



1 the condition of certain components and their current  
2 estimated replacement costs as of the date of the report.

3 (2) The following information shall be stated  
4 concerning the improvements:

5 (a) The date and type of construction.

6 (b) The prior use.

7 (c) Whether there is termite damage or infestation and  
8 whether the termite damage or infestation, if any, has been  
9 properly treated. The statement shall be substantiated by  
10 including, as an exhibit, an inspection report by a certified  
11 pest control operator.

12 (3)(a) Disclosure of condition shall be made for each  
13 of the following components that the existing improvements may  
14 include:

15 1. Roof.

16 2. Structure.

17 3. ~~Fireproofing and~~ Fire protection systems.

18 4. Elevators.

19 5. Heating and cooling systems.

20 6. Plumbing.

21 7. Electrical systems.

22 8. Swimming pool.

23 9. Seawalls, pilings, and docks.

24 10. Pavement and concrete, including roadways,  
25 walkways, and parking areas.

26 11. Drainage systems.

27 12. Irrigation systems.

28 (b) For each component, the following information  
29 shall be disclosed and substantiated by attaching a copy of a  
30 certificate under seal of an architect or engineer authorized  
31 to practice in this state:

- 1           1. The age of the component as of the date of the  
2 report.
- 3           2. The estimated remaining useful life of the  
4 component as of the date of the report.
- 5           3. The estimated current replacement cost of the  
6 component as of the date of the report, expressed:
- 7           a. As a total amount; and
- 8           b. As a per-unit amount, based upon each unit's  
9 proportional share of the common expenses.
- 10          4. The structural and functional soundness of the  
11 component.
- 12           (c) Each unit owner and the association are  
13 third-party beneficiaries of the report.
- 14           (d) A supplemental report shall be prepared for any  
15 structure or component that is renovated or repaired after  
16 completion of the original report and prior to the recording  
17 of the declaration of condominium. If the declaration is not  
18 recorded within 1 year after the date of the original report,  
19 the developer shall update the report annually prior to  
20 recording the declaration of condominium.
- 21           (e) The report may not contain representations on  
22 behalf of the development concerning future improvements or  
23 repairs and must be limited to the current condition of the  
24 improvements.
- 25          (4) If the proposed condominium is situated within a  
26 municipality, the disclosure shall include a letter from the  
27 municipality acknowledging that the municipality has been  
28 notified of the proposed creation of a residential condominium  
29 by conversion of existing, previously occupied improvements  
30 and, in any county, as defined in s. 125.011(1), acknowledging  
31

1 compliance with applicable zoning requirements as determined  
2 by the municipality.

3 Section 2. Section 718.618, Florida Statutes, is  
4 amended to read:

5 718.618 Converter reserve accounts; warranties.--

6 (1) When existing improvements are converted to  
7 ownership as a residential condominium, the developer shall  
8 establish reserve accounts for capital expenditures and  
9 deferred maintenance, ~~or~~ give warranties as provided by  
10 subsection (6), or post a surety bond as provided by  
11 subsection (7). The developer shall fund the reserve accounts  
12 in amounts calculated as follows:

13 (a)1. When the existing improvements include an  
14 air-conditioning system serving more than one unit or property  
15 which the association is responsible to repair, maintain, or  
16 replace, the developer shall fund an air-conditioning reserve  
17 account. The amount of the reserve account shall be the  
18 product of the estimated current replacement cost of the  
19 system, as disclosed and substantiated pursuant to s.  
20 718.616(3)(b), multiplied by a fraction, the numerator of  
21 which shall be the lesser of the age of the system in years or  
22 9, and the denominator of which shall be 10. When such  
23 air-conditioning system is within 1,000 yards of the seacoast,  
24 the numerator shall be the lesser of the age of the system in  
25 years or 3, and the denominator shall be 4.

26 2. The developer shall fund a plumbing reserve  
27 account. The amount of the funding shall be the product of the  
28 estimated current replacement cost of the plumbing component,  
29 as disclosed and substantiated pursuant to s. 718.616(3)(b),  
30 multiplied by a fraction, the numerator of which shall be the  
31

1 lesser of the age of the plumbing in years or 36, and the  
2 denominator of which shall be 40.

3 3. The developer shall fund a roof reserve account.  
4 The amount of the funding shall be the product of the  
5 estimated current replacement cost of the roofing component,  
6 as disclosed and substantiated pursuant to s. 718.616(3)(b),  
7 multiplied by a fraction, the numerator of which shall be the  
8 lesser of the age of the roof in years or the numerator listed  
9 in the following table. The denominator of the fraction shall  
10 be determined based on the roof type, as follows:

11	Roof Type	Numerator	Denominator
12			
13			
14	a. Built-up roof		
15	without insulation	4	5
16	b. Built-up roof		
17	with insulation	4	5
18	c. Cement tile roof	45	50
19	d. Asphalt shingle roof	14	15
20	e. Copper roof		
21	f. Wood shingle roof	9	10
22	g. All other types	18	20
23			

24 (b) The age of any component or structure for which  
25 the developer is required to fund a reserve account shall be  
26 measured in years, rounded to the nearest whole year. The  
27 amount of converter reserves to be funded by the developer for  
28 each structure or component shall be based on the age of the  
29 structure or component as disclosed in the inspection report.  
30 The architect or engineer shall determine the age of the  
31 component from the later of:

1           1. The date when the component or structure was  
2 replaced or substantially renewed, if the replacement or  
3 renewal of the component at least met the requirements of the  
4 then-applicable building code; or

5           2. The date when the installation or construction of  
6 the existing component or structure was completed.

7           (c) When the age of a component or structure is to be  
8 measured from the date of replacement or renewal, the  
9 developer shall provide the division with a certificate, under  
10 the seal of an architect or engineer authorized to practice in  
11 this state, verifying:

12           1. The date of the replacement or renewal; and

13           2. That the replacement or renewal at least met the  
14 requirements of the then-applicable building code.

15           (d) In addition to establishing the reserve accounts  
16 specified above, the developer shall establish those other  
17 reserve accounts required by s. 718.112(2)(f), and shall fund  
18 those accounts in accordance with the formula provided  
19 therein. The vote to waive or reduce the funding or reserves  
20 required by s. 718.112(2)(f) does not affect or negate the  
21 obligations arising under this section.

22           (2)(a) The developer shall fund the reserve account  
23 required by subsection (1), on a pro rata basis upon the sale  
24 of each unit. The developer shall deposit in the reserve  
25 account not less than a percentage of the total amount to be  
26 deposited in the reserve account equal to the percentage of  
27 ownership of the common elements allocable to the unit sold.  
28 When a developer deposits amounts in excess of the minimum  
29 reserve account funding, later deposits may be reduced to the  
30 extent of the excess funding. For the purposes of this  
31 subsection, a unit is considered sold when a fee interest in

1 the unit is transferred to a third party or the unit is leased  
2 for a period in excess of 5 years.

3 (b) When an association makes an expenditure of  
4 reserve account funds before the developer has sold all units,  
5 the developer shall make a deposit in the reserve account.  
6 Such deposit shall be at least equal to that portion of the  
7 expenditure which would be charged against the reserve account  
8 deposit that would have been made for any such unit had the  
9 unit been sold. Such deposit may be reduced to the extent the  
10 developer has funded the reserve account in excess of the  
11 minimum reserve account funding required by this subsection.  
12 This paragraph applies only when the developer has funded  
13 reserve accounts as provided by paragraph (a).

14 (3) The use of reserve account funds is limited as  
15 follows:

16 (a) Reserve account funds may be spent prior to the  
17 assumption of control of the association by unit owners other  
18 than the developer; and

19 (b) Reserve account funds may be expended only for  
20 repair or replacement of the specific components for which the  
21 funds were deposited, unless, after assumption of control of  
22 the association by unit owners other than the developer, it is  
23 determined by three-fourths of the voting interests in the  
24 condominium to expend the funds for other purposes.

25 (4) The developer shall establish the reserve account  
26 in the name of the association at a bank, savings and loan  
27 association, or trust company located in this state.

28 (5) A developer may establish and fund additional  
29 converter reserve accounts. The amount of funding shall be the  
30 product of the estimated current replacement cost of a  
31 component, as disclosed and substantiated pursuant to s.

1 718.616(3)(b), multiplied by a fraction, the numerator of  
2 which is the age of the component in years and the denominator  
3 of which is the total estimated life of the component in  
4 years.

5 (6) A developer makes no implied warranties when  
6 existing improvements are converted to ownership as a  
7 residential condominium and reserve accounts are funded in  
8 accordance with this section. As an alternative to  
9 establishing such reserve accounts, or when a developer fails  
10 to establish the reserve accounts in accordance with this  
11 section, the developer shall be deemed to have granted to the  
12 purchaser of each unit an implied warranty of fitness and  
13 merchantability for the purposes or uses intended, ~~as to the~~  
14 ~~roof and structural components of the improvements; as to~~  
15 ~~fireproofing and fire protection systems; and as to~~  
16 ~~mechanical, electrical, and plumbing elements serving the~~  
17 ~~improvements, except mechanical elements serving only one~~  
18 ~~unit.~~ The warranty shall be for a period beginning with the  
19 notice of intended conversion and continuing for 3 years  
20 thereafter, or the recording of the declaration to condominium  
21 and continuing for 3 years thereafter, or 1 year after owners  
22 other than the developer obtain control of the association,  
23 whichever occurs last, but in no event more than 5 years.

24 (a) The warranty provided for in this section is  
25 conditioned upon routine maintenance being performed, unless  
26 the maintenance is an obligation of the developer or a  
27 developer-controlled association.

28 (b) The warranty shall inure to the benefit of each  
29 owner and successor owner.

30 (c) Existing improvements converted to residential  
31 condominium may be covered by an insured warranty program



1 | underwritten by an insurance company authorized to do business  
2 | in this state, if such warranty program meets the minimum  
3 | requirements of this chapter. To the degree that the warranty  
4 | program does not meet the minimum requirements of this  
5 | chapter, such requirements shall apply.

6 |         (7) When a developer desires to post a surety bond,  
7 | the developer shall, after notification to the buyer, acquire  
8 | a surety bond issued by a company licensed to do business in  
9 | this state, if such a bond is readily available in the open  
10 | market, in an amount which would be equal to the total amount  
11 | of all reserve accounts required under subsection (1), payable  
12 | to the association.

13 |         (8) The amended provisions of this section do not  
14 | affect a conversion of existing improvements when a developer  
15 | has filed a notice of intended conversion and the documents  
16 | required by s. 718.503 or s. 718.504, as applicable, with the  
17 | division prior to the effective date of this law, provided:

18 |             (a) The documents are proper for filing purposes.

19 |             (b) The developer, not later than 6 months after such  
20 | filing:

21 |                 1. Records a declaration for such filing in accordance  
22 | with part I.

23 |                 2. Gives a notice of intended conversion.

24 |         (9) This section applies only to the conversion of  
25 | existing improvements where construction of the improvement  
26 | was commenced and occupied prior to its designation by the  
27 | developer as a condominium. In such circumstances, s. 718.203  
28 | does not apply.

29 |         (10) A developer who sells a condominium parcel that  
30 | is subject to this part shall disclose in conspicuous type in  
31 | the contract of sale whether the developer has established

1 reserve accounts, provided a warranty of fitness and  
2 merchantability, or posted a surety bond for purposes of  
3 complying with this section.

4 Section 3. This act shall take effect July 1, 2007.

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7 SENATE SUMMARY

8 Revises provisions related to requirements for reserve  
9 accounts when an existing improvement is converted to  
10 condominium ownership. Requires that certain disclosure  
11 be compiled in a report. Revises the items to be  
12 specified in the report. Requires supplemental reports in  
13 certain situations. Revises reserve account requirements.  
14 Revises the method used to compute requirements for  
15 reserve accounts and additional converter reserve  
16 accounts. Deletes references to specific items that are  
17 covered by an implied warranty of fitness. (See bill for  
18 details.)  
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