

1 A bill to be entitled
2 An act relating to community associations; amending s.
3 718.103, F.S.; redefining the term "land"; amending s.
4 718.111, F.S.; specifying that requirements relating to
5 the acquisition and maintenance of adequate insurance
6 apply to all residential condominiums; amending s.
7 718.115, F.S.; providing that common expenses include the
8 costs of certain insurance or self-insurance; amending s.
9 718.116, F.S.; requiring notice of special assessments for
10 certain insurance; amending s. 718.503, F.S.; requiring
11 additional disclosures in contracts for sale or lease of
12 residential units; requiring copies of budgets to be
13 furnished to buyers when a closing occurs more than 12
14 months after an offering circular is filed with the state;
15 amending s. 718.504, F.S.; requiring certain information
16 relating to the budget to be included in the offering
17 circular; requiring that an association budget be prepared
18 in good faith; amending s. 718.616, F.S.; requiring that
19 certain disclosures be compiled in a report; revising the
20 items required to be disclosed; requiring supplemental
21 reports in certain situations; amending s. 718.618, F.S.;
22 revising certain requirements for reserve accounts;
23 revising the method of computing the amounts required to
24 fund additional converter reserve accounts; deleting
25 references to specific items that are covered by an
26 implied warranty of fitness in the absence of reserve
27 accounts; requiring that a developer disclose in a
28 contract of sale compliance with certain obligations

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29 regarding the maintenance of improvements; amending s.
30 719.104, F.S.; providing for cooperative associations and
31 similar organizations to acquire and maintain windstorm
32 insurance; amending s. 719.107, F.S.; providing that
33 common expenses include costs of certain insurance;
34 amending s. 719.108, F.S.; providing for notice of special
35 assessments levied in conjunction with certain insurance;
36 amending s. 719.503, F.S.; requiring additional
37 disclosures in contracts for sale or lease of residential
38 units; requiring copies of budgets to be furnished to
39 buyers when a closing occurs more than 12 months after an
40 offering circular is filed with the state; amending s.
41 719.504, F.S.; requiring certain information relating to
42 the budget to be included in the offering circular;
43 requiring that an association budget be prepared in good
44 faith; amending s. 720.303, F.S.; providing for
45 homeowners' associations to acquire and maintain windstorm
46 insurance; amending s. 720.308, F.S.; providing for
47 homeowners' associations to levy assessments for
48 insurance; providing an effective date.

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. Subsection (18) of section 718.103, Florida
53 Statutes, is amended to read:

54 718.103 Definitions.--As used in this chapter, the term:
55 (18) "Land" means the surface of a legally described
56 parcel of real property and includes, unless otherwise specified

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57 | in the declaration and whether separate from or including such
58 | surface, airspace lying above and subterranean space lying below
59 | such surface. However, if so defined in the declaration, the
60 | term "land" may mean all or any portion of the airspace or
61 | subterranean space between two legally identifiable elevations
62 | and may exclude the surface of a parcel of real property and may
63 | mean any combination of the foregoing, whether or not
64 | contiguous, or may mean a condominium unit.

65 | Section 2. Subsection (11) of section 718.111, Florida
66 | Statutes, as amended by section 37 of chapter 2007-1, Laws of
67 | Florida, is amended to read:

68 | 718.111 The association.--

69 | (11) INSURANCE.--In order to protect the safety, health,
70 | and welfare of the people of the State of Florida and to ensure
71 | consistency in the provision of insurance coverage to
72 | condominiums and their unit owners, paragraphs (a), (b), and (c)
73 | are deemed to apply to every residential condominium in the
74 | state, regardless of the date of its declaration of condominium.
75 | It is the intent of the Legislature to encourage lower or stable
76 | insurance premiums for associations described in this section.
77 | Therefore, the Legislature requires a report to be prepared by
78 | the Office of Insurance Regulation of the Department of
79 | Financial Services for publication 18 months from the effective
80 | date of this act, evaluating premium increases or decreases for
81 | associations, unit owner premium increases or decreases,
82 | recommended changes to better define common areas, or any other
83 | information the Office of Insurance Regulation deems
84 | appropriate.

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85 (a) A unit-owner controlled association operating a
86 residential condominium shall use its best efforts to obtain and
87 maintain adequate insurance to protect the association, the
88 association property, the common elements, and the condominium
89 property required to be insured by the association pursuant to
90 paragraph (b). If the association is developer controlled, the
91 association shall exercise due diligence to obtain and maintain
92 such insurance. Failure to obtain and maintain adequate
93 insurance during any period of developer control shall
94 constitute a breach of fiduciary responsibility by the
95 developer-appointed members of the board of directors of the
96 association, unless said members can show that despite such
97 failure, they have exercised due diligence. The declaration of
98 condominium as originally recorded, or amended pursuant to
99 procedures provided therein, may require that condominium
100 property consisting of freestanding buildings where there is no
101 more than one building in or on such unit need not be insured by
102 the association if the declaration requires the unit owner to
103 obtain adequate insurance for the condominium property. An
104 association may also obtain and maintain liability insurance for
105 directors and officers, insurance for the benefit of association
106 employees, and flood insurance for common elements, association
107 property, and units. Adequate insurance, regardless of any
108 requirement in the declaration of condominium for coverage by
109 the association for "full insurable value," "replacement cost,"
110 or the like, may include reasonable deductibles as determined by
111 the board based upon available funds or predetermined assessment
112 authority at the time that the insurance is obtained.

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113 1. Windstorm insurance coverage for a group of no fewer
114 than three communities created and operating under this chapter,
115 chapter 719, chapter 720, or chapter 721 may be obtained and
116 maintained for the communities if the insurance coverage is
117 sufficient to cover an amount equal to the probable maximum loss
118 for the communities for a 250-year windstorm event. Such
119 probable maximum loss must be determined through the use of a
120 competent model that has been accepted by the Florida Commission
121 on Hurricane Loss Projection Methodology. Such insurance
122 coverage is deemed adequate windstorm insurance for the purposes
123 of this section.

124 2. An association or group of associations may self-insure
125 against claims against the association, the association
126 property, and the condominium property required to be insured by
127 an association, upon compliance with the applicable provisions
128 of ss. 624.460-624.488, which shall be considered adequate
129 insurance for the purposes of this section. A copy of each
130 policy of insurance in effect shall be made available for
131 inspection by unit owners at reasonable times.

132 (b) Every hazard insurance policy issued or renewed on or
133 after January 1, 2004, to protect the condominium shall provide
134 primary coverage for:

135 1. All portions of the condominium property located
136 outside the units;

137 2. The condominium property located inside the units as
138 such property was initially installed, or replacements thereof
139 of like kind and quality and in accordance with the original
140 plans and specifications or, if the original plans and

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141 specifications are not available, as they existed at the time
142 the unit was initially conveyed; and

143 3. All portions of the condominium property for which the
144 declaration of condominium requires coverage by the association.

145
146 Anything to the contrary notwithstanding, the terms "condominium
147 property," "building," "improvements," "insurable improvements,"
148 "common elements," "association property," or any other term
149 found in the declaration of condominium which defines the scope
150 of property or casualty insurance that a condominium association
151 must obtain shall exclude all floor, wall, and ceiling
152 coverings, electrical fixtures, appliances, air conditioner or
153 heating equipment, water heaters, water filters, built-in
154 cabinets and countertops, and window treatments, including
155 curtains, drapes, blinds, hardware, and similar window treatment
156 components, or replacements of any of the foregoing which are
157 located within the boundaries of a unit and serve only one unit
158 and all air conditioning compressors that service only an
159 individual unit, whether or not located within the unit
160 boundaries. The foregoing is intended to establish the property
161 or casualty insuring responsibilities of the association and
162 those of the individual unit owner and do not serve to broaden
163 or extend the perils of coverage afforded by any insurance
164 contract provided to the individual unit owner. Beginning
165 January 1, 2004, the association shall have the authority to
166 amend the declaration of condominium, without regard to any
167 requirement for mortgagee approval of amendments affecting
168 insurance requirements, to conform the declaration of

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169 condominium to the coverage requirements of this section.

170 (c) Every hazard insurance policy issued or renewed on or
171 after January 1, 2004, to an individual unit owner shall provide
172 that the coverage afforded by such policy is excess over the
173 amount recoverable under any other policy covering the same
174 property. Each insurance policy issued to an individual unit
175 owner providing such coverage shall be without rights of
176 subrogation against the condominium association that operates
177 the condominium in which such unit owner's unit is located. All
178 real or personal property located within the boundaries of the
179 unit owner's unit which is excluded from the coverage to be
180 provided by the association as set forth in paragraph (b) shall
181 be insured by the individual unit owner.

182 (d) The association shall obtain and maintain adequate
183 insurance or fidelity bonding of all persons who control or
184 disburse funds of the association. The insurance policy or
185 fidelity bond must cover the maximum funds that will be in the
186 custody of the association or its management agent at any one
187 time. As used in this paragraph, the term "persons who control
188 or disburse funds of the association" includes, but is not
189 limited to, those individuals authorized to sign checks and the
190 president, secretary, and treasurer of the association. The
191 association shall bear the cost of bonding.

192 Section 3. Present paragraph (f) of subsection (1) of
193 section 718.115, Florida Statutes, is redesignated as paragraph
194 (g), and a new paragraph (f) is added to that subsection, to
195 read:

196 718.115 Common expenses and common surplus.--

197 (1)
 198 (f) Common expenses include the costs of insurance
 199 acquired by the association under the authority of s.
 200 718.111(11), including costs and contingent expenses required to
 201 participate in a self-insurance fund authorized and approved
 202 pursuant to s. 624.462.

203 Section 4. Subsection (10) of section 718.116, Florida
 204 Statutes, is amended to read:

205 718.116 Assessments; liability; lien and priority;
 206 interest; collection.--

207 (10) The specific purpose or purposes of any special
 208 assessment, including any contingent special assessment levied
 209 in conjunction with the purchase of an insurance policy
 210 authorized by s. 718.111(11), approved in accordance with the
 211 condominium documents shall be set forth in a written notice of
 212 such assessment sent or delivered to each unit owner. The funds
 213 collected pursuant to a special assessment shall be used only
 214 for the specific purpose or purposes set forth in such notice.
 215 However, upon completion of such specific purpose or purposes,
 216 any excess funds will be considered common surplus, and may, at
 217 the discretion of the board, either be returned to the unit
 218 owners or applied as a credit toward future assessments.

219 Section 5. Paragraph (a) of subsection (1) of section
 220 718.503, Florida Statutes, is amended, and paragraph (c) is
 221 added to that subsection, to read:

222 718.503 Developer disclosure prior to sale; nondeveloper
 223 unit owner disclosure prior to sale; voidability.--

224 (1) DEVELOPER DISCLOSURE.--

225 (a) Contents of contracts.--Any contract for the sale of a
 226 residential unit or a lease thereof for an unexpired term of
 227 more than 5 years shall:

228 1. Contain the following legend in conspicuous type: THIS
 229 AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF
 230 THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF
 231 EXECUTION OF THIS AGREEMENT BY THE BUYER, AND RECEIPT BY BUYER
 232 OF ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM OR HER BY
 233 THE DEVELOPER UNDER SECTION 718.503, FLORIDA STATUTES. THIS
 234 AGREEMENT IS ALSO VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE
 235 OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE
 236 OF RECEIPT FROM THE DEVELOPER OF ANY AMENDMENT WHICH MATERIALLY
 237 ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS ADVERSE TO
 238 THE BUYER. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS
 239 SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR
 240 A PERIOD OF NOT MORE THAN 15 DAYS AFTER THE BUYER HAS RECEIVED
 241 ALL OF THE ITEMS REQUIRED. BUYER'S RIGHT TO VOID THIS AGREEMENT
 242 SHALL TERMINATE AT CLOSING. FIGURES CONTAINED IN ANY BUDGET
 243 DELIVERED TO THE BUYER PREPARED IN ACCORDANCE WITH THE
 244 CONDOMINIUM ACT ARE ESTIMATES ONLY AND REPRESENT AN
 245 APPROXIMATION OF FUTURE EXPENSES BASED ON FACTS AND
 246 CIRCUMSTANCES EXISTING AT THE TIME OF THE PREPARATION OF THE
 247 BUDGET BY THE DEVELOPER. ACTUAL COSTS OF SUCH ITEMS MAY EXCEED
 248 THE ESTIMATED COSTS. SUCH CHANGES IN COST DO NOT CONSTITUTE
 249 MATERIAL ADVERSE CHANGES IN THE OFFERING.

250 2. Contain the following caveat in conspicuous type on the
 251 first page of the contract: ORAL REPRESENTATIONS CANNOT BE
 252 RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE

253 DEVELOPER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE
 254 TO THIS CONTRACT AND THE DOCUMENTS REQUIRED BY SECTION 718.503,
 255 FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER TO A BUYER OR
 256 LESSEE.

257 3. If the unit has been occupied by someone other than the
 258 buyer, contain a statement that the unit has been occupied.

259 4. If the contract is for the sale or transfer of a unit
 260 subject to a lease, include as an exhibit a copy of the executed
 261 lease and shall contain within the text in conspicuous type: THE
 262 UNIT IS SUBJECT TO A LEASE (OR SUBLEASE).

263 5. If the contract is for the lease of a unit for a term
 264 of 5 years or more, include as an exhibit a copy of the proposed
 265 lease.

266 6. If the contract is for the sale or lease of a unit that
 267 is subject to a lien for rent payable under a lease of a
 268 recreational facility or other commonly used facility, contain
 269 within the text the following statement in conspicuous type:
 270 THIS CONTRACT IS FOR THE TRANSFER OF A UNIT THAT IS SUBJECT TO A
 271 LIEN FOR RENT PAYABLE UNDER A LEASE OF COMMONLY USED FACILITIES.
 272 FAILURE TO PAY RENT MAY RESULT IN FORECLOSURE OF THE LIEN.

273 7. State the name and address of the escrow agent required
 274 by s. 718.202 and state that the purchaser may obtain a receipt
 275 for his or her deposit from the escrow agent upon request.

276 8. If the contract is for the sale or transfer of a unit
 277 in a condominium in which timeshare estates have been or may be
 278 created, contain within the text in conspicuous type: UNITS IN
 279 THIS CONDOMINIUM ARE SUBJECT TO TIMESHARE ESTATES. The contract
 280 for the sale of a fee interest in a timeshare estate shall also

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281 contain, in conspicuous type, the following: FOR THE PURPOSE OF
282 AD VALOREM TAXES OR SPECIAL ASSESSMENTS LEVIED BY TAXING
283 AUTHORITIES AGAINST A FEE INTEREST IN A TIMESHARE ESTATE, THE
284 MANAGING ENTITY IS GENERALLY CONSIDERED THE TAXPAYER UNDER
285 FLORIDA LAW. YOU HAVE THE RIGHT TO CHALLENGE AN ASSESSMENT BY A
286 TAXING AUTHORITY RELATING TO YOUR TIMESHARE ESTATE PURSUANT TO
287 THE PROVISIONS OF CHAPTER 194, FLORIDA STATUTES.

288 (c) Subsequent estimates; when provided.--If the closing
289 on a contract occurs more than 12 months after the filing of the
290 offering circular with the division, the developer shall provide
291 a copy of the current estimated operating budget of the
292 association to the buyer at closing, which shall not be
293 considered an amendment that modifies the offering provided any
294 changes to the association's budget from the budget given to the
295 buyer at the time of contract signing were the result of matters
296 beyond the developer's control. Changes in budgets of any master
297 association, recreation association, or club and similar budgets
298 for entities other than the association shall likewise not be
299 considered amendments that modify the offering. It is the intent
300 of this paragraph to clarify existing law.

301 Section 6. Present paragraph (d) of subsection (21) of
302 section 718.504, Florida Statutes, is redesignated as paragraph
303 (f), and new paragraphs (d) and (e) are added to that
304 subsection, to read:

305 718.504 Prospectus or offering circular.--Every developer
306 of a residential condominium which contains more than 20
307 residential units, or which is part of a group of residential
308 condominiums which will be served by property to be used in

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309 common by unit owners of more than 20 residential units, shall
310 prepare a prospectus or offering circular and file it with the
311 Division of Florida Land Sales, Condominiums, and Mobile Homes
312 prior to entering into an enforceable contract of purchase and
313 sale of any unit or lease of a unit for more than 5 years and
314 shall furnish a copy of the prospectus or offering circular to
315 each buyer. In addition to the prospectus or offering circular,
316 each buyer shall be furnished a separate page entitled
317 "Frequently Asked Questions and Answers," which shall be in
318 accordance with a format approved by the division and a copy of
319 the financial information required by s. 718.111. This page
320 shall, in readable language, inform prospective purchasers
321 regarding their voting rights and unit use restrictions,
322 including restrictions on the leasing of a unit; shall indicate
323 whether and in what amount the unit owners or the association is
324 obligated to pay rent or land use fees for recreational or other
325 commonly used facilities; shall contain a statement identifying
326 that amount of assessment which, pursuant to the budget, would
327 be levied upon each unit type, exclusive of any special
328 assessments, and which shall further identify the basis upon
329 which assessments are levied, whether monthly, quarterly, or
330 otherwise; shall state and identify any court cases in which the
331 association is currently a party of record in which the
332 association may face liability in excess of \$100,000; and which
333 shall further state whether membership in a recreational
334 facilities association is mandatory, and if so, shall identify
335 the fees currently charged per unit type. The division shall by
336 rule require such other disclosure as in its judgment will

337 assist prospective purchasers. The prospectus or offering
 338 circular may include more than one condominium, although not all
 339 such units are being offered for sale as of the date of the
 340 prospectus or offering circular. The prospectus or offering
 341 circular must contain the following information:

342 (21) An estimated operating budget for the condominium and
 343 the association, and a schedule of the unit owner's expenses
 344 shall be attached as an exhibit and shall contain the following
 345 information:

346 (d) The following statement in conspicuous type: THE
 347 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
 348 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE
 349 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
 350 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
 351 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
 352 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN
 353 THE OFFERING.

354 (e) Each budget for an association prepared by a developer
 355 consistent with this subsection shall be prepared in good faith
 356 and shall reflect accurate estimated amounts for the required
 357 items in paragraph (c) at the time of the filing of the offering
 358 circular with the division, and subsequent increased amounts of
 359 any item included in the association's estimated budget that are
 360 beyond the control of the developer shall not be considered an
 361 amendment that would give rise to rescission rights set forth in
 362 s. 718.503(1) (a) or (b), nor shall such increases modify, void,
 363 or otherwise affect any guarantee of the developer contained in
 364 the offering circular or any purchase contract. It is the intent

365 of this paragraph to clarify existing law.

366 Section 7. Section 718.616, Florida Statutes, is amended
 367 to read:

368 718.616 Disclosure of condition of building and estimated
 369 replacement costs and notification of municipalities.--

370 (1) Each developer of a residential condominium created by
 371 converting existing, previously occupied improvements to such
 372 form of ownership shall prepare a report that discloses ~~disclose~~
 373 the condition of the improvements and the condition of certain
 374 components and their current estimated replacement costs as of
 375 the date of the report.

376 (2) The following information shall be stated concerning
 377 the improvements:

378 (a) The date and type of construction.

379 (b) The prior use.

380 (c) Whether there is termite damage or infestation and
 381 whether the termite damage or infestation, if any, has been
 382 properly treated. The statement shall be substantiated by
 383 including, as an exhibit, an inspection report by a certified
 384 pest control operator.

385 (3) (a) Disclosure of condition shall be made for each of
 386 the following components that the existing improvements may
 387 include:

388 1. Roof.

389 2. Structure.

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

391 4. Elevators.

392 5. Heating and cooling systems.

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- 393 6. Plumbing.
- 394 7. Electrical systems.
- 395 8. Swimming pool.
- 396 9. Seawalls, pilings, and docks.
- 397 10. Pavement and concrete, including roadways, walkways,
- 398 and parking areas.
- 399 11. Drainage systems.
- 400 12. Irrigation systems.

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

- 405 1. The age of the component as of the date of the report.
- 406 2. The estimated remaining useful life of the component as
- 407 of the date of the report.
- 408 3. The estimated current replacement cost of the component
- 409 as of the date of the report, expressed:
 - 410 a. As a total amount; and
 - 411 b. As a per-unit amount, based upon each unit's
 - 412 proportional share of the common expenses.
- 413 4. The structural and functional soundness of the
- 414 component.

415 (c) Each unit owner and the association are third-party
 416 beneficiaries of the report.

417 (d) A supplemental report shall be prepared for any
 418 structure or component that is renovated or repaired after
 419 completion of the original report and prior to the recording of
 420 the declaration of condominium. If the declaration is not

421 recorded within 1 year after the date of the original report,
 422 the developer shall update the report annually prior to
 423 recording the declaration of condominium.

424 (e) The report may not contain representations on behalf
 425 of the development concerning future improvements or repairs and
 426 must be limited to the current condition of the improvements.

427 (4) If the proposed condominium is situated within a
 428 municipality, the disclosure shall include a letter from the
 429 municipality acknowledging that the municipality has been
 430 notified of the proposed creation of a residential condominium
 431 by conversion of existing, previously occupied improvements and,
 432 in any county, as defined in s. 125.011(1), acknowledging
 433 compliance with applicable zoning requirements as determined by
 434 the municipality.

435 Section 8. Section 718.618, Florida Statutes, is amended
 436 to read:

437 718.618 Converter reserve accounts; warranties.--

438 (1) When existing improvements are converted to ownership
 439 as a residential condominium, the developer shall establish
 440 converter reserve accounts for capital expenditures and deferred
 441 maintenance, or give warranties as provided by subsection (6),
 442 or post a surety bond as provided by subsection (7). The
 443 developer shall fund the converter reserve accounts in amounts
 444 calculated as follows:

445 (a)1. When the existing improvements include an air-
 446 conditioning system serving more than one unit or property which
 447 the association is responsible to repair, maintain, or replace,
 448 the developer shall fund an air-conditioning reserve account.

449 The amount of the reserve account shall be the product of the
 450 estimated current replacement cost of the system, as disclosed
 451 and substantiated pursuant to s. 718.616(3)(b), multiplied by a
 452 fraction, the numerator of which shall be the lesser of the age
 453 of the system in years or 9, and the denominator of which shall
 454 be 10. When such air-conditioning system is within 1,000 yards
 455 of the seacoast, the numerator shall be the lesser of the age of
 456 the system in years or 3, and the denominator shall be 4.

457 2. The developer shall fund a plumbing reserve account.
 458 The amount of the funding shall be the product of the estimated
 459 current replacement cost of the plumbing component, as disclosed
 460 and substantiated pursuant to s. 718.616(3)(b), multiplied by a
 461 fraction, the numerator of which shall be the lesser of the age
 462 of the plumbing in years or 36, and the denominator of which
 463 shall be 40.

464 3. The developer shall fund a roof reserve account. The
 465 amount of the funding shall be the product of the estimated
 466 current replacement cost of the roofing component, as disclosed
 467 and substantiated pursuant to s. 718.616(3)(b), multiplied by a
 468 fraction, the numerator of which shall be the lesser of the age
 469 of the roof in years or the numerator listed in the following
 470 table. The denominator of the fraction shall be determined based
 471 on the roof type, as follows:

472

	Roof Type	Numerator	Denominator
473 a.	Built-up roof	4	5

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474		without insulation		
	b.	Built-up roof with insulation	4	5
475				
	c.	Cement tile roof	45	50
476				
	d.	Asphalt shingle roof	14	15
477				
	e.	Copper roof		
478				
	f.	Wood shingle roof	9	10
479				
	g.	All other types	18	20

481 (b) The age of any component or structure for which the
 482 developer is required to fund a reserve account shall be
 483 measured in years, rounded to the nearest whole year. The amount
 484 of converter reserves to be funded by the developer for each
 485 structure or component shall be based on the age of the
 486 structure or component as disclosed in the inspection report.
 487 The architect or engineer shall determine the age of the

488 component from the later of:

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

493 2. The date when the installation or construction of the
 494 existing component or structure was completed.

495 (c) When the age of a component or structure is to be
 496 measured from the date of replacement or renewal, the developer
 497 shall provide the division with a certificate, under the seal of
 498 an architect or engineer authorized to practice in this state,
 499 verifying:

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

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

503 (d) In addition to establishing the reserve accounts
 504 specified above, the developer shall establish those other
 505 reserve accounts required by s. 718.112(2)(f), and shall fund
 506 those accounts in accordance with the formula provided therein.
 507 The vote to waive or reduce the funding or reserves required by
 508 s. 718.112(2)(f) does not affect or negate the obligations
 509 arising under this section.

510 (2)(a) The developer shall fund the reserve account
 511 required by subsection (1), on a pro rata basis upon the sale of
 512 each unit. The developer shall deposit in the reserve account
 513 not less than a percentage of the total amount to be deposited
 514 in the reserve account equal to the percentage of ownership of
 515 the common elements allocable to the unit sold. When a developer

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516 deposits amounts in excess of the minimum reserve account
517 funding, later deposits may be reduced to the extent of the
518 excess funding. For the purposes of this subsection, a unit is
519 considered sold when a fee interest in the unit is transferred
520 to a third party or the unit is leased for a period in excess of
521 5 years.

522 (b) When an association makes an expenditure of converter
523 reserve account funds before the developer has sold all units,
524 the developer shall make a deposit in the reserve account. Such
525 deposit shall be at least equal to that portion of the
526 expenditure which would be charged against the reserve account
527 deposit that would have been made for any such unit had the unit
528 been sold. Such deposit may be reduced to the extent the
529 developer has funded the reserve account in excess of the
530 minimum reserve account funding required by this subsection.
531 This paragraph applies only when the developer has funded
532 reserve accounts as provided by paragraph (a).

533 (3) The use of reserve account funds, as provided in this
534 section, is limited as follows:

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

538 (b) Reserve account funds may be expended only for repair
539 or replacement of the specific components for which the funds
540 were deposited, unless, after assumption of control of the
541 association by unit owners other than the developer, it is
542 determined by three-fourths of the voting interests in the
543 condominium to expend the funds for other purposes.

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544 (4) The developer shall establish the reserve account, as
545 provided in this section, in the name of the association at a
546 bank, savings and loan association, or trust company located in
547 this state.

548 (5) A developer may establish and fund additional
549 converter reserve accounts. The amount of funding shall be the
550 product of the estimated current replacement cost of a
551 component, as disclosed and substantiated pursuant to s.
552 718.616(3)(b), multiplied by a fraction, the numerator of which
553 is the age of the component in years and the denominator of
554 which is the total estimated life of the component in years.

555 (6) A developer makes no implied warranties when existing
556 improvements are converted to ownership as a residential
557 condominium and reserve accounts are funded in accordance with
558 this section. As an alternative to establishing such reserve
559 accounts, or when a developer fails to establish the reserve
560 accounts in accordance with this section, the developer shall be
561 deemed to have granted to the purchaser of each unit an implied
562 warranty of fitness and merchantability for the purposes or uses
563 ~~intended, as to the roof and structural components of the~~
564 ~~improvements, as to fireproofing and fire protection systems,~~
565 ~~and as to mechanical, electrical, and plumbing elements serving~~
566 ~~the improvements, except mechanical elements serving only one~~
567 ~~unit.~~ The warranty shall be for a period beginning with the
568 notice of intended conversion and continuing for 3 years
569 thereafter, or the recording of the declaration to condominium
570 and continuing for 3 years thereafter, or 1 year after owners
571 other than the developer obtain control of the association,

572 whichever occurs last, but in no event more than 5 years.

573 (a) The warranty provided for in this section is
 574 conditioned upon routine maintenance being performed, unless the
 575 maintenance is an obligation of the developer or a developer-
 576 controlled association.

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

579 (c) Existing improvements converted to residential
 580 condominium may be covered by an insured warranty program
 581 underwritten by an insurance company authorized to do business
 582 in this state, if such warranty program meets the minimum
 583 requirements of this chapter. To the degree that the warranty
 584 program does not meet the minimum requirements of this chapter,
 585 such requirements shall apply.

586 (7) When a developer desires to post a surety bond, the
 587 developer shall, after notification to the buyer, acquire a
 588 surety bond issued by a company licensed to do business in this
 589 state, if such a bond is readily available in the open market,
 590 in an amount which would be equal to the total amount of all
 591 reserve accounts required under subsection (1), payable to the
 592 association.

593 (8) The amended provisions of this section do not affect a
 594 conversion of existing improvements when a developer has filed a
 595 notice of intended conversion and the documents required by s.
 596 718.503 or s. 718.504, as applicable, with the division prior to
 597 the effective date of this law, provided:

598 (a) The documents are proper for filing purposes.

599 (b) The developer, not later than 6 months after such

600 filing:

601 1. Records a declaration for such filing in accordance
602 with part I.

603 2. Gives a notice of intended conversion.

604 (9) This section applies only to the conversion of
605 existing improvements where construction of the improvement was
606 commenced prior to its designation by the developer as a
607 condominium. In such circumstances, s. 718.203 does not apply.

608 (10) A developer who sells a condominium parcel that is
609 subject to this part shall disclose in conspicuous type in the
610 contract of sale whether the developer has established converter
611 reserve accounts, provided a warranty of fitness and
612 merchantability, or posted a surety bond for purposes of
613 complying with this section.

614 Section 9. Subsection (3) of section 719.104, Florida
615 Statutes, is amended to read:

616 719.104 Cooperatives; access to units; records; financial
617 reports; assessments; purchase of leases.--

618 (3) INSURANCE.--The association shall use its best efforts
619 to obtain and maintain adequate insurance to protect the
620 association property. The association may also obtain and
621 maintain liability insurance for directors and officers,
622 insurance for the benefit of association employees, and flood
623 insurance. A copy of each policy of insurance in effect shall be
624 made available for inspection by unit owners at reasonable
625 times.

626 (a) Windstorm insurance coverage for a group of no fewer
627 than three communities created and operating under chapter 718,

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628 this chapter, chapter 720, or chapter 721 may be obtained and
629 maintained for the communities if the insurance coverage is
630 sufficient to cover an amount equal to the probable maximum loss
631 for the communities for a 250-year windstorm event. Such
632 probable maximum loss must be determined through the use of a
633 competent model that has been accepted by the Florida Commission
634 on Hurricane Loss Projection Methodology. Such insurance
635 coverage is deemed adequate windstorm insurance for the purposes
636 of this section.

637 (b) An association or group of associations may self-
638 insure against claims against the association, the association
639 property, and the cooperative property required to be insured by
640 an association, upon compliance with the applicable provisions
641 of ss. 624.460-624.488, which shall be considered adequate
642 insurance for purposes of this section.

643 Section 10. Paragraph (e) is added to subsection (1) of
644 section 719.107, Florida Statutes, to read:

645 719.107 Common expenses; assessment.--

646 (1)

647 (e) Common expenses include the costs of insurance
648 acquired by the association under the authority of s.
649 719.104(3), including costs and contingent expenses required to
650 participate in a self-insurance fund authorized and approved
651 pursuant to s. 624.462.

652 Section 11. Subsection (9) of section 719.108, Florida
653 Statutes, is amended to read:

654 719.108 Rents and assessments; liability; lien and
655 priority; interest; collection; cooperative ownership.--

656 (9) The specific purposes of any special assessment,
 657 including any contingent special assessment levied in
 658 conjunction with the purchase of an insurance policy authorized
 659 by s. 719.104(3), approved in accordance with the cooperative
 660 documents shall be set forth in a written notice of such
 661 assessment sent or delivered to each unit owner. The funds
 662 collected pursuant to a special assessment shall be used only
 663 for the specific purpose or purposes set forth in such notice or
 664 returned to the unit owners. However, upon completion of such
 665 specific purposes, any excess funds shall be considered common
 666 surplus and may, at the discretion of the board, either be
 667 returned to the unit owners or applied as a credit toward future
 668 assessments.

669 Section 12. Paragraph (a) of subsection (1) of section
 670 719.503, Florida Statutes, is amended, and paragraph (c) is
 671 added to that subsection, to read:

672 719.503 Disclosure prior to sale.--

673 (1) DEVELOPER DISCLOSURE.--

674 (a) Contents of contracts.--Any contracts for the sale of
 675 a unit or a lease thereof for an unexpired term of more than 5
 676 years shall contain:

677 1. The following legend in conspicuous type: THIS
 678 AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF
 679 THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF
 680 EXECUTION OF THIS AGREEMENT BY THE BUYER, AND RECEIPT BY BUYER
 681 OF ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM OR HER BY
 682 THE DEVELOPER UNDER SECTION 719.503, FLORIDA STATUTES. THIS
 683 AGREEMENT IS ALSO VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE

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684 OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE
685 OF RECEIPT FROM THE DEVELOPER OF ANY AMENDMENT WHICH MATERIALLY
686 ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS ADVERSE TO
687 THE BUYER. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS
688 SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR
689 A PERIOD OF NOT MORE THAN 15 DAYS AFTER THE BUYER HAS RECEIVED
690 ALL OF THE ITEMS REQUIRED. BUYER'S RIGHT TO VOID THIS AGREEMENT
691 SHALL TERMINATE AT CLOSING. FIGURES CONTAINED IN ANY BUDGET
692 DELIVERED TO THE BUYER PREPARED IN ACCORDANCE WITH THE
693 COOPERATIVE ACT ARE ESTIMATES ONLY AND REPRESENT AN
694 APPROXIMATION OF FUTURE EXPENSES BASED ON FACTS AND
695 CIRCUMSTANCES EXISTING AT THE TIME OF THE PREPARATION OF THE
696 BUDGET BY THE DEVELOPER. ACTUAL COSTS OF SUCH ITEMS MAY EXCEED
697 THE ESTIMATED COSTS. SUCH CHANGES IN COST DO NOT CONSTITUTE
698 MATERIAL ADVERSE CHANGES IN THE OFFERING.

699 2. The following caveat in conspicuous type shall be
700 placed upon the first page of the contract: ORAL REPRESENTATIONS
701 CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS
702 OF THE DEVELOPER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD
703 BE MADE TO THIS CONTRACT AND THE DOCUMENTS REQUIRED BY SECTION
704 719.503, FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER TO A
705 BUYER OR LESSEE.

706 3. If the unit has been occupied by someone other than the
707 buyer, a statement that the unit has been occupied.

708 4. If the contract is for the sale or transfer of a unit
709 subject to a lease, the contract shall include as an exhibit a
710 copy of the executed lease and shall contain within the text in
711 conspicuous type: THE UNIT IS SUBJECT TO A LEASE (OR SUBLEASE).

712 5. If the contract is for the lease of a unit for a term
713 of 5 years or more, the contract shall include as an exhibit a
714 copy of the proposed lease.

715 6. If the contract is for the sale or lease of a unit that
716 is subject to a lien for rent payable under a lease of a
717 recreational facility or other common areas, the contract shall
718 contain within the text the following statement in conspicuous
719 type: THIS CONTRACT IS FOR THE TRANSFER OF A UNIT THAT IS
720 SUBJECT TO A LIEN FOR RENT PAYABLE UNDER A LEASE OF COMMON
721 AREAS. FAILURE TO PAY RENT MAY RESULT IN FORECLOSURE OF THE
722 LIEN.

723 7. The contract shall state the name and address of the
724 escrow agent required by s. 719.202 and shall state that the
725 purchaser may obtain a receipt for his or her deposit from the
726 escrow agent, upon request.

727 8. If the contract is for the sale or transfer of a unit
728 in a cooperative in which timeshare estates have been or may be
729 created, the following text in conspicuous type: UNITS IN THIS
730 COOPERATIVE ARE SUBJECT TO TIMESHARE ESTATES. The contract for
731 the sale of a timeshare estate must also contain, in conspicuous
732 type, the following: FOR THE PURPOSE OF AD VALOREM TAXES OR
733 SPECIAL ASSESSMENTS LEVIED BY TAXING AUTHORITIES AGAINST A
734 TIMESHARE ESTATE, THE MANAGING ENTITY IS GENERALLY CONSIDERED
735 THE TAXPAYER UNDER FLORIDA LAW. YOU HAVE THE RIGHT TO CHALLENGE
736 AN ASSESSMENT BY A TAXING AUTHORITY RELATING TO YOUR TIMESHARE
737 ESTATE PURSUANT TO THE PROVISIONS OF CHAPTER 194, FLORIDA
738 STATUTES.

739 (c) Subsequent estimates; when provided.--If the closing

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740 on a contract occurs more than 12 months after the filing of the
741 offering circular with the division, the developer shall provide
742 a copy of the current estimated operating budget of the
743 association to the buyer at closing, which shall not be
744 considered an amendment that modifies the offering provided any
745 changes to the association's budget from the budget given to the
746 buyer at the time of contract signing were the result of matters
747 beyond the developer's control. Changes in budgets of any master
748 association, recreation association, or club and similar budgets
749 for entities other than the association shall likewise not be
750 considered amendments that modify the offering. It is the intent
751 of this paragraph to clarify existing law.

752 Section 13. Present paragraph (d) of subsection (20) of
753 section 719.504, Florida Statutes, is redesignated as paragraph
754 (f), and new paragraphs (d) and (e) are added to that
755 subsection, to read:

756 719.504 Prospectus or offering circular.--Every developer
757 of a residential cooperative which contains more than 20
758 residential units, or which is part of a group of residential
759 cooperatives which will be served by property to be used in
760 common by unit owners of more than 20 residential units, shall
761 prepare a prospectus or offering circular and file it with the
762 Division of Florida Land Sales, Condominiums, and Mobile Homes
763 prior to entering into an enforceable contract of purchase and
764 sale of any unit or lease of a unit for more than 5 years and
765 shall furnish a copy of the prospectus or offering circular to
766 each buyer. In addition to the prospectus or offering circular,
767 each buyer shall be furnished a separate page entitled

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768 "Frequently Asked Questions and Answers," which must be in
769 accordance with a format approved by the division. This page
770 must, in readable language: inform prospective purchasers
771 regarding their voting rights and unit use restrictions,
772 including restrictions on the leasing of a unit; indicate
773 whether and in what amount the unit owners or the association is
774 obligated to pay rent or land use fees for recreational or other
775 commonly used facilities; contain a statement identifying that
776 amount of assessment which, pursuant to the budget, would be
777 levied upon each unit type, exclusive of any special
778 assessments, and which identifies the basis upon which
779 assessments are levied, whether monthly, quarterly, or
780 otherwise; state and identify any court cases in which the
781 association is currently a party of record in which the
782 association may face liability in excess of \$100,000; and state
783 whether membership in a recreational facilities association is
784 mandatory and, if so, identify the fees currently charged per
785 unit type. The division shall by rule require such other
786 disclosure as in its judgment will assist prospective
787 purchasers. The prospectus or offering circular may include more
788 than one cooperative, although not all such units are being
789 offered for sale as of the date of the prospectus or offering
790 circular. The prospectus or offering circular must contain the
791 following information:

792 (20) An estimated operating budget for the cooperative and
793 the association, and a schedule of the unit owner's expenses
794 shall be attached as an exhibit and shall contain the following
795 information:

796 (d) The following statement in conspicuous type: THE
 797 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
 798 ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE
 799 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
 800 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
 801 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
 802 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN
 803 THE OFFERING.

804 (e) Each budget for an association prepared by a developer
 805 consistent with this subsection shall be prepared in good faith
 806 and shall reflect accurate estimated amounts for the required
 807 items in paragraph (c) at the time of the filing of the offering
 808 circular with the division, and subsequent increased amounts of
 809 any item included in the association's estimated budget that are
 810 beyond the control of the developer shall not be considered an
 811 amendment that would give rise to rescission rights set forth in
 812 s. 719.503(1)(a) or (b), nor shall such increases modify, void,
 813 or otherwise affect any guarantee of the developer contained in
 814 the offering circular or any purchase contract. It is the intent
 815 of this paragraph to clarify existing law.

816 Section 14. Subsection (11) is added to section 720.303,
 817 Florida Statutes, to read:

818 720.303 Association powers and duties; meetings of board;
 819 official records; budgets; financial reporting; association
 820 funds; recalls.--

821 (11) WINDSTORM INSURANCE.--Windstorm insurance coverage
 822 for a group of no fewer than three communities created and
 823 operating under chapter 718, chapter 719, this chapter, or

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824 chapter 721 may be obtained and maintained for the communities
825 if the insurance coverage is sufficient to cover an amount equal
826 to the probable maximum loss for the communities for a 250-year
827 windstorm event. Such probable maximum loss must be determined
828 through the use of a competent model that has been accepted by
829 the Florida Commission on Hurricane Loss Projection Methodology.
830 Such insurance coverage is deemed adequate windstorm coverage
831 for purposes of this chapter.

832 Section 15. Section 720.308, Florida Statutes, is amended
833 to read:

834 720.308 Assessments and charges.--For any community
835 created after October 1, 1995, the governing documents must
836 describe the manner in which expenses are shared and specify the
837 member's proportional share thereof.

838 (1) Assessments levied pursuant to the annual budget or
839 special assessment must be in the member's proportional share of
840 expenses as described in the governing document, which share may
841 be different among classes of parcels based upon the state of
842 development thereof, levels of services received by the
843 applicable members, or other relevant factors.

844 (2) While the developer is in control of the homeowners'
845 association, it may be excused from payment of its share of the
846 operating expenses and assessments related to its parcels for
847 any period of time for which the developer has, in the
848 declaration, obligated itself to pay any operating expenses
849 incurred that exceed the assessments receivable from other
850 members and other income of the association.

851 (3) Assessments or contingent assessments may be levied by

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852 the board of directors of the association to secure the
853 obligation of the homeowners' association for insurance acquired
854 from a self-insurance fund authorized and operating pursuant to
855 s. 624.462.

856 (4) This section does not apply to an association, no
857 matter when created, if the association is created in a
858 community that is included in an effective development-of-
859 regional-impact development order as of October 1, 1995 ~~the~~
860 ~~effective date of this act~~, together with any approved
861 modifications thereto.

862 Section 16. This act shall take effect upon becoming a
863 law.