived in the manner provided in
2077 this subsection. Once an association provides for reserve
2078 accounts in the budget, the association shall thereafter
2079 determine, maintain, and waive reserves in compliance with the
2080 provisions of this subsection.

2081 (c) If the budget of the association does not provide for
2082 reserve accounts governed by this subsection and the association
2083 is responsible for the repair and maintenance of capital
2084 improvements that may result in a special assessment if reserves
2085 are not provided, each financial report for the preceding fiscal
2086 year required by subsection (7) shall contain the following
2087 statement in conspicuous type: THE BUDGET OF THE ASSOCIATION
2088 DOES NOT PROVIDE FOR RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES
2089 AND DEFERRED MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS.
2090 OWNERS MAY ELECT TO PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO THE
2091 PROVISIONS OF SECTION 720.303(6), FLORIDA STATUTES, UPON THE
2092 APPROVAL OF NOT LESS THAN A MAJORITY OF THE TOTAL VOTING
2093 INTERESTS OF THE ASSOCIATION.

2094 (d) An association shall be deemed to have provided for
2095 reserve accounts when reserve accounts have been initially
2096 established by the developer or when the membership of the
2097 association affirmatively elects to provide for reserves. If
2098 reserve accounts are not initially provided for by the
2099 developer, the membership of the association may elect to do so
2100 upon the affirmative approval of not less than a majority of the

2101 total voting interests of the association. Such approval may be
 2102 attained by vote of the members at a duly called meeting of the
 2103 membership or upon a written consent executed by not less than a
 2104 majority of the total voting interests in the community. The
 2105 approval action of the membership shall state that reserve
 2106 accounts shall be provided for in the budget and designate the
 2107 components for which the reserve accounts are to be established.
 2108 Upon approval by the membership, the board of directors shall
 2109 provide for the required reserve accounts for inclusion in the
 2110 budget in the next fiscal year following the approval and in
 2111 each year thereafter. Once established as provided in this
 2112 subsection, the reserve accounts shall be funded or maintained
 2113 or shall have their funding waived in the manner provided in
 2114 paragraph (f).

2115 (e) The amount to be reserved in any account established
 2116 shall be computed by means of a formula that is based upon
 2117 estimated remaining useful life and estimated replacement cost
 2118 or deferred maintenance expense of each reserve item. The
 2119 association may adjust replacement reserve assessments annually
 2120 to take into account any changes in estimates of cost or useful
 2121 life of a reserve item.

2122 (f) Once a reserve account or reserve accounts are
 2123 established, the membership of the association, upon a majority
 2124 vote at a meeting at which a quorum is present, may provide for
 2125 no reserves or less reserves than required by this section. If a
 2126 meeting of the unit owners is called to determine whether to
 2127 wave or reduce the funding of reserves and no such result is
 2128 achieved or a quorum is not present, the reserves as included in

2129 the budget shall go into effect. After the turnover, the
2130 developer may vote its voting interest to waive or reduce the
2131 funding of reserves. Any vote taken pursuant to this subsection
2132 to waive or reduce reserves shall be applicable only to one
2133 budget year.

2134 (g) Funding formulas for reserves authorized by this
2135 section shall be based on either a separate analysis of each of
2136 the required assets or a pooled analysis of two or more of the
2137 required assets.

2138 1. If the association maintains separate reserve accounts
2139 for each of the required assets, the amount of the contribution
2140 to each reserve account shall be the sum of the following two
2141 calculations:

2142 a. The total amount necessary, if any, to bring a negative
2143 component balance to zero.

2144 b. The total estimated deferred maintenance expense or
2145 estimated replacement cost of the reserve component less the
2146 estimated balance of the reserve component as of the beginning
2147 of the period for which the budget will be in effect. The
2148 remainder, if greater than zero, shall be divided by the
2149 estimated remaining useful life of the component.

2150
2151 The formula may be adjusted each year for changes in estimates
2152 and deferred maintenance performed during the year and may
2153 include factors such as inflation and earnings on invested
2154 funds.

2155 2. If the association maintains a pooled account of two or
2156 more of the required reserve assets, the amount of the

2157 contribution to the pooled reserve account as disclosed on the
 2158 proposed budget shall not be less than that required to ensure
 2159 that the balance at the beginning of the period for which the
 2160 budget will go into effect plus the projected annual cash
 2161 inflows over the remaining estimated useful life of all of the
 2162 assets that make up the reserve pool are equal to or greater
 2163 than the projected annual cash outflows over the remaining
 2164 estimated useful lives of all of the assets that make up the
 2165 reserve pool, based on the current reserve analysis. The
 2166 projected annual cash inflows may include estimated earnings
 2167 from investment of principal. The reserve funding formula shall
 2168 not include any type of balloon payments.

2169 (h) Reserve funds and any interest accruing thereon shall
 2170 remain in the reserve account or accounts and shall be used only
 2171 for authorized reserve expenditures unless their use for other
 2172 purposes is approved in advance by a majority vote at a meeting
 2173 at which a quorum is present. Prior to turnover of control of an
 2174 association by a developer to parcel owners, the developer-
 2175 controlled association shall not vote to use reserves for
 2176 purposes other than those for which they were intended without
 2177 the approval of a majority of all nondeveloper voting interests
 2178 voting in person or by limited proxy at a duly called meeting of
 2179 the association.

2180 (7) FINANCIAL REPORTING.--Within 90 days after the end of
 2181 the fiscal year, or annually on a date provided in the bylaws,
 2182 the association shall prepare and complete, or contract with a
 2183 third party for the preparation and completion of, a financial
 2184 report for the preceding fiscal year. Within 21 days after the

2185 final financial report is completed by the association or
 2186 received from the third party, but not later than 120 days after
 2187 the end of the fiscal year or other date as provided in the
 2188 bylaws, the association shall ~~prepare an annual financial report~~
 2189 ~~within 60 days after the close of the fiscal year. The~~
 2190 ~~association shall,~~ within the time limits set forth in
 2191 subsection (5), provide each member with a copy of the annual
 2192 financial report or a written notice that a copy of the
 2193 financial report is available upon request at no charge to the
 2194 member. Financial reports shall be prepared as follows:

2195 (a) An association that meets the criteria of this
 2196 paragraph shall prepare or cause to be prepared a complete set
 2197 of financial statements in accordance with generally accepted
 2198 accounting principles as adopted by the Board of Accountancy.
 2199 The financial statements shall be based upon the association's
 2200 total annual revenues, as follows:

2201 1. An association with total annual revenues of \$100,000
 2202 or more, but less than \$200,000, shall prepare compiled
 2203 financial statements.

2204 2. An association with total annual revenues of at least
 2205 \$200,000, but less than \$400,000, shall prepare reviewed
 2206 financial statements.

2207 3. An association with total annual revenues of \$400,000
 2208 or more shall prepare audited financial statements.

2209 (b)1. An association with total annual revenues of less
 2210 than \$100,000 shall prepare a report of cash receipts and
 2211 expenditures.

2212 2. An association in a community of fewer than 50 parcels,

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2213 | regardless of the association's annual revenues, may prepare a
2214 | report of cash receipts and expenditures in lieu of financial
2215 | statements required by paragraph (a) unless the governing
2216 | documents provide otherwise.

2217 | 3. A report of cash receipts and disbursement must
2218 | disclose the amount of receipts by accounts and receipt
2219 | classifications and the amount of expenses by accounts and
2220 | expense classifications, including, but not limited to, the
2221 | following, as applicable: costs for security, professional, and
2222 | management fees and expenses; taxes; costs for recreation
2223 | facilities; expenses for refuse collection and utility services;
2224 | expenses for lawn care; costs for building maintenance and
2225 | repair; insurance costs; administration and salary expenses; and
2226 | reserves if maintained by the association.

2227 | (c) If 20 percent of the parcel owners petition the board
2228 | for a level of financial reporting higher than that required by
2229 | this section, the association shall duly notice and hold a
2230 | meeting of members within 30 days of receipt of the petition for
2231 | the purpose of voting on raising the level of reporting for that
2232 | fiscal year. Upon approval of a majority of the total voting
2233 | interests of the parcel owners, the association shall prepare or
2234 | cause to be prepared, shall amend the budget or adopt a special
2235 | assessment to pay for the financial report regardless of any
2236 | provision to the contrary in the governing documents, and shall
2237 | provide within 90 days of the meeting or the end of the fiscal
2238 | year, whichever occurs later:

2239 | 1. Compiled, reviewed, or audited financial statements, if
2240 | the association is otherwise required to prepare a report of

2241 cash receipts and expenditures;

2242 2. Reviewed or audited financial statements, if the
 2243 association is otherwise required to prepare compiled financial
 2244 statements; or

2245 3. Audited financial statements if the association is
 2246 otherwise required to prepare reviewed financial statements.

2247 (d) If approved by a majority of the voting interests
 2248 present at a properly called meeting of the association, an
 2249 association may prepare or cause to be prepared:

2250 1. A report of cash receipts and expenditures in lieu of a
 2251 compiled, reviewed, or audited financial statement;

2252 2. A report of cash receipts and expenditures or a
 2253 compiled financial statement in lieu of a reviewed or audited
 2254 financial statement; or

2255 3. A report of cash receipts and expenditures, a compiled
 2256 financial statement, or a reviewed financial statement in lieu
 2257 of an audited financial statement.

2258 Section 20. Section 720.307, Florida Statutes, is amended
 2259 to read:

2260 720.307 Transition of association control in a
 2261 community.--With respect to homeowners' associations:

2262 (1) Members other than the developer are entitled to elect
 2263 at least a majority of the members of the board of directors of
 2264 the homeowners' association when the earlier of the following
 2265 events occurs:

2266 (a) Three months after 75 ~~90~~ percent of the parcels in all
 2267 phases of the community that will ultimately be operated by the
 2268 homeowners' association have been conveyed to members; or

2269 (b) Such other percentage of the parcels has been conveyed
 2270 to members, or such other date or event has occurred, as is set
 2271 forth in the governing documents in order to comply with the
 2272 requirements of any governmentally chartered entity with regard
 2273 to the mortgage financing of parcels.

2274
 2275 For purposes of this section, the term "members other than the
 2276 developer" shall not include builders, contractors, or others
 2277 who purchase a parcel for the purpose of constructing
 2278 improvements thereon for resale.

2279 (2) The developer is entitled to elect at least one member
 2280 of the board of directors of the homeowners' association as long
 2281 as the developer holds for sale in the ordinary course of
 2282 business at least 5 percent of the parcels in all phases of the
 2283 community. After the developer relinquishes control of the
 2284 homeowners' association, the developer may exercise the right to
 2285 vote any developer-owned voting interests in the same manner as
 2286 any other member, except for purposes of reacquiring control of
 2287 the homeowners' association or selecting the majority of the
 2288 members of the board of directors.

2289 (3) Prior to turnover, the developer or owner of all
 2290 common areas shall convey the title to all common areas to the
 2291 association immediately upon incorporation of the association.
 2292 If additional common areas are acquired prior to transition of
 2293 control and subject to the governing documents, title to those
 2294 common areas shall also be immediately transferred to the
 2295 association.

2296 (4) At the time the members are entitled to elect at least

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2297 a majority of the board of directors of the homeowners'
2298 association, the developer shall, at the developer's expense,
2299 within no more than 30 ~~90~~ days deliver the following documents
2300 to the board:

2301 (a) All deeds to common property owned by the association
2302 or the developer.

2303 (b) The original of the association's declarations of
2304 covenants and restrictions.

2305 (c) A certified copy of the articles of incorporation of
2306 the association.

2307 (d) A copy of the bylaws.

2308 (e) The minute books, including all minutes.

2309 (f) The books and records of the association.

2310 (g) Policies, rules, and regulations, if any, which have
2311 been adopted.

2312 (h) Resignations of directors who are required to resign
2313 because the developer is required to relinquish control of the
2314 association.

2315 (i) The financial records of the association from the date
2316 of incorporation through the date of turnover.

2317 (j) All association funds and control thereof.

2318 (k) All tangible property of the association.

2319 (l) A copy of all contracts which may be in force with the
2320 association as one of the parties.

2321 (m) A list of the names and addresses and telephone
2322 numbers of all contractors, subcontractors, or others in the
2323 current employ of the association.

2324 (n) Any and all insurance policies in effect.

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2325 (o) Any permits issued to the association by governmental
2326 entities.

2327 (p) Any and all warranties in effect.

2328 (q) A roster of current homeowners and their addresses and
2329 telephone numbers and section and lot numbers.

2330 (r) Employment and service contracts in effect.

2331 (s) All other contracts and agreements in effect to which
2332 the association is a party.

2333 (t) The financial records, including financial statements
2334 of the association, and source documents from the incorporation
2335 of the association through the date of turnover. The records
2336 shall be audited by an independent certified public accountant
2337 for the period of the incorporation of the association or for
2338 the period covered by the last audit, if an audit has been
2339 performed for each fiscal year since incorporation. All
2340 financial statements shall be prepared in accordance with
2341 generally accepted accounting standards and shall be audited in
2342 accordance with generally accepted auditing standards as
2343 prescribed by the Board of Accountancy. The accountant
2344 performing the review shall examine to the extent necessary
2345 supporting documents and records, including the cash
2346 disbursements and related paid invoices to determine whether
2347 expenditures were for association purposes and the billings,
2348 cash receipts, and related records to determine whether the
2349 developer was charged and paid the proper amounts of
2350 assessments. This paragraph applies to associations with a date
2351 of incorporation after December 31, 2007.

2352 (5)~~(4)~~ This section applies to any mandatory homeowners'

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2353 ~~association existing under this chapter does not apply to a~~
2354 ~~homeowners' association in existence on the effective date of~~
2355 ~~this act, or to a homeowners' association, no matter when~~
2356 ~~created, if such association is created in a community that is~~
2357 ~~included in an effective development of regional impact~~
2358 ~~development order as of the effective date of this act, together~~
2359 ~~with any approved modifications thereof.~~

2360 Section 21. Subsection (5) is added to section 720.3075,
2361 Florida Statutes, to read:

2362 720.3075 Prohibited clauses in association documents.--

2363 (5) (a) An association may not restrict a homeowner from
2364 mounting or employing shutters or other hurricane protection on
2365 any portion of the home.

2366 (b) Except as provided in paragraph (c), an association
2367 may not restrict a homeowner from mounting or employing
2368 temporary or permanent shutters or other hurricane protection on
2369 any portion of the home during any time that a hurricane warning
2370 has been declared, during any time when an evacuation order has
2371 been given, or for the following period after conclusion of such
2372 hurricane watch or evacuation order:

2373 1. Seven days; or

2374 2. Fourteen days if the hurricane watch concerns a
2375 category 4 storm or greater or if the evacuation order lasts
2376 more than 3 days.

2377 (c) If a local government restricts homeowners' mounting
2378 or employing temporary or permanent shutters or other hurricane
2379 protection, the local government may also authorize associations
2380 to adopt and enforce equal or lesser restrictions.

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2381 (d) Except as provided in paragraph (c) or paragraph (e),
2382 an association may not restrict a homeowner from mounting or
2383 employing permanent shutters or other hurricane protection on
2384 any portion of the home.

2385 (e) If the association otherwise properly adopts
2386 restrictions governing color or form of shutters or other
2387 permanent exterior window coverings, the association may adopt
2388 and enforce equal or lesser restrictions that apply to permanent
2389 exterior hurricane protections.

2390 (f) An association may not restrict the time or duration
2391 for shutters or other hurricane protection to be open or closed
2392 during any period and may not restrict homeowners from mounting
2393 or employing temporary shutters or other hurricane protection on
2394 any portion of the home.

2395 Section 22. This act shall take effect July 1, 2007.