

1 A bill to be entitled
2 An act relating to real property; amending s. 215.555,
3 F.S.; redefining the term "covered policy" for purposes of
4 the Florida Hurricane Catastrophe Fund to include
5 commercial self-insurance funds; amending s. 624.462,
6 F.S.; providing that any applicant or fund participant may
7 select an agent of choice without restriction by the fund;
8 providing that a commercial self-insurance fund shall be
9 an insurer for the purpose of assessments levied by the
10 Florida Hurricane Catastrophe Fund or Citizens Property
11 Insurance Group; requiring the office to establish the
12 method for determining the inputted premium that is
13 subject to assessment; amending s. 718.103, F.S.;
14 redefining the term "land"; amending s. 718.111, F.S.;
15 specifying that requirements relating to the acquisition
16 and maintenance of adequate insurance apply to all
17 residential condominiums; amending s. 718.115, F.S.;
18 providing that common expenses include the costs of
19 certain insurance or self-insurance; amending s. 718.116,
20 F.S.; requiring notice of special assessments for certain
21 insurance; amending s. 718.503, F.S.; requiring additional
22 disclosures in contracts for sale or lease of residential
23 units; requiring copies of budgets to be furnished to
24 buyers when a closing occurs more than 12 months after an
25 offering circular is filed with the state; amending s.
26 718.504, F.S.; requiring certain information relating to
27 the budget to be included in the offering circular;
28 requiring that an association budget be prepared in good

29 faith; amending s. 718.616, F.S.; requiring that certain
30 disclosures be compiled in a report; revising the items
31 required to be disclosed; requiring supplemental reports
32 in certain situations; amending s. 718.618, F.S.; revising
33 certain requirements for reserve accounts; revising the
34 method of computing the amounts required to fund
35 additional converter reserve accounts; deleting references
36 to specific items that are covered by an implied warranty
37 of fitness in the absence of reserve accounts; requiring
38 that a developer disclose in a contract of sale compliance
39 with certain obligations regarding the maintenance of
40 improvements; amending s. 719.104, F.S.; providing for
41 cooperative associations and similar organizations to
42 acquire and maintain windstorm insurance; amending s.
43 719.107, F.S.; providing that common expenses include
44 costs of certain insurance; amending s. 719.108, F.S.;
45 providing for notice of special assessments levied in
46 conjunction with certain insurance; amending s. 719.503,
47 F.S.; requiring additional disclosures in contracts for
48 sale or lease of residential units; requiring copies of
49 budgets to be furnished to buyers when a closing occurs
50 more than 12 months after an offering circular is filed
51 with the state; amending s. 719.504, F.S.; requiring
52 certain information relating to the budget to be included
53 in the offering circular; requiring that an association
54 budget be prepared in good faith; amending s. 720.303,
55 F.S.; providing for homeowners' associations to acquire
56 and maintain windstorm insurance; amending s. 720.308,

57 F.S.; providing for homeowners' associations to levy
 58 assessments for insurance; providing an effective date.
 59

60 Be It Enacted by the Legislature of the State of Florida:
 61

62 Section 1. Paragraph (c) of subsection (2) of section
 63 215.555, Florida Statutes, as amended by section 2 of chapter
 64 2007-1, Laws of Florida, is amended to read:

65 215.555 Florida Hurricane Catastrophe Fund.--

66 (2) DEFINITIONS.--As used in this section:

67 (c) "Covered policy" means any insurance policy covering
 68 residential property in this state, including, but not limited
 69 to, any homeowner's, mobile home owner's, farm owner's,
 70 condominium association, condominium unit owner's, tenant's, or
 71 apartment building policy, or any other policy covering a
 72 residential structure or its contents issued by any authorized
 73 insurer, including a commercial self-insurance fund holding a
 74 certificate of authority issued by the Office of Insurance
 75 Regulation under s. 624.462, the Citizens Property Insurance
 76 Corporation, and any joint underwriting association or similar
 77 entity created under ~~pursuant to~~ law. The term "covered policy"
 78 includes any collateral protection insurance policy covering
 79 personal residences which protects both the borrower's and the
 80 lender's financial interests, in an amount at least equal to the
 81 coverage for the dwelling in place under the lapsed homeowner's
 82 policy, if such policy can be accurately reported as required in
 83 subsection (5). Additionally, covered policies include policies
 84 covering the peril of wind removed from the Florida Residential

85 Property and Casualty Joint Underwriting Association or from the
86 Citizens Property Insurance Corporation, created under ~~pursuant~~
87 ~~to~~ s. 627.351(6), or from the Florida Windstorm Underwriting
88 Association, created under ~~pursuant to~~ s. 627.351(2), by an
89 authorized insurer under the terms and conditions of an executed
90 assumption agreement between the authorized insurer and such
91 association or Citizens Property Insurance Corporation. Each
92 assumption agreement between the association and such authorized
93 insurer or Citizens Property Insurance Corporation must be
94 approved by the Office of Insurance Regulation before ~~prior to~~
95 the effective date of the assumption, and the Office of
96 Insurance Regulation must provide written notification to the
97 board within 15 working days after such approval. "Covered
98 policy" does not include any policy that excludes wind coverage
99 or hurricane coverage or any reinsurance agreement and does not
100 include any policy otherwise meeting this definition which is
101 issued by a surplus lines insurer or a reinsurer. All commercial
102 residential excess policies and all deductible buy-back policies
103 that, based on sound actuarial principles, require individual
104 ratemaking shall be excluded by rule if the actuarial soundness
105 of the fund is not jeopardized. For this purpose, the term
106 "excess policy" means a policy that provides insurance
107 protection for large commercial property risks and that provides
108 a layer of coverage above a primary layer insured by another
109 insurer.

110 Section 2. Subsections (2) and (5) of section 624.462,
111 Florida Statutes, as amended, by section 12 of chapter 2007-1,
112 Laws of Florida, are amended to read:

113 624.462 Commercial self-insurance funds.--

114 (2) As used in ss. 624.460-624.488, "commercial self-
 115 insurance fund" or "fund" means a group of members, operating
 116 individually and collectively through a trust or corporation,
 117 that must be:

118 (a) Established by:

119 1. A not-for-profit trade association, industry
 120 association, or professional association of employers or
 121 professionals which has a constitution or bylaws, which is
 122 incorporated under the laws of this state, and which has been
 123 organized for purposes other than that of obtaining or providing
 124 insurance and operated in good faith for a continuous period of
 125 1 year;

126 2. A self-insurance trust fund organized pursuant to s.
 127 627.357 and maintained in good faith for a continuous period of
 128 1 year for purposes other than that of obtaining or providing
 129 insurance pursuant to this section. Each member of a commercial
 130 self-insurance trust fund established pursuant to this
 131 subsection must maintain membership in the self-insurance trust
 132 fund organized pursuant to s. 627.357;

133 3. A group of 10 or more health care providers, as defined
 134 in s. 627.351(4)(h), for purposes of providing medical
 135 malpractice coverage; or

136 4. A not-for-profit group comprised of one or more
 137 community associations responsible for operating at least 50
 138 residential parcels or units created and operating under chapter
 139 718, chapter 719, chapter 720, chapter 721, or chapter 723 which
 140 restricts its membership to community associations only and

141 | which has been organized and maintained in good faith for the
142 | purpose of pooling and spreading the liabilities of its group
143 | members relating to property or casualty risk or surety
144 | insurance which, in accordance with applicable provisions of
145 | part I of chapter 626, appoints resident general lines agents
146 | only, and which does not prevent, impede, or restrict any
147 | applicant or fund participant from maintaining or selecting an
148 | agent of choice. The fund may not refuse to appoint the agent of
149 | record for any fund applicant or fund member and may not favor
150 | one or more such appointed agents over other appointed agents.

151 | (b)1. In the case of funds established pursuant to
152 | subparagraph (a)2. or subparagraph (a)4., operated pursuant to a
153 | trust agreement by a board of trustees which shall have complete
154 | fiscal control over the fund and which shall be responsible for
155 | all operations of the fund. The majority of the trustees shall
156 | be owners, partners, officers, directors, or employees of one or
157 | more members of the fund. The trustees shall have the authority
158 | to approve applications of members for participation in the fund
159 | and to contract with an authorized administrator or servicing
160 | company to administer the day-to-day affairs of the fund.

161 | 2. In the case of funds established pursuant to
162 | subparagraph (a)1. or subparagraph (a)3., operated pursuant to a
163 | trust agreement by a board of trustees or as a corporation by a
164 | board of directors which board shall:

165 | a. Be responsible to members of the fund or beneficiaries
166 | of the trust or policyholders of the corporation;

167 | b. Appoint independent certified public accountants, legal
168 | counsel, actuaries, and investment advisers as needed;

- 169 c. Approve payment of dividends to members;
- 170 d. Approve changes in corporate structure; and
- 171 e. Have the authority to contract with an administrator
- 172 authorized under s. 626.88 to administer the day-to-day affairs
- 173 of the fund including, but not limited to, marketing,
- 174 underwriting, billing, collection, claims administration, safety
- 175 and loss prevention, reinsurance, policy issuance, accounting,
- 176 regulatory reporting, and general administration. The fees or
- 177 compensation for services under such contract shall be
- 178 comparable to the costs for similar services incurred by
- 179 insurers writing the same lines of insurance, or where available
- 180 such expenses as filed by boards, bureaus, and associations
- 181 designated by insurers to file such data. A majority of the
- 182 trustees or directors shall be owners, partners, officers,
- 183 directors, or employees of one or more members of the fund.

184 (5) A commercial self-insurance fund created under

185 subparagraph (2)(a)4. shall be an insurer for the purpose of any

186 assessments levied by the Florida Hurricane Catastrophe Fund as

187 provided under s. 215.555 or by the Citizens Property Insurance

188 Corporation as provided under s. 627.351(6)(b)3. The office

189 shall establish the method for determining the imputed premium

190 that is subject to any such assessment. ~~must participate in the~~

191 ~~Florida Self Insurance Fund Guaranty Association.~~

192 Section 3. Subsection (18) of section 718.103, Florida

193 Statutes, is amended to read:

194 718.103 Definitions.--As used in this chapter, the term:

195 (18) "Land" means the surface of a legally described

196 parcel of real property and includes, unless otherwise specified

197 in the declaration and whether separate from or including such
198 surface, airspace lying above and subterranean space lying below
199 such surface. However, if so defined in the declaration, the
200 term "land" may mean all or any portion of the airspace or
201 subterranean space between two legally identifiable elevations
202 and may exclude the surface of a parcel of real property and may
203 mean any combination of the foregoing, whether or not
204 contiguous, or may mean a condominium unit.

205 Section 4. Subsection (11) of section 718.111, Florida
206 Statutes, as amended by section 37 of chapter 2007-1, Laws of
207 Florida, is amended to read:

208 718.111 The association.--

209 (11) INSURANCE.--In order to protect the safety, health,
210 and welfare of the people of the State of Florida and to ensure
211 consistency in the provision of insurance coverage to
212 condominiums and their unit owners, paragraphs (a), (b), and (c)
213 are deemed to apply to every residential condominium in the
214 state, regardless of the date of its declaration of condominium.
215 It is the intent of the Legislature to encourage lower or stable
216 insurance premiums for associations described in this section.
217 Therefore, the Legislature requires a report to be prepared by
218 the Office of Insurance Regulation of the Department of
219 Financial Services for publication 18 months from the effective
220 date of this act, evaluating premium increases or decreases for
221 associations, unit owner premium increases or decreases,
222 recommended changes to better define common areas, or any other
223 information the Office of Insurance Regulation deems
224 appropriate.

225 (a) A unit-owner controlled association operating a
226 residential condominium shall use its best efforts to obtain and
227 maintain adequate insurance to protect the association, the
228 association property, the common elements, and the condominium
229 property required to be insured by the association pursuant to
230 paragraph (b). If the association is developer controlled, the
231 association shall exercise due diligence to obtain and maintain
232 such insurance. Failure to obtain and maintain adequate
233 insurance during any period of developer control shall
234 constitute a breach of fiduciary responsibility by the
235 developer-appointed members of the board of directors of the
236 association, unless said members can show that despite such
237 failure, they have exercised due diligence. The declaration of
238 condominium as originally recorded, or amended pursuant to
239 procedures provided therein, may require that condominium
240 property consisting of freestanding buildings where there is no
241 more than one building in or on such unit need not be insured by
242 the association if the declaration requires the unit owner to
243 obtain adequate insurance for the condominium property. An
244 association may also obtain and maintain liability insurance for
245 directors and officers, insurance for the benefit of association
246 employees, and flood insurance for common elements, association
247 property, and units. Adequate insurance, regardless of any
248 requirement in the declaration of condominium for coverage by
249 the association for "full insurable value," "replacement cost,"
250 or the like, may include reasonable deductibles as determined by
251 the board based upon available funds or predetermined assessment
252 authority at the time that the insurance is obtained.

253 1. Windstorm insurance coverage for a group of no fewer
 254 than three communities created and operating under this chapter,
 255 chapter 719, chapter 720, or chapter 721 may be obtained and
 256 maintained for the communities if the insurance coverage is
 257 sufficient to cover an amount equal to the probable maximum loss
 258 for the communities for a 250-year windstorm event. Such
 259 probable maximum loss must be determined through the use of a
 260 competent model that has been accepted by the Florida Commission
 261 on Hurricane Loss Projection Methodology. Such insurance
 262 coverage is deemed adequate windstorm insurance for the purposes
 263 of this section.

264 2. An association or group of associations may self-insure
 265 against claims against the association, the association
 266 property, and the condominium property required to be insured by
 267 an association, upon compliance with the applicable provisions
 268 of ss. 624.460-624.488, which shall be considered adequate
 269 insurance for the purposes of this section. A copy of each
 270 policy of insurance in effect shall be made available for
 271 inspection by unit owners at reasonable times.

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

275 1. All portions of the condominium property located
 276 outside the units;

277 2. The condominium property located inside the units as
 278 such property was initially installed, or replacements thereof
 279 of like kind and quality and in accordance with the original
 280 plans and specifications or, if the original plans and

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

283 3. All portions of the condominium property for which the
284 declaration of condominium requires coverage by the association.

285
286 Anything to the contrary notwithstanding, the terms "condominium
287 property," "building," "improvements," "insurable improvements,"
288 "common elements," "association property," or any other term
289 found in the declaration of condominium which defines the scope
290 of property or casualty insurance that a condominium association
291 must obtain shall exclude all floor, wall, and ceiling
292 coverings, electrical fixtures, appliances, air conditioner or
293 heating equipment, water heaters, water filters, built-in
294 cabinets and countertops, and window treatments, including
295 curtains, drapes, blinds, hardware, and similar window treatment
296 components, or replacements of any of the foregoing which are
297 located within the boundaries of a unit and serve only one unit
298 and all air conditioning compressors that service only an
299 individual unit, whether or not located within the unit
300 boundaries. The foregoing is intended to establish the property
301 or casualty insuring responsibilities of the association and
302 those of the individual unit owner and do not serve to broaden
303 or extend the perils of coverage afforded by any insurance
304 contract provided to the individual unit owner. Beginning
305 January 1, 2004, the association shall have the authority to
306 amend the declaration of condominium, without regard to any
307 requirement for mortgagee approval of amendments affecting
308 insurance requirements, to conform the declaration of

309 condominium to the coverage requirements of this section.

310 (c) Every hazard insurance policy issued or renewed on or
 311 after January 1, 2004, to an individual unit owner shall provide
 312 that the coverage afforded by such policy is excess over the
 313 amount recoverable under any other policy covering the same
 314 property. Each insurance policy issued to an individual unit
 315 owner providing such coverage shall be without rights of
 316 subrogation against the condominium association that operates
 317 the condominium in which such unit owner's unit is located. All
 318 real or personal property located within the boundaries of the
 319 unit owner's unit which is excluded from the coverage to be
 320 provided by the association as set forth in paragraph (b) shall
 321 be insured by the individual unit owner.

322 (d) The association shall obtain and maintain adequate
 323 insurance or fidelity bonding of all persons who control or
 324 disburse funds of the association. The insurance policy or
 325 fidelity bond must cover the maximum funds that will be in the
 326 custody of the association or its management agent at any one
 327 time. As used in this paragraph, the term "persons who control
 328 or disburse funds of the association" includes, but is not
 329 limited to, those individuals authorized to sign checks and the
 330 president, secretary, and treasurer of the association. The
 331 association shall bear the cost of bonding.

332 Section 5. Present paragraph (f) of subsection (1) of
 333 section 718.115, Florida Statutes, is redesignated as paragraph
 334 (g), and a new paragraph (f) is added to that subsection, to
 335 read:

336 718.115 Common expenses and common surplus.--

337 (1)
 338 (f) Common expenses include the costs of insurance
 339 acquired by the association under the authority of s.
 340 718.111(11), including costs and contingent expenses required to
 341 participate in a self-insurance fund authorized and approved
 342 pursuant to s. 624.462.

343 Section 6. Subsection (10) of section 718.116, Florida
 344 Statutes, is amended to read:

345 718.116 Assessments; liability; lien and priority;
 346 interest; collection.--

347 (10) The specific purpose or purposes of any special
 348 assessment, including any contingent special assessment levied
 349 in conjunction with the purchase of an insurance policy
 350 authorized by s. 718.111(11), approved in accordance with the
 351 condominium documents shall be set forth in a written notice of
 352 such assessment sent or delivered to each unit owner. The funds
 353 collected pursuant to a special assessment shall be used only
 354 for the specific purpose or purposes set forth in such notice.
 355 However, upon completion of such specific purpose or purposes,
 356 any excess funds will be considered common surplus, and may, at
 357 the discretion of the board, either be returned to the unit
 358 owners or applied as a credit toward future assessments.

359 Section 7. Paragraph (a) of subsection (1) of section
 360 718.503, Florida Statutes, is amended, and paragraph (c) is
 361 added to that subsection, to read:

362 718.503 Developer disclosure prior to sale; nondeveloper
 363 unit owner disclosure prior to sale; voidability.--

364 (1) DEVELOPER DISCLOSURE.--

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

368 1. Contain the following legend in conspicuous type: THIS
 369 AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF
 370 THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF
 371 EXECUTION OF THIS AGREEMENT BY THE BUYER, AND RECEIPT BY BUYER
 372 OF ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM OR HER BY
 373 THE DEVELOPER UNDER SECTION 718.503, FLORIDA STATUTES. THIS
 374 AGREEMENT IS ALSO VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE
 375 OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE
 376 OF RECEIPT FROM THE DEVELOPER OF ANY AMENDMENT WHICH MATERIALLY
 377 ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS ADVERSE TO
 378 THE BUYER. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS
 379 SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR
 380 A PERIOD OF NOT MORE THAN 15 DAYS AFTER THE BUYER HAS RECEIVED
 381 ALL OF THE ITEMS REQUIRED. BUYER'S RIGHT TO VOID THIS AGREEMENT
 382 SHALL TERMINATE AT CLOSING. FIGURES CONTAINED IN ANY BUDGET
 383 DELIVERED TO THE BUYER PREPARED IN ACCORDANCE WITH THE
 384 CONDOMINIUM ACT ARE ESTIMATES ONLY AND REPRESENT AN
 385 APPROXIMATION OF FUTURE EXPENSES BASED ON FACTS AND
 386 CIRCUMSTANCES EXISTING AT THE TIME OF THE PREPARATION OF THE
 387 BUDGET BY THE DEVELOPER. ACTUAL COSTS OF SUCH ITEMS MAY EXCEED
 388 THE ESTIMATED COSTS. SUCH CHANGES IN COST DO NOT CONSTITUTE
 389 MATERIAL ADVERSE CHANGES IN THE OFFERING.

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

393 DEVELOPER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE
 394 TO THIS CONTRACT AND THE DOCUMENTS REQUIRED BY SECTION 718.503,
 395 FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER TO A BUYER OR
 396 LESSEE.

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

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

403 5. If the contract is for the lease of a unit for a term
 404 of 5 years or more, include as an exhibit a copy of the proposed
 405 lease.

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

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

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

421 contain, in conspicuous type, the following: FOR THE PURPOSE OF
 422 AD VALOREM TAXES OR SPECIAL ASSESSMENTS LEVIED BY TAXING
 423 AUTHORITIES AGAINST A FEE INTEREST IN A TIMESHARE ESTATE, THE
 424 MANAGING ENTITY IS GENERALLY CONSIDERED THE TAXPAYER UNDER
 425 FLORIDA LAW. YOU HAVE THE RIGHT TO CHALLENGE AN ASSESSMENT BY A
 426 TAXING AUTHORITY RELATING TO YOUR TIMESHARE ESTATE PURSUANT TO
 427 THE PROVISIONS OF CHAPTER 194, FLORIDA STATUTES.

428 (c) Subsequent estimates; when provided.--If the closing
 429 on a contract occurs more than 12 months after the filing of the
 430 offering circular with the division, the developer shall provide
 431 a copy of the current estimated operating budget of the
 432 association to the buyer at closing, which shall not be
 433 considered an amendment that modifies the offering provided any
 434 changes to the association's budget from the budget given to the
 435 buyer at the time of contract signing were the result of matters
 436 beyond the developer's control. Changes in budgets of any master
 437 association, recreation association, or club and similar budgets
 438 for entities other than the association shall likewise not be
 439 considered amendments that modify the offering. It is the intent
 440 of this paragraph to clarify existing law.

441 Section 8. Present paragraph (d) of subsection (21) of
 442 section 718.504, Florida Statutes, is redesignated as paragraph
 443 (f), and new paragraphs (d) and (e) are added to that
 444 subsection, to read:

445 718.504 Prospectus or offering circular.--Every developer
 446 of a residential condominium which contains more than 20
 447 residential units, or which is part of a group of residential
 448 condominiums which will be served by property to be used in

449 common by unit owners of more than 20 residential units, shall
450 prepare a prospectus or offering circular and file it with the
451 Division of Florida Land Sales, Condominiums, and Mobile Homes
452 prior to entering into an enforceable contract of purchase and
453 sale of any unit or lease of a unit for more than 5 years and
454 shall furnish a copy of the prospectus or offering circular to
455 each buyer. In addition to the prospectus or offering circular,
456 each buyer shall be furnished a separate page entitled
457 "Frequently Asked Questions and Answers," which shall be in
458 accordance with a format approved by the division and a copy of
459 the financial information required by s. 718.111. This page
460 shall, in readable language, inform prospective purchasers
461 regarding their voting rights and unit use restrictions,
462 including restrictions on the leasing of a unit; shall indicate
463 whether and in what amount the unit owners or the association is
464 obligated to pay rent or land use fees for recreational or other
465 commonly used facilities; shall contain a statement identifying
466 that amount of assessment which, pursuant to the budget, would
467 be levied upon each unit type, exclusive of any special
468 assessments, and which shall further identify the basis upon
469 which assessments are levied, whether monthly, quarterly, or
470 otherwise; shall state and identify any court cases in which the
471 association is currently a party of record in which the
472 association may face liability in excess of \$100,000; and which
473 shall further state whether membership in a recreational
474 facilities association is mandatory, and if so, shall identify
475 the fees currently charged per unit type. The division shall by
476 rule require such other disclosure as in its judgment will

477 assist prospective purchasers. The prospectus or offering
478 circular may include more than one condominium, although not all
479 such units are being offered for sale as of the date of the
480 prospectus or offering circular. The prospectus or offering
481 circular must contain the following information:

482 (21) An estimated operating budget for the condominium and
483 the association, and a schedule of the unit owner's expenses
484 shall be attached as an exhibit and shall contain the following
485 information:

486 (d) The following statement in conspicuous type: THE
487 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
488 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE
489 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
490 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
491 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
492 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN
493 THE OFFERING.

494 (e) Each budget for an association prepared by a developer
495 consistent with this subsection shall be prepared in good faith
496 and shall reflect accurate estimated amounts for the required
497 items in paragraph (c) at the time of the filing of the offering
498 circular with the division, and subsequent increased amounts of
499 any item included in the association's estimated budget that are
500 beyond the control of the developer shall not be considered an
501 amendment that would give rise to rescission rights set forth in
502 s. 718.503(1) (a) or (b), nor shall such increases modify, void,
503 or otherwise affect any guarantee of the developer contained in
504 the offering circular or any purchase contract. It is the intent

505 of this paragraph to clarify existing law.

506 Section 9. Section 718.616, Florida Statutes, is amended
507 to read:

508 718.616 Disclosure of condition of building and estimated
509 replacement costs and notification of municipalities.--

510 (1) Each developer of a residential condominium created by
511 converting existing, previously occupied improvements to such
512 form of ownership shall prepare a report that discloses ~~disclose~~
513 the condition of the improvements and the condition of certain
514 components and their current estimated replacement costs as of
515 the date of the report.

516 (2) The following information shall be stated concerning
517 the improvements:

518 (a) The date and type of construction.

519 (b) The prior use.

520 (c) Whether there is termite damage or infestation and
521 whether the termite damage or infestation, if any, has been
522 properly treated. The statement shall be substantiated by
523 including, as an exhibit, an inspection report by a certified
524 pest control operator.

525 (3) (a) Disclosure of condition shall be made for each of
526 the following components that the existing improvements may
527 include:

528 1. Roof.

529 2. Structure.

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

531 4. Elevators.

532 5. Heating and cooling systems.

- 533 6. Plumbing.
- 534 7. Electrical systems.
- 535 8. Swimming pool.
- 536 9. Seawalls, pilings, and docks.
- 537 10. Pavement and concrete, including roadways, walkways,
- 538 and parking areas.
- 539 11. Drainage systems.
- 540 12. Irrigation systems.

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

- 545 1. The age of the component as of the date of the report.
- 546 2. The estimated remaining useful life of the component as
- 547 of the date of the report.
- 548 3. The estimated current replacement cost of the component
- 549 as of the date of the report, expressed:
 - 550 a. As a total amount; and
 - 551 b. As a per-unit amount, based upon each unit's
 - 552 proportional share of the common expenses.
- 553 4. The structural and functional soundness of the
- 554 component.

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

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

561 recorded within 1 year after the date of the original report,
 562 the developer shall update the report annually prior to
 563 recording the declaration of condominium.

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

567 (4) If the proposed condominium is situated within a
 568 municipality, the disclosure shall include a letter from the
 569 municipality acknowledging that the municipality has been
 570 notified of the proposed creation of a residential condominium
 571 by conversion of existing, previously occupied improvements and,
 572 in any county, as defined in s. 125.011(1), acknowledging
 573 compliance with applicable zoning requirements as determined by
 574 the municipality.

575 Section 10. Section 718.618, Florida Statutes, is amended
 576 to read:

577 718.618 Converter reserve accounts; warranties.--

578 (1) When existing improvements are converted to ownership
 579 as a residential condominium, the developer shall establish
 580 converter reserve accounts for capital expenditures and deferred
 581 maintenance, or give warranties as provided by subsection (6),
 582 or post a surety bond as provided by subsection (7). The
 583 developer shall fund the converter reserve accounts in amounts
 584 calculated as follows:

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

589 The amount of the reserve account shall be the product of the
 590 estimated current replacement cost of the system, as disclosed
 591 and substantiated pursuant to s. 718.616(3)(b), multiplied by a
 592 fraction, the numerator of which shall be the lesser of the age
 593 of the system in years or 9, and the denominator of which shall
 594 be 10. When such air-conditioning system is within 1,000 yards
 595 of the seacoast, the numerator shall be the lesser of the age of
 596 the system in years or 3, and the denominator shall be 4.

597 2. The developer shall fund a plumbing reserve account.
 598 The amount of the funding shall be the product of the estimated
 599 current replacement cost of the plumbing component, as disclosed
 600 and substantiated pursuant to s. 718.616(3)(b), multiplied by a
 601 fraction, the numerator of which shall be the lesser of the age
 602 of the plumbing in years or 36, and the denominator of which
 603 shall be 40.

604 3. The developer shall fund a roof reserve account. The
 605 amount of the funding shall be the product of the estimated
 606 current replacement cost of the roofing component, as disclosed
 607 and substantiated pursuant to s. 718.616(3)(b), multiplied by a
 608 fraction, the numerator of which shall be the lesser of the age
 609 of the roof in years or the numerator listed in the following
 610 table. The denominator of the fraction shall be determined based
 611 on the roof type, as follows:

	Roof Type	Numerator	Denominator
612			
613	a. Built-up roof	4	5

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

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

628 component from the later of:

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

633 2. The date when the installation or construction of the
634 existing component or structure was completed.

635 (c) When the age of a component or structure is to be
636 measured from the date of replacement or renewal, the developer
637 shall provide the division with a certificate, under the seal of
638 an architect or engineer authorized to practice in this state,
639 verifying:

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

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

643 (d) In addition to establishing the reserve accounts
644 specified above, the developer shall establish those other
645 reserve accounts required by s. 718.112(2)(f), and shall fund
646 those accounts in accordance with the formula provided therein.

647 The vote to waive or reduce the funding or reserves required by
648 s. 718.112(2)(f) does not affect or negate the obligations
649 arising under this section.

650 (2)(a) The developer shall fund the reserve account
651 required by subsection (1), on a pro rata basis upon the sale of
652 each unit. The developer shall deposit in the reserve account
653 not less than a percentage of the total amount to be deposited
654 in the reserve account equal to the percentage of ownership of
655 the common elements allocable to the unit sold. When a developer

656 deposits amounts in excess of the minimum reserve account
657 funding, later deposits may be reduced to the extent of the
658 excess funding. For the purposes of this subsection, a unit is
659 considered sold when a fee interest in the unit is transferred
660 to a third party or the unit is leased for a period in excess of
661 5 years.

662 (b) When an association makes an expenditure of converter
663 reserve account funds before the developer has sold all units,
664 the developer shall make a deposit in the reserve account. Such
665 deposit shall be at least equal to that portion of the
666 expenditure which would be charged against the reserve account
667 deposit that would have been made for any such unit had the unit
668 been sold. Such deposit may be reduced to the extent the
669 developer has funded the reserve account in excess of the
670 minimum reserve account funding required by this subsection.
671 This paragraph applies only when the developer has funded
672 reserve accounts as provided by paragraph (a).

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

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

678 (b) Reserve account funds may be expended only for repair
679 or replacement of the specific components for which the funds
680 were deposited, unless, after assumption of control of the
681 association by unit owners other than the developer, it is
682 determined by three-fourths of the voting interests in the
683 condominium to expend the funds for other purposes.

684 (4) The developer shall establish the reserve account, as
685 provided in this section, in the name of the association at a
686 bank, savings and loan association, or trust company located in
687 this state.

688 (5) A developer may establish and fund additional
689 converter reserve accounts. The amount of funding shall be the
690 product of the estimated current replacement cost of a
691 component, as disclosed and substantiated pursuant to s.
692 718.616(3)(b), multiplied by a fraction, the numerator of which
693 is the age of the component in years and the denominator of
694 which is the total estimated life of the component in years.

695 (6) A developer makes no implied warranties when existing
696 improvements are converted to ownership as a residential
697 condominium and reserve accounts are funded in accordance with
698 this section. As an alternative to establishing such reserve
699 accounts, or when a developer fails to establish the reserve
700 accounts in accordance with this section, the developer shall be
701 deemed to have granted to the purchaser of each unit an implied
702 warranty of fitness and merchantability for the purposes or uses
703 ~~intended, as to the roof and structural components of the~~
704 ~~improvements, as to fireproofing and fire protection systems,~~
705 ~~and as to mechanical, electrical, and plumbing elements serving~~
706 ~~the improvements, except mechanical elements serving only one~~
707 ~~unit.~~ The warranty shall be for a period beginning with the
708 notice of intended conversion and continuing for 3 years
709 thereafter, or the recording of the declaration to condominium
710 and continuing for 3 years thereafter, or 1 year after owners
711 other than the developer obtain control of the association,

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

713 (a) The warranty provided for in this section is
 714 conditioned upon routine maintenance being performed, unless the
 715 maintenance is an obligation of the developer or a developer-
 716 controlled association.

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

719 (c) Existing improvements converted to residential
 720 condominium may be covered by an insured warranty program
 721 underwritten by an insurance company authorized to do business
 722 in this state, if such warranty program meets the minimum
 723 requirements of this chapter. To the degree that the warranty
 724 program does not meet the minimum requirements of this chapter,
 725 such requirements shall apply.

726 (7) When a developer desires to post a surety bond, the
 727 developer shall, after notification to the buyer, acquire a
 728 surety bond issued by a company licensed to do business in this
 729 state, if such a bond is readily available in the open market,
 730 in an amount which would be equal to the total amount of all
 731 reserve accounts required under subsection (1), payable to the
 732 association.

733 (8) The amended provisions of this section do not affect a
 734 conversion of existing improvements when a developer has filed a
 735 notice of intended conversion and the documents required by s.
 736 718.503 or s. 718.504, as applicable, with the division prior to
 737 the effective date of this law, provided:

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

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

740 filing:

741 1. Records a declaration for such filing in accordance
742 with part I.

743 2. Gives a notice of intended conversion.

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

748 (10) A developer who sells a condominium parcel that is
749 subject to this part shall disclose in conspicuous type in the
750 contract of sale whether the developer has established converter
751 reserve accounts, provided a warranty of fitness and
752 merchantability, or posted a surety bond for purposes of
753 complying with this section.

754 Section 11. Subsection (3) of section 719.104, Florida
755 Statutes, is amended to read:

756 719.104 Cooperatives; access to units; records; financial
757 reports; assessments; purchase of leases.--

758 (3) INSURANCE.--The association shall use its best efforts
759 to obtain and maintain adequate insurance to protect the
760 association property. The association may also obtain and
761 maintain liability insurance for directors and officers,
762 insurance for the benefit of association employees, and flood
763 insurance. A copy of each policy of insurance in effect shall be
764 made available for inspection by unit owners at reasonable
765 times.

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

768 this chapter, chapter 720, or chapter 721 may be obtained and
769 maintained for the communities if the insurance coverage is
770 sufficient to cover an amount equal to the probable maximum loss
771 for the communities for a 250-year windstorm event. Such
772 probable maximum loss must be determined through the use of a
773 competent model that has been accepted by the Florida Commission
774 on Hurricane Loss Projection Methodology. Such insurance
775 coverage is deemed adequate windstorm insurance for the purposes
776 of this section.

777 (b) An association or group of associations may self-
778 insure against claims against the association, the association
779 property, and the cooperative property required to be insured by
780 an association, upon compliance with the applicable provisions
781 of ss. 624.460-624.488, which shall be considered adequate
782 insurance for purposes of this section.

783 Section 12. Paragraph (e) is added to subsection (1) of
784 section 719.107, Florida Statutes, to read:

785 719.107 Common expenses; assessment.--

786 (1)

787 (e) Common expenses include the costs of insurance
788 acquired by the association under the authority of s.
789 719.104(3), including costs and contingent expenses required to
790 participate in a self-insurance fund authorized and approved
791 pursuant to s. 624.462.

792 Section 13. Subsection (9) of section 719.108, Florida
793 Statutes, is amended to read:

794 719.108 Rents and assessments; liability; lien and
795 priority; interest; collection; cooperative ownership.--

796 (9) The specific purposes of any special assessment,
 797 including any contingent special assessment levied in
 798 conjunction with the purchase of an insurance policy authorized
 799 by s. 719.104(3), approved in accordance with the cooperative
 800 documents shall be set forth in a written notice of such
 801 assessment sent or delivered to each unit owner. The funds
 802 collected pursuant to a special assessment shall be used only
 803 for the specific purpose or purposes set forth in such notice or
 804 returned to the unit owners. However, upon completion of such
 805 specific purposes, any excess funds shall be considered common
 806 surplus and may, at the discretion of the board, either be
 807 returned to the unit owners or applied as a credit toward future
 808 assessments.

809 Section 14. Paragraph (a) of subsection (1) of section
 810 719.503, Florida Statutes, is amended, and paragraph (c) is
 811 added to that subsection, to read:

812 719.503 Disclosure prior to sale.--

813 (1) DEVELOPER DISCLOSURE.--

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

817 1. The following legend in conspicuous type: THIS
 818 AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF
 819 THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF
 820 EXECUTION OF THIS AGREEMENT BY THE BUYER, AND RECEIPT BY BUYER
 821 OF ALL OF THE ITEMS REQUIRED TO BE DELIVERED TO HIM OR HER BY
 822 THE DEVELOPER UNDER SECTION 719.503, FLORIDA STATUTES. THIS
 823 AGREEMENT IS ALSO VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE

824 OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE
825 OF RECEIPT FROM THE DEVELOPER OF ANY AMENDMENT WHICH MATERIALLY
826 ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS ADVERSE TO
827 THE BUYER. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS
828 SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR
829 A PERIOD OF NOT MORE THAN 15 DAYS AFTER THE BUYER HAS RECEIVED
830 ALL OF THE ITEMS REQUIRED. BUYER'S RIGHT TO VOID THIS AGREEMENT
831 SHALL TERMINATE AT CLOSING. FIGURES CONTAINED IN ANY BUDGET
832 DELIVERED TO THE BUYER PREPARED IN ACCORDANCE WITH THE
833 COOPERATIVE ACT ARE ESTIMATES ONLY AND REPRESENT AN
834 APPROXIMATION OF FUTURE EXPENSES BASED ON FACTS AND
835 CIRCUMSTANCES EXISTING AT THE TIME OF THE PREPARATION OF THE
836 BUDGET BY THE DEVELOPER. ACTUAL COSTS OF SUCH ITEMS MAY EXCEED
837 THE ESTIMATED COSTS. SUCH CHANGES IN COST DO NOT CONSTITUTE
838 MATERIAL ADVERSE CHANGES IN THE OFFERING.

839 2. The following caveat in conspicuous type shall be
840 placed upon the first page of the contract: ORAL REPRESENTATIONS
841 CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS
842 OF THE DEVELOPER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD
843 BE MADE TO THIS CONTRACT AND THE DOCUMENTS REQUIRED BY SECTION
844 719.503, FLORIDA STATUTES, TO BE FURNISHED BY A DEVELOPER TO A
845 BUYER OR LESSEE.

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

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

852 5. If the contract is for the lease of a unit for a term
853 of 5 years or more, the contract shall include as an exhibit a
854 copy of the proposed lease.

855 6. If the contract is for the sale or lease of a unit that
856 is subject to a lien for rent payable under a lease of a
857 recreational facility or other common areas, the contract shall
858 contain within the text the following statement in conspicuous
859 type: THIS CONTRACT IS FOR THE TRANSFER OF A UNIT THAT IS
860 SUBJECT TO A LIEN FOR RENT PAYABLE UNDER A LEASE OF COMMON
861 AREAS. FAILURE TO PAY RENT MAY RESULT IN FORECLOSURE OF THE
862 LIEN.

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

867 8. If the contract is for the sale or transfer of a unit
868 in a cooperative in which timeshare estates have been or may be
869 created, the following text in conspicuous type: UNITS IN THIS
870 COOPERATIVE ARE SUBJECT TO TIMESHARE ESTATES. The contract for
871 the sale of a timeshare estate must also contain, in conspicuous
872 type, the following: FOR THE PURPOSE OF AD VALOREM TAXES OR
873 SPECIAL ASSESSMENTS LEVIED BY TAXING AUTHORITIES AGAINST A
874 TIMESHARE ESTATE, THE MANAGING ENTITY IS GENERALLY CONSIDERED
875 THE TAXPAYER UNDER FLORIDA LAW. YOU HAVE THE RIGHT TO CHALLENGE
876 AN ASSESSMENT BY A TAXING AUTHORITY RELATING TO YOUR TIMESHARE
877 ESTATE PURSUANT TO THE PROVISIONS OF CHAPTER 194, FLORIDA
878 STATUTES.

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

880 on a contract occurs more than 12 months after the filing of the
881 offering circular with the division, the developer shall provide
882 a copy of the current estimated operating budget of the
883 association to the buyer at closing, which shall not be
884 considered an amendment that modifies the offering provided any
885 changes to the association's budget from the budget given to the
886 buyer at the time of contract signing were the result of matters
887 beyond the developer's control. Changes in budgets of any master
888 association, recreation association, or club and similar budgets
889 for entities other than the association shall likewise not be
890 considered amendments that modify the offering. It is the intent
891 of this paragraph to clarify existing law.

892 Section 15. Present paragraph (d) of subsection (20) of
893 section 719.504, Florida Statutes, is redesignated as paragraph
894 (f), and new paragraphs (d) and (e) are added to that
895 subsection, to read:

896 719.504 Prospectus or offering circular.--Every developer
897 of a residential cooperative which contains more than 20
898 residential units, or which is part of a group of residential
899 cooperatives which will be served by property to be used in
900 common by unit owners of more than 20 residential units, shall
901 prepare a prospectus or offering circular and file it with the
902 Division of Florida Land Sales, Condominiums, and Mobile Homes
903 prior to entering into an enforceable contract of purchase and
904 sale of any unit or lease of a unit for more than 5 years and
905 shall furnish a copy of the prospectus or offering circular to
906 each buyer. In addition to the prospectus or offering circular,
907 each buyer shall be furnished a separate page entitled

908 "Frequently Asked Questions and Answers," which must be in
909 accordance with a format approved by the division. This page
910 must, in readable language: inform prospective purchasers
911 regarding their voting rights and unit use restrictions,
912 including restrictions on the leasing of a unit; indicate
913 whether and in what amount the unit owners or the association is
914 obligated to pay rent or land use fees for recreational or other
915 commonly used facilities; contain a statement identifying that
916 amount of assessment which, pursuant to the budget, would be
917 levied upon each unit type, exclusive of any special
918 assessments, and which identifies the basis upon which
919 assessments are levied, whether monthly, quarterly, or
920 otherwise; state and identify any court cases in which the
921 association is currently a party of record in which the
922 association may face liability in excess of \$100,000; and state
923 whether membership in a recreational facilities association is
924 mandatory and, if so, identify the fees currently charged per
925 unit type. The division shall by rule require such other
926 disclosure as in its judgment will assist prospective
927 purchasers. The prospectus or offering circular may include more
928 than one cooperative, although not all such units are being
929 offered for sale as of the date of the prospectus or offering
930 circular. The prospectus or offering circular must contain the
931 following information:

932 (20) An estimated operating budget for the cooperative and
933 the association, and a schedule of the unit owner's expenses
934 shall be attached as an exhibit and shall contain the following
935 information:

936 (d) The following statement in conspicuous type: THE
 937 BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
 938 ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE
 939 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
 940 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
 941 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
 942 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN
 943 THE OFFERING.

944 (e) Each budget for an association prepared by a developer
 945 consistent with this subsection shall be prepared in good faith
 946 and shall reflect accurate estimated amounts for the required
 947 items in paragraph (c) at the time of the filing of the offering
 948 circular with the division, and subsequent increased amounts of
 949 any item included in the association's estimated budget that are
 950 beyond the control of the developer shall not be considered an
 951 amendment that would give rise to rescission rights set forth in
 952 s. 719.503(1)(a) or (b), nor shall such increases modify, void,
 953 or otherwise affect any guarantee of the developer contained in
 954 the offering circular or any purchase contract. It is the intent
 955 of this paragraph to clarify existing law.

956 Section 16. Subsection (11) is added to section 720.303,
 957 Florida Statutes, to read:

958 720.303 Association powers and duties; meetings of board;
 959 official records; budgets; financial reporting; association
 960 funds; recalls.--

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

964 chapter 721 may be obtained and maintained for the communities
 965 if the insurance coverage is sufficient to cover an amount equal
 966 to the probable maximum loss for the communities for a 250-year
 967 windstorm event. Such probable maximum loss must be determined
 968 through the use of a competent model that has been accepted by
 969 the Florida Commission on Hurricane Loss Projection Methodology.
 970 Such insurance coverage is deemed adequate windstorm coverage
 971 for purposes of this chapter.

972 Section 17. Section 720.308, Florida Statutes, is amended
 973 to read:

974 720.308 Assessments and charges.--For any community
 975 created after October 1, 1995, the governing documents must
 976 describe the manner in which expenses are shared and specify the
 977 member's proportional share thereof.

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

984 (2) While the developer is in control of the homeowners'
 985 association, it may be excused from payment of its share of the
 986 operating expenses and assessments related to its parcels for
 987 any period of time for which the developer has, in the
 988 declaration, obligated itself to pay any operating expenses
 989 incurred that exceed the assessments receivable from other
 990 members and other income of the association.

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

992 the board of directors of the association to secure the
993 obligation of the homeowners' association for insurance acquired
994 from a self-insurance fund authorized and operating pursuant to
995 s. 624.462.

996 (4) This section does not apply to an association, no
997 matter when created, if the association is created in a
998 community that is included in an effective development-of-
999 regional-impact development order as of October 1, 1995 ~~the~~
1000 ~~effective date of this act~~, together with any approved
1001 modifications thereto.

1002 Section 18. This act shall take effect upon becoming a
1003 law.