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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/9/2008	.	
	.	
	.	

1 The Committee on Community Affairs (Villalobos) recommended the
2 following **amendment**:

3
4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause
6 and insert:

7 Section 1. Section 468.431, Florida Statutes, is amended to
8 read:

9 468.431 Definitions.--As used in this part:

10 (1) "Community association" means a residential homeowners'
11 association in which membership is a condition of ownership of a
12 unit in a planned unit development, or of a lot for a home or a
13 mobile home, or of a townhouse, villa, condominium, cooperative,
14 or other residential unit which is part of a residential
15 development scheme and which is authorized to impose a fee which
16 may become a lien on the parcel.



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17 (2) "Community association management" means any of the
18 following practices requiring substantial specialized knowledge,
19 judgment, and managerial skill when done for remuneration and
20 when the association or associations served contain more than 10
21 ~~50~~ units or have an annual budget or budgets in excess of
22 \$100,000: controlling or disbursing funds of a community
23 association, preparing budgets or other financial documents for a
24 community association, assisting in the noticing or conduct of
25 community association meetings, and coordinating maintenance for
26 the residential development and other day-to-day services
27 involved with the operation of a community association. A person
28 who performs clerical or ministerial functions under the direct
29 supervision and control of a licensed manager or who is charged
30 only with performing the maintenance of a community association
31 and who does not assist in any of the management services
32 described in this subsection is not required to be licensed under
33 this part.

34 (3) "Community association management firm" means a
35 corporation, limited liability company, partnership, trust,
36 association, sole proprietorship, or other similar organization
37 engaging in the business of community association management for
38 the purpose of providing any of the services described in
39 subsection (2).

40 ~~(4)~~~~(3)~~ "Community association manager" means a natural
41 person who is licensed pursuant to this part to perform community
42 association management services.

43 ~~(5)~~~~(4)~~ "Council" means the Regulatory Council of Community
44 Association Managers.

45 ~~(6)~~~~(5)~~ "Department" means the Department of Business and
46 Professional Regulation.



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47 Section 2. Section 468.4315, Florida Statutes, is amended
48 to read:

49 468.4315 Regulatory Council of Community Association
50 Managers.--

51 (1) The Regulatory Council of Community Association
52 Managers is created within the department and shall consist of
53 seven members appointed by the Governor and confirmed by the
54 Senate.

55 (a) Five members of the council shall be licensed community
56 association managers, one of whom may ~~shall~~ be a community
57 association manager employed by a timeshare managing entity as
58 described in ss. 468.438 and 721.13, who have held an active
59 license for at least 5 years. The remaining two council members
60 shall be residents of this state, ~~and~~ must not be or ever have
61 been connected with the business of community association
62 management, and may not be prohibited from serving because the
63 member is or has been a resident or board member of a community
64 association.

65 (b) The Governor shall appoint members for terms of 4
66 years. Such members shall serve until their successors are
67 appointed. Members' service on the council shall begin upon
68 appointment and shall continue until their successors are
69 appointed.

70 (2) The council may adopt rules relating to the licensure
71 examination, continuing education requirements, continuing
72 education providers, fees, and professional practice standards to
73 assist the department in carrying out the duties and authorities
74 conferred upon the department by this part.

75 (3) To the extent the council is authorized to exercise
76 functions otherwise exercised by a board pursuant to chapter 455,



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77 the provisions of chapter 455 and s. 20.165 relating to
78 regulatory boards shall apply, including, but not limited to,
79 provisions relating to board rules and the accountability and
80 liability of board members. All proceedings and actions of the
81 council are subject to the provisions of chapter 120. In
82 addition, the provisions of chapter 455 and s. 20.165 shall apply
83 to the department in carrying out the duties and authorities
84 conferred upon the department by this part.

85 (4) The council may establish a public education program
86 relating to professional community association management.

87 (5) Members of the council shall serve without
88 compensation, but are entitled to receive per diem and travel
89 expenses pursuant to s. 112.061 while carrying out business
90 approved by the council.

91 (6) The responsibilities of the council include, but are
92 not limited to:

93 (a) Receiving input regarding issues of concern with
94 respect to community association management and recommendations
95 for changes in applicable laws.

96 (b) Reviewing, evaluating, and advising the division
97 concerning revisions and adoption of rules affecting community
98 association management.

99 (c) Recommending improvements, if needed, in the education
100 programs offered by the division.

101 Section 3. Section 468.432, Florida Statutes, is amended to
102 read:

103 468.432 Licensure of community association managers and
104 community association management firms; exceptions.--

105 (1) A person may ~~shall~~ not manage or hold herself or
106 himself out to the public as being able to manage a community



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107 | association in this state unless she or he is licensed by the
108 | department in accordance with the provisions of this part.
109 | However, ~~nothing in this part~~ does not prohibit ~~prohibits~~ any
110 | person licensed in this state under any other law or court rule
111 | from engaging in the profession for which she or he is licensed.

112 | (2) As of January 1, 2009, a community association
113 | management firm or other similar organization responsible for the
114 | management of more than 10 units or a budget of \$100,000 or
115 | greater may not engage or hold itself out to the public as being
116 | able to engage in the business of community association
117 | management in this state unless it is licensed by the department
118 | as a community association management firm in accordance with the
119 | provisions of this part.

120 | (a) A community association management firm or other
121 | similar organization desiring to be licensed as a community
122 | association management firm shall apply to the department on a
123 | form approved by the department together with the application and
124 | licensure fees required by s. 468.435(1)(a) and (c). Each
125 | community association management firm applying for licensure
126 | under this subsection must be actively registered and authorized
127 | to do business in this state.

128 | (b) Each applicant shall designate on its application a
129 | licensed community association manager who shall respond to all
130 | inquires from and investigations by the department or division.

131 | (c) Each licensed community association management firm
132 | shall notify the department within 30 days following any change
133 | of information contained in the application upon which licensure
134 | is based.

135 | (d) Community association management firm licenses shall
136 | expire on September 30 of odd-numbered years and must be renewed



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137 every 2 years. An application for renewal must be accompanied by
138 the renewal fee as required by s. 468.435(1)(d).

139 (e) The department shall license each applicant whom the
140 department certifies as meeting the requirements of this
141 subsection.

142 (f) If the license of at least one individual active
143 community association manager member is not in force, the license
144 of the community association management firm or other similar
145 organization is canceled automatically during that time.

146 (g) Any community association management firm or other
147 similar organization agrees by being licensed that it will employ
148 only licensed persons in the direct provision of community
149 association management services as described in s. 468.431(3).

150 ~~(2) Nothing in this part prohibits a corporation,~~
151 ~~partnership, trust, association, or other like organization from~~
152 ~~engaging in the business of community association management~~
153 ~~without being licensed if it employs licensed natural persons in~~
154 ~~the direct provision of community association management~~
155 ~~services. Such corporation, partnership, trust, association, or~~
156 ~~other organization shall also file with the department a~~
157 ~~statement on a form approved by the department that it submits~~
158 ~~itself to the rules of the council and the department and the~~
159 ~~provisions of this part which the department deems applicable.~~

160 Section 4. Subsections (2) and (4) of section 468.433,
161 Florida Statutes, are amended to read:

162 468.433 Licensure by examination.--

163 (2) The department shall examine each applicant who is at
164 least 18 years of age, who has successfully completed all
165 prelicensure education requirements, and who the department
166 certifies is of good moral character.



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167 (a) Good moral character means a personal history of
168 honesty, fairness, and respect for the rights of others and for
169 the laws of this state and nation.

170 (b) The department may refuse to certify an applicant ~~only~~
171 if:

172 1. There is a substantial connection between the lack of
173 good moral character of the applicant and the professional
174 responsibilities of a community association manager; ~~and~~

175 2. The finding by the department of lack of good moral
176 character is supported by clear and convincing evidence; and

177 3. The applicant is found to have provided management
178 services requiring licensure without the requisite license.

179 (c) When an applicant is found to be unqualified for a
180 license because of a lack of good moral character, the department
181 shall furnish the applicant a statement containing its findings,
182 a complete record of the evidence upon which the determination
183 was based, and a notice of the rights of the applicant to a
184 rehearing and appeal.

185 (d) The council shall establish by rule the required amount
186 of prelicensure education, which shall consist of not more than
187 24 hours of in-person instruction by a department-approved
188 provider and which shall cover all areas of the examination
189 specified in subsection (3). Such instruction shall be completed
190 within 12 months prior to the date of the examination.

191 Prelicensure education providers shall be considered continuing
192 education providers for purposes of establishing provider
193 approval fees. A licensee shall not be required to comply with
194 the continuing education requirements of s. 468.4337 prior to the
195 first license renewal. The department shall, by rule, set



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196 standards for exceptions to the requirement of in-person
197 instruction in cases of hardship or disability.

198 (4) The department shall issue a license to practice in
199 this state as a community association manager to any qualified
200 applicant who successfully completes the examination in
201 accordance with this section and pays the appropriate fee.

202 Section 5. Section 468.436, Florida Statutes, is amended to
203 read:

204 468.436 Disciplinary proceedings.--

205 (1) The department shall investigate complaints and
206 allegations of a violation of this part or chapter 455, or any
207 rule adopted thereunder, which is filed against a community
208 association manager or firm or forwarded from other divisions
209 under the Department of Business and Professional Regulation.
210 After a complaint is received, the department shall conduct an
211 inquiry with due regard to the interests of the affected parties.
212 Within 30 days after the date on which a complaint is received,
213 the department shall acknowledge the complaint in writing and
214 notify the complainant whether or not the complaint is within the
215 jurisdiction of the department and whether or not additional
216 information is needed by the department from the complainant. The
217 department shall conduct an investigation and shall, within 90
218 days after the date on which the original complaint is received
219 or within 90 days after a timely request for additional
220 information, take action upon the complaint. However, the failure
221 to complete the investigation within 90 days does not prevent the
222 department from continuing the investigation, accepting or
223 considering evidence obtained or received after 90 days, or
224 taking administrative action if reasonable cause exists to
225 believe that a violation of this part, chapter 455, or a rule of



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226 the department has occurred. If an investigation is not completed
227 within the time limits established in this subsection, the
228 department shall, on a monthly basis, notify the complainant in
229 writing of the status of the investigation. When reporting its
230 action to the complainant, the department shall inform the
231 complainant of any right to a hearing pursuant to ss. 120.569 and
232 120.57.

233 (2)~~(1)~~ The following acts constitute grounds for which the
234 disciplinary actions in subsection (4) ~~(3)~~ may be taken:

235 (a) Violation of any provision of s. 455.227(1).

236 (b)1. Violation of any provision of this part.

237 2. Violation of any lawful order or rule rendered or
238 adopted by the department or the council.

239 3. Being convicted of or pleading nolo contendere to a
240 felony in any court in the United States.

241 4. Obtaining a license or certification or any other order,
242 ruling, or authorization by means of fraud, misrepresentation, or
243 concealment of material facts.

244 5. Committing acts of gross misconduct or gross negligence
245 in connection with the profession.

246 6. Contracting, on behalf of an association, with any
247 entity in which the licensee has a financial interest that is not
248 disclosed.

249 (3)~~(2)~~ The council shall specify by rule the acts or
250 omissions that constitute a violation of subsection (2) ~~(1)~~.

251 (4)~~(3)~~ When the department finds any community association
252 manager or firm guilty of any of the grounds set forth in
253 subsection (2) ~~(1)~~, it may enter an order imposing one or more of
254 the following penalties:

255 (a) Denial of an application for licensure.



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- 256 (b) Revocation or suspension of a license.
- 257 (c) Imposition of an administrative fine not to exceed
- 258 \$5,000 for each count or separate offense.
- 259 (d) Issuance of a reprimand.
- 260 (e) Placement of the community association manager on
- 261 probation for a period of time and subject to such conditions as
- 262 the department specifies.
- 263 (f) Restriction of the authorized scope of practice by the
- 264 community association manager.

265 (5)(4) The department may ~~shall~~ reissue the license of a
266 disciplined community association manager or firm upon
267 certification by the department that the disciplined person or
268 firm has complied with all of the terms and conditions set forth
269 in the final order.

270 Section 6. Paragraph (d) is added to subsection (1) of
271 section 718.111, Florida Statutes, and subsections (12) and (13)
272 of that section are amended, to read:

273 718.111 The association.--

274 (1) CORPORATE ENTITY.--

275 (d) As required by s. 617.0830, an officer, director, or
276 agent shall discharge his or her duties in good faith, with the
277 care an ordinarily prudent person in a like position would
278 exercise under similar circumstances, and in a manner he or she
279 reasonably believes to be in the interests of the association.
280 Regardless of any indemnification provision in the documents or
281 contract, an officer, director, or agent is liable for monetary
282 damages as provided in s. 617.0834 if such officer, director, or
283 agent breached or failed to perform his or her duties and the
284 breach of, or failure to perform, his or her duties constitutes a
285 violation of state law as provided in s. 617.0834, a transaction



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286 from which the officer or director derived an improper personal
287 benefit, either directly or indirectly, or recklessness or an act
288 or omission performed or omitted in bad faith, with malicious
289 purpose, or in a manner exhibiting wanton and willful disregard
290 of human rights, safety, or property.

291 (12) OFFICIAL RECORDS.--

292 (a) From the inception of the association, the association
293 shall maintain each of the following items, when applicable,
294 which shall constitute the official records of the association:

295 1. A copy of the plans, permits, warranties, and other
296 items provided by the developer pursuant to s. 718.301(4).

297 2. A photocopy of the recorded declaration of condominium
298 of each condominium operated by the association and of each
299 amendment to each declaration.

300 3. A photocopy of the recorded bylaws of the association
301 and of each amendment to the bylaws.

302 4. A certified copy of the articles of incorporation of the
303 association, or other documents creating the association, and of
304 each amendment thereto.

305 5. A copy of the current rules of the association.

306 6. A book or books which contain the minutes of all
307 meetings of the association, of the board of administration
308 ~~directors~~, and of unit owners, which minutes shall be retained
309 for a period of not less than 7 years.

310 7. A current roster of all unit owners and their mailing
311 addresses, unit identifications, voting certifications, and, if
312 known, telephone numbers. The association shall also maintain the
313 electronic mailing addresses and the numbers designated by unit
314 owners for receiving notice sent by electronic transmission of
315 those unit owners consenting to receive notice by electronic



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316 transmission. The electronic mailing addresses and numbers
317 provided by unit owners to receive notice by electronic
318 transmission shall be removed from association records when
319 consent to receive notice by electronic transmission is revoked.
320 However, the association is not liable for an erroneous
321 disclosure of the electronic mail address or the number for
322 receiving electronic transmission of notices.

323 8. All current insurance policies of the association and
324 condominiums operated by the association.

325 9. A current copy of any management agreement, lease, or
326 other contract to which the association is a party or under which
327 the association or the unit owners have an obligation or
328 responsibility.

329 10. Bills of sale or transfer for all property owned by the
330 association.

331 11. Accounting records for the association and separate
332 accounting records for each condominium which the association
333 operates. All accounting records shall be maintained for a period
334 of not less than 7 years. Any person who knowingly or
335 intentionally defaces or destroys accounting records required to
336 be maintained by this chapter, or who knowingly or intentionally
337 fails to create or maintain accounting records required to be
338 maintained by this chapter, is personally subject to a civil
339 penalty pursuant to s. 718.501(1)(d). The accounting records
340 shall include, but are not limited to:

341 a. Accurate, itemized, and detailed records of all receipts
342 and expenditures.

343 b. A current account and a monthly, bimonthly, or quarterly
344 statement of the account for each unit designating the name of



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345 the unit owner, the due date and amount of each assessment, the
346 amount paid upon the account, and the balance due.

347 c. All audits, reviews, accounting statements, and
348 financial reports of the association or condominium.

349 d. All contracts for work to be performed. Bids for work to
350 be performed shall also be considered official records and shall
351 be maintained by the association ~~for a period of 1 year~~.

352 12. Ballots, sign-in sheets, voting proxies, and all other
353 papers relating to voting by unit owners, which shall be
354 maintained for a period of 1 year from the date of the election,
355 vote, or meeting to which the document relates, notwithstanding
356 paragraph (b).

357 13. All rental records, when the association is acting as
358 agent for the rental of condominium units.

359 14. A copy of the current question and answer sheet as
360 described by s. 718.504.

361 15. All other records of the association not specifically
362 included in the foregoing which are related to the operation of
363 the association.

364 16. A copy of the inspection report as described in s.
365 718.301(4)(p).

366 (b) The official records of the association shall be
367 maintained within the state for at least 7 years. The records of
368 the association shall be made available to a unit owner within 45
369 miles of the condominium property within 5 working days after
370 receipt of written request by the board or its designee. However,
371 such distance requirement does not apply to an association
372 governing a timeshare condominium. This paragraph may be complied
373 with by having a copy of the official records of the association
374 available for inspection or copying on the condominium property



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375 or association property. The association may offer the option of
376 making the records of the association available to a unit owner
377 electronically via the Internet or by allowing the records to be
378 viewed in electronic format on a computer screen and printed upon
379 request.

380 (c) The official records of the association are open to
381 inspection by any association member or the authorized
382 representative of such member at all reasonable times. The right
383 to inspect the records includes the right to make or obtain
384 copies, at the reasonable expense, if any, of the association
385 member. The association may adopt reasonable rules regarding the
386 frequency, time, location, notice, and manner of record
387 inspections and copying. The failure of an association to provide
388 the records within 10 working days after receipt of a written
389 request shall create a rebuttable presumption that the
390 association willfully failed to comply with this paragraph. A
391 unit owner who is denied access to official records is entitled
392 to the actual damages or minimum damages for the association's
393 willful failure to comply with this paragraph. The minimum
394 damages shall be \$50 per calendar day up to 10 days, the
395 calculation to begin on the 11th working day after receipt of the
396 written request. The failure to permit inspection of the
397 association records as provided herein entitles any person
398 prevailing in an enforcement action to recover reasonable
399 attorney's fees from the person in control of the records who,
400 directly or indirectly, knowingly denied access to the records
401 for inspection. Any person who knowingly or intentionally defaces
402 or destroys accounting records that are required by this chapter,
403 or knowingly or intentionally fails to create or maintain
404 accounting records that are required by this chapter, is



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405 personally subject to a civil penalty pursuant to s.
406 718.501(1)(d). The association shall maintain an adequate number
407 of copies of the declaration, articles of incorporation, bylaws,
408 and rules, and all amendments to each of the foregoing, as well
409 as the question and answer sheet provided for in s. 718.504 and
410 year-end financial information required in this section on the
411 condominium property to ensure their availability to unit owners
412 and prospective purchasers, and may charge its actual costs for
413 preparing and furnishing these documents to those requesting the
414 same. Notwithstanding the provisions of this paragraph, the
415 following records shall not be accessible to unit owners:

416 1. Any record protected by the lawyer-client privilege as
417 described in s. 90.502; and any record protected by the work-
418 product privilege, including any record prepared by an
419 association attorney or prepared at the attorney's express
420 direction; which reflects a mental impression, conclusion,
421 litigation strategy, or legal theory of the attorney or the
422 association, and which was prepared exclusively for civil or
423 criminal litigation or for adversarial administrative
424 proceedings, or which was prepared in anticipation of imminent
425 civil or criminal litigation or imminent adversarial
426 administrative proceedings until the conclusion of the litigation
427 or adversarial administrative proceedings.

428 2. Information obtained by an association in connection
429 with the approval of the lease, sale, or other transfer of a
430 unit.

431 3. Medical records of unit owners.

432 4. Social security numbers, driver's license numbers,
433 credit card numbers, and other personal identifying information
434 of any person.



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435 (d) The association shall prepare a question and answer
436 sheet as described in s. 718.504, and shall update it annually.

437 (e)1. The association or its authorized agent is not
438 required to provide a prospective purchaser or lienholder with
439 information about the condominium or the association other than
440 information or documents required by this chapter to be made
441 available or disclosed. The association or its authorized agent
442 may charge a reasonable fee to the prospective purchaser,
443 lienholder, or the current unit owner for providing good faith
444 responses to requests for information by or on behalf of a
445 prospective purchaser or lienholder, other than that required by
446 law, if the fee does not exceed \$150 plus the reasonable cost of
447 photocopying and any attorney's fees incurred by the association
448 in connection with the response.

449 2. An association and its authorized agent are not liable
450 for providing such information in good faith pursuant to a
451 written request if the person providing the information includes
452 a written statement in substantially the following form: "The
453 responses herein are made in good faith and to the best of my
454 ability as to their accuracy."

455 (13) FINANCIAL REPORTING.--Within 90 days after the end of
456 the fiscal year, or annually on a date provided in the bylaws,
457 the association shall prepare and complete, or contract for the
458 preparation and completion of, a financial report for the
459 preceding fiscal year. Within 21 days after the final financial
460 report is completed by the association or received from the third
461 party, but not later than 120 days after the end of the fiscal
462 year or other date as provided in the bylaws, the association
463 shall mail to each unit owner at the address last furnished to
464 the association by the unit owner, or hand deliver to each unit



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465 owner, a copy of the financial report or a notice that a copy of
466 the financial report will be mailed or hand delivered to the unit
467 owner, without charge, upon receipt of a written request from the
468 unit owner. The division shall adopt rules setting forth uniform
469 accounting principles and standards to be used by all
470 associations and shall adopt rules addressing financial reporting
471 requirements for multicondominium associations. The rules shall
472 include, but need not be limited to, uniform accounting
473 principles and standards for stating the disclosure of at least a
474 summary of the reserves, including information as to whether such
475 reserves are being funded at a level sufficient to prevent the
476 need for a special assessment and, if not, the amount of
477 assessments necessary to bring the reserves up to the level
478 necessary to avoid a special assessment. The person preparing the
479 financial reports is entitled to rely on an inspection report
480 prepared for or provided to the association to meet the fiscal
481 and fiduciary standards of this chapter. In adopting such rules,
482 the division shall consider the number of members and annual
483 revenues of an association. Financial reports shall be prepared
484 as follows:

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

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



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493 2. An association with total annual revenues of at least
494 \$200,000, but less than \$400,000, shall prepare reviewed
495 financial statements.

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

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

501 2. An association which operates less than 50 units,
502 regardless of the association's annual revenues, shall prepare a
503 report of cash receipts and expenditures in lieu of financial
504 statements required by paragraph (a).

505 3. A report of cash receipts and disbursements must
506 disclose the amount of receipts by accounts and receipt
507 classifications and the amount of expenses by accounts and
508 expense classifications, including, but not limited to, the
509 following, as applicable: costs for security, professional and
510 management fees and expenses, taxes, costs for recreation
511 facilities, expenses for refuse collection and utility services,
512 expenses for lawn care, costs for building maintenance and
513 repair, insurance costs, administration and salary expenses, and
514 reserves accumulated and expended for capital expenditures,
515 deferred maintenance, and any other category for which the
516 association maintains reserves.

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

519 1. Compiled, reviewed, or audited financial statements, if
520 the association is required to prepare a report of cash receipts
521 and expenditures;



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522 2. Reviewed or audited financial statements, if the
523 association is required to prepare compiled financial statements;
524 or

525 3. Audited financial statements if the association is
526 required to prepare reviewed financial statements.

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

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

532 2. A report of cash receipts and expenditures or a compiled
533 financial statement in lieu of a reviewed or audited financial
534 statement; or

535 3. A report of cash receipts and expenditures, a compiled
536 financial statement, or a reviewed financial statement in lieu of
537 an audited financial statement.

538
539 Such meeting and approval must occur prior to the end of the
540 fiscal year and is effective only for the fiscal year in which
541 the vote is taken. With respect to an association to which the
542 developer has not turned over control of the association, all
543 unit owners, including the developer, may vote on issues related
544 to the preparation of financial reports for the first 2 fiscal
545 years of the association's operation, beginning with the fiscal
546 year in which the declaration is recorded. Thereafter, all unit
547 owners except the developer may vote on such issues until control
548 is turned over to the association by the developer. Any audit or
549 review prepared under this section shall be paid for by the
550 developer if done before control of the association is turned



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551 over. An association may not waive the financial reporting
552 requirements of this section for more than 2 consecutive years.

553 Section 7. Subsection (2) of section 718.112, Florida
554 Statutes, is amended to read:

555 718.112 Bylaws.--

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

559 (a) Administration.--

560 1. The form of administration of the association shall be
561 described indicating the title of the officers and board of
562 administration and specifying the powers, duties, manner of
563 selection and removal, and compensation, if any, of officers and
564 boards. In the absence of such a provision, the board of
565 administration shall be composed of five members, except in the
566 case of a condominium which has five or fewer units, in which
567 case in a not-for-profit corporation the board shall consist of
568 not fewer than three members. In the absence of provisions to the
569 contrary in the bylaws, the board of administration shall have a
570 president, a secretary, and a treasurer, who shall perform the
571 duties of such officers customarily performed by officers of
572 corporations. Unless prohibited in the bylaws, the board of
573 administration may appoint other officers and grant them the
574 duties it deems appropriate. Unless otherwise provided in the
575 bylaws, the officers shall serve without compensation and at the
576 pleasure of the board of administration. Unless otherwise
577 provided in the bylaws, the members of the board shall serve
578 without compensation.

579 2. When a unit owner files a written inquiry by certified
580 mail with the board of administration, the board shall respond in



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581 writing to the unit owner within 30 days of receipt of the
582 inquiry. The board's response shall either give a substantive
583 response to the inquirer, notify the inquirer that a legal
584 opinion has been requested, or notify the inquirer that advice
585 has been requested from the division. If the board requests
586 advice from the division, the board shall, within 10 days of its
587 receipt of the advice, provide in writing a substantive response
588 to the inquirer. If a legal opinion is requested, the board
589 shall, within 60 days after the receipt of the inquiry, provide
590 in writing a substantive response to the inquiry. The failure to
591 provide a substantive response to the inquiry as provided herein
592 precludes the board from recovering attorney's fees and costs in
593 any subsequent litigation, administrative proceeding, or
594 arbitration arising out of the inquiry. The association may
595 through its board of administration adopt reasonable rules and
596 regulations regarding the frequency and manner of responding to
597 unit owner inquiries, one of which may be that the association is
598 only obligated to respond to one written inquiry per unit in any
599 given 30-day period. In such a case, any additional inquiry or
600 inquiries must be responded to in the subsequent 30-day period,
601 or periods, as applicable.

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

603 1. Unless a lower number is provided in the bylaws, the
604 percentage of voting interests required to constitute a quorum at
605 a meeting of the members shall be a majority of the voting
606 interests. Unless otherwise provided in this chapter or in the
607 declaration, articles of incorporation, or bylaws, and except as
608 provided in subparagraph (d)3., decisions shall be made by owners
609 of a majority of the voting interests represented at a meeting at
610 which a quorum is present.



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611 2. Except as specifically otherwise provided herein, after
612 January 1, 1992, unit owners may not vote by general proxy, but
613 may vote by limited proxies substantially conforming to a limited
614 proxy form adopted by the division. A voting interest or consent
615 right allocated to a unit owned by the association may not be
616 exercised or considered for any purpose, whether for a quorum, an
617 election, or otherwise. Limited proxies and general proxies may
618 be used to establish a quorum. Limited proxies shall be used for
619 votes taken to waive or reduce reserves in accordance with
620 subparagraph (f)2.; for votes taken to waive the financial
621 reporting requirements of s. 718.111(13); for votes taken to
622 amend the declaration pursuant to s. 718.110; for votes taken to
623 amend the articles of incorporation or bylaws pursuant to this
624 section; and for any other matter for which this chapter requires
625 or permits a vote of the unit owners. Except as provided in
626 paragraph (d), after January 1, 1992, no proxy, limited or
627 general, shall be used in the election of board members. General
628 proxies may be used for other matters for which limited proxies
629 are not required, and may also be used in voting for
630 nonsubstantive changes to items for which a limited proxy is
631 required and given. Notwithstanding the provisions of this
632 subparagraph, unit owners may vote in person at unit owner
633 meetings. Nothing contained herein shall limit the use of general
634 proxies or require the use of limited proxies for any agenda item
635 or election at any meeting of a timeshare condominium
636 association.

637 3. Any proxy given shall be effective only for the specific
638 meeting for which originally given and any lawfully adjourned
639 meetings thereof. In no event shall any proxy be valid for a
640 period longer than 90 days after the date of the first meeting



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641 for which it was given. Every proxy is revocable at any time at
642 the pleasure of the unit owner executing it.

643 4. A member of the board of administration or a committee
644 may submit in writing his or her agreement or disagreement with
645 any action taken at a meeting that the member did not attend.
646 This agreement or disagreement may not be used as a vote for or
647 against the action taken and may not be used for the purposes of
648 creating a quorum.

649 5. When any of the board or committee members meet by
650 telephone conference, those board or committee members attending
651 by telephone conference may be counted toward obtaining a quorum
652 and may vote by telephone. A telephone speaker must be used so
653 that the conversation of those board or committee members
654 attending by telephone may be heard by the board or committee
655 members attending in person as well as by any unit owners present
656 at a meeting.

657 (c) Board of administration meetings.--Meetings of the
658 board of administration at which a quorum of the members is
659 present shall be open to all unit owners. Any unit owner may tape
660 record or videotape meetings of the board of administration. The
661 right to attend such meetings includes the right to speak at such
662 meetings with reference to all designated agenda items. The
663 division shall adopt reasonable rules governing the tape
664 recording and videotaping of the meeting. The association may
665 adopt written reasonable rules governing the frequency, duration,
666 and manner of unit owner statements. Adequate notice of all
667 meetings, which notice shall specifically incorporate an
668 identification of agenda items, shall be posted conspicuously on
669 the condominium property at least 48 continuous hours preceding
670 the meeting except in an emergency. If 20 percent of the voting



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671 | interests petition the board to address an item of business, the
672 | board shall at its next regular board meeting or at a special
673 | meeting of the board, but not later than 60 days after the
674 | receipt of the petition, place the item on the agenda. Any item
675 | not included on the notice may be taken up on an emergency basis
676 | by at least a majority plus one of the members of the board. Such
677 | emergency action shall be noticed and ratified at the next
678 | regular meeting of the board. However, written notice of any
679 | meeting at which nonemergency special assessments, or at which
680 | amendment to rules regarding unit use, will be considered shall
681 | be mailed, delivered, or electronically transmitted to the unit
682 | owners and posted conspicuously on the condominium property not
683 | less than 14 days prior to the meeting. Evidence of compliance
684 | with this 14-day notice shall be made by an affidavit executed by
685 | the person providing the notice and filed among the official
686 | records of the association. Upon notice to the unit owners, the
687 | board shall by duly adopted rule designate a specific location on
688 | the condominium property or association property upon which all
689 | notices of board meetings shall be posted. If there is no
690 | condominium property or association property upon which notices
691 | can be posted, notices of board meetings shall be mailed,
692 | delivered, or electronically transmitted at least 14 days before
693 | the meeting to the owner of each unit. In lieu of or in addition
694 | to the physical posting of notice of any meeting of the board of
695 | administration on the condominium property, the association may,
696 | by reasonable rule, adopt a procedure for conspicuously posting
697 | and repeatedly broadcasting the notice and the agenda on a
698 | closed-circuit cable television system serving the condominium
699 | association. However, if broadcast notice is used in lieu of a
700 | notice posted physically on the condominium property, the notice



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701 and agenda must be broadcast at least four times every broadcast
702 hour of each day that a posted notice is otherwise required under
703 this section. When broadcast notice is provided, the notice and
704 agenda must be broadcast in a manner and for a sufficient
705 continuous length of time so as to allow an average reader to
706 observe the notice and read and comprehend the entire content of
707 the notice and the agenda. Notice of any meeting in which regular
708 or special assessments against unit owners are to be considered
709 for any reason shall specifically state ~~contain a statement~~ that
710 assessments will be considered and the nature, estimated cost,
711 and description of the purposes for ~~any~~ such assessments.
712 Meetings of a committee to take final action on behalf of the
713 board or make recommendations to the board regarding the
714 association budget are subject to the provisions of this
715 paragraph. Meetings of a committee that does not take final
716 action on behalf of the board or make recommendations to the
717 board regarding the association budget are subject to the
718 provisions of this section, unless those meetings are exempted
719 from this section by the bylaws of the association.
720 Notwithstanding any other law, the requirement that board
721 meetings and committee meetings be open to the unit owners is
722 inapplicable to meetings between the board or a committee and the
723 association's attorney, with respect to proposed or pending
724 litigation, when the meeting is held for the purpose of seeking
725 or rendering legal advice.

726 (d) Unit owner meetings.--

727 1. There shall be an annual meeting of the unit owners held
728 at the location provided in the association bylaws and, if the
729 bylaws are silent as to the location, the meeting shall be held
730 within 45 miles of the condominium property. However, such



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731 distance requirement does not apply to an association governing a
732 timeshare condominium. Unless the bylaws provide otherwise, a
733 vacancy on the board caused by the expiration of a director's
734 term shall be filled by electing a new board member, and the
735 election shall be by secret ballot; however, if the number of
736 vacancies equals or exceeds the number of candidates, no election
737 is required. ~~If there is no provision in the bylaws for terms of~~
738 ~~the members of the board,~~ The terms of all members of the board
739 shall expire ~~upon the election of their successors~~ at the annual
740 meeting and such board members may stand for reelection. However,
741 if no person is interested in or demonstrates an intention to run
742 for the position of a board member whose term has expired
743 according to the provisions of this subparagraph, such board
744 member shall be automatically reappointed to the board of
745 administration and need not stand for reelection. In a
746 condominium association of more than 10 units, coowners of a unit
747 may not serve as members of the board of directors at the same
748 time. Any unit owner desiring to be a candidate for board
749 membership shall comply with subparagraph 3. A person who has
750 been suspended or removed by the division under this chapter, or
751 who is delinquent in the payment of any fee or assessment as
752 provided in paragraph (n), is not eligible for membership on the
753 board. A person who has been convicted of any felony in this
754 state or by any court of record in the a United States District
755 or Territorial Court, or who has been convicted of any offense in
756 another jurisdiction which would be considered a felony if
757 committed in this state, and who has not had his or her right to
758 vote restored pursuant to law in the jurisdiction of his or her
759 residence is not eligible for board membership unless such
760 felon's civil rights have been restored for a period of not less



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761 than 5 years as of the date on which such person seeks election
762 to the board. The validity of an action by the board is not
763 affected if it is later determined that a member of the board is
764 ineligible for board membership due to having been convicted of a
765 felony.

766 2. The bylaws shall provide the method of calling meetings
767 of unit owners, including annual meetings. Written notice, which
768 notice must include an agenda, shall be mailed, hand delivered,
769 or electronically transmitted to each unit owner at least 14 days
770 prior to the annual meeting and shall be posted in a conspicuous
771 place on the condominium property at least 14 continuous days
772 preceding the annual meeting. Upon notice to the unit owners, the
773 board shall by duly adopted rule designate a specific location on
774 the condominium property or association property upon which all
775 notices of unit owner meetings shall be posted; however, if there
776 is no condominium property or association property upon which
777 notices can be posted, this requirement does not apply. In lieu
778 of or in addition to the physical posting of notice of any
779 meeting of the unit owners on the condominium property, the
780 association may, by reasonable rule, adopt a procedure for
781 conspicuously posting and repeatedly broadcasting the notice and
782 the agenda on a closed-circuit cable television system serving
783 the condominium association. However, if broadcast notice is used
784 in lieu of a notice posted physically on the condominium
785 property, the notice and agenda must be broadcast at least four
786 times every broadcast hour of each day that a posted notice is
787 otherwise required under this section. When broadcast notice is
788 provided, the notice and agenda must be broadcast in a manner and
789 for a sufficient continuous length of time so as to allow an
790 average reader to observe the notice and read and comprehend the



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791 entire content of the notice and the agenda. Unless a unit owner
792 waives in writing the right to receive notice of the annual
793 meeting, such notice shall be hand delivered, mailed, or
794 electronically transmitted to each unit owner. Notice for
795 meetings and notice for all other purposes shall be mailed to
796 each unit owner at the address last furnished to the association
797 by the unit owner, or hand delivered to each unit owner. However,
798 if a unit is owned by more than one person, the association shall
799 provide notice, for meetings and all other purposes, to that one
800 address which the developer initially identifies for that purpose
801 and thereafter as one or more of the owners of the unit shall so
802 advise the association in writing, or if no address is given or
803 the owners of the unit do not agree, to the address provided on
804 the deed of record. An officer of the association, or the manager
805 or other person providing notice of the association meeting,
806 shall provide an affidavit or United States Postal Service
807 certificate of mailing, to be included in the official records of
808 the association affirming that the notice was mailed or hand
809 delivered, in accordance with this provision.

810 3. The members of the board shall be elected by written
811 ballot or voting machine. Proxies shall in no event be used in
812 electing the board, either in general elections or elections to
813 fill vacancies caused by recall, resignation, or otherwise,
814 unless otherwise provided in this chapter. Not less than 60 days
815 before a scheduled election, the association shall mail, deliver,
816 or electronically transmit, whether by separate association
817 mailing or included in another association mailing, delivery, or
818 transmission, including regularly published newsletters, to each
819 unit owner entitled to a vote, a first notice of the date of the
820 election along with a certification form provided by the division



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821 | attesting that he or she has read and understands, to the best of
822 | his or her ability, the governing documents of the association
823 | and the provisions of this chapter and any applicable rules. Any
824 | unit owner or other eligible person desiring to be a candidate
825 | for the board must give written notice to the association not
826 | less than 40 days before a scheduled election. Together with the
827 | written notice and agenda as set forth in subparagraph 2., the
828 | association shall mail, deliver, or electronically transmit a
829 | second notice of the election to all unit owners entitled to vote
830 | therein, together with a ballot which shall list all candidates.
831 | Upon request of a candidate, the association shall include an
832 | information sheet, no larger than 8 1/2 inches by 11 inches, which
833 | must be furnished by the candidate not less than 35 days before
834 | the election, along with the signed certification form provided
835 | for in this subparagraph, to be included with the mailing,
836 | delivery, or transmission of the ballot, with the costs of
837 | mailing, delivery, or electronic transmission and copying to be
838 | borne by the association. The association is not liable for the
839 | contents of the information sheets prepared by the candidates. In
840 | order to reduce costs, the association may print or duplicate the
841 | information sheets on both sides of the paper. The division shall
842 | by rule establish voting procedures consistent with the
843 | provisions contained herein, including rules establishing
844 | procedures for giving notice by electronic transmission and rules
845 | providing for the secrecy of ballots. Elections shall be decided
846 | by a plurality of those ballots cast. There shall be no quorum
847 | requirement; however, at least 20 percent of the eligible voters
848 | must cast a ballot in order to have a valid election of members
849 | of the board. No unit owner shall permit any other person to vote
850 | his or her ballot, and any such ballots improperly cast shall be



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851 deemed invalid, provided any unit owner who violates this
852 provision may be fined by the association in accordance with s.
853 718.303. A unit owner who needs assistance in casting the ballot
854 for the reasons stated in s. 101.051 may obtain assistance in
855 casting the ballot. The regular election shall occur on the date
856 of the annual meeting. The provisions of this subparagraph shall
857 not apply to timeshare condominium associations. Notwithstanding
858 the provisions of this subparagraph, an election is not required
859 unless more candidates file notices of intent to run or are
860 nominated than board vacancies exist.

861 4. Any approval by unit owners called for by this chapter
862 or the applicable declaration or bylaws, including, but not
863 limited to, the approval requirement in s. 718.111(8), shall be
864 made at a duly noticed meeting of unit owners and shall be
865 subject to all requirements of this chapter or the applicable
866 condominium documents relating to unit owner decisionmaking,
867 except that unit owners may take action by written agreement,
868 without meetings, on matters for which action by written
869 agreement without meetings is expressly allowed by the applicable
870 bylaws or declaration or any statute that provides for such
871 action.

872 5. Unit owners may waive notice of specific meetings if
873 allowed by the applicable bylaws or declaration or any statute.
874 If authorized by the bylaws, notice of meetings of the board of
875 administration, unit owner meetings, except unit owner meetings
876 called to recall board members under paragraph (j), and committee
877 meetings may be given by electronic transmission to unit owners
878 who consent to receive notice by electronic transmission.

879 6. Unit owners shall have the right to participate in
880 meetings of unit owners with reference to all designated agenda



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881 items. However, the association may adopt reasonable rules
882 governing the frequency, duration, and manner of unit owner
883 participation.

884 7. Any unit owner may tape record or videotape a meeting of
885 the unit owners subject to reasonable rules adopted by the
886 division.

887 8. Unless otherwise provided in the bylaws, any vacancy
888 occurring on the board before the expiration of a term may be
889 filled by the affirmative vote of the majority of the remaining
890 directors, even if the remaining directors constitute less than a
891 quorum, or by the sole remaining director. In the alternative, a
892 board may hold an election to fill the vacancy, in which case the
893 election procedures must conform to the requirements of
894 subparagraph 3. unless the association governs 10 units or fewer
895 and has opted out of the statutory election process, in which
896 case the bylaws of the association control. Unless otherwise
897 provided in the bylaws, a board member appointed or elected under
898 this section shall fill the vacancy for the unexpired term of the
899 seat being filled. Filling vacancies created by recall is
900 governed by paragraph (j) and rules adopted by the division.

901
902 Notwithstanding subparagraphs (b)2. and (d)3., an association of
903 10 or fewer units may, by the affirmative vote of a majority of
904 the total voting interests, provide for different voting and
905 election procedures in its bylaws, which vote may be by a proxy
906 specifically delineating the different voting and election
907 procedures. The different voting and election procedures may
908 provide for elections to be conducted by limited or general
909 proxy.

910 (e) Budget meeting.--



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911 | 1. Any meeting at which a proposed annual budget of an
912 | association will be considered by the board or unit owners shall
913 | be open to all unit owners. At least 14 days prior to such a
914 | meeting, the board shall hand deliver to each unit owner, mail to
915 | each unit owner at the address last furnished to the association
916 | by the unit owner, or electronically transmit to the location
917 | furnished by the unit owner for that purpose a notice of such
918 | meeting and a copy of the proposed annual budget. An officer or
919 | manager of the association, or other person providing notice of
920 | such meeting, shall execute an affidavit evidencing compliance
921 | with such notice requirement, and such affidavit shall be filed
922 | among the official records of the association.

923 | 2.a. If a board adopts in any fiscal year an annual budget
924 | which requires assessments against unit owners which exceed 115
925 | percent of assessments for the preceding fiscal year, the board
926 | shall conduct a special meeting of the unit owners to consider a
927 | substitute budget if the board receives, within 21 days after
928 | adoption of the annual budget, a written request for a special
929 | meeting from at least 10 percent of all voting interests. The
930 | special meeting shall be conducted within 60 days after adoption
931 | of the annual budget. At least 14 days prior to such special
932 | meeting, the board shall hand deliver to each unit owner, or mail
933 | to each unit owner at the address last furnished to the
934 | association, a notice of the meeting. An officer or manager of
935 | the association, or other person providing notice of such meeting
936 | shall execute an affidavit evidencing compliance with this notice
937 | requirement, and such affidavit shall be filed among the official
938 | records of the association. Unit owners may consider and adopt a
939 | substitute budget at the special meeting. A substitute budget is
940 | adopted if approved by a majority of all voting interests unless



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941 the bylaws require adoption by a greater percentage of voting
942 interests. If there is not a quorum at the special meeting or a
943 substitute budget is not adopted, the annual budget previously
944 adopted by the board shall take effect as scheduled.

945 b. Any determination of whether assessments exceed 115
946 percent of assessments for the prior fiscal year shall exclude
947 any authorized provision for reasonable reserves for repair or
948 replacement of the condominium property, anticipated expenses of
949 the association which the board does not expect to be incurred on
950 a regular or annual basis, or assessments for betterments to the
951 condominium property.

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

955 (f) Annual budget.--

956 1. The proposed annual budget of estimated revenues and
957 ~~common~~ expenses shall be detailed and shall show the amounts
958 budgeted by accounts and expense classifications, including, if
959 applicable, but not limited to, those expenses listed in s.
960 718.504(21). A multicondominium association shall adopt a
961 separate budget of common expenses for each condominium the
962 association operates and shall adopt a separate budget of common
963 expenses for the association. In addition, if the association
964 maintains limited common elements with the cost to be shared only
965 by those entitled to use the limited common elements as provided
966 for in s. 718.113(1), the budget or a schedule attached thereto
967 shall show amounts budgeted therefor. If, after turnover of
968 control of the association to the unit owners, any of the
969 expenses listed in s. 718.504(21) are not applicable, they need
970 not be listed.



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971 2. In addition to annual operating expenses, the budget
972 shall include reserve accounts for capital expenditures and
973 deferred maintenance. These accounts shall include, but are not
974 limited to, roof replacement, building painting, and pavement
975 resurfacing, regardless of the amount of deferred maintenance
976 expense or replacement cost, and for any other item for which the
977 deferred maintenance expense or replacement cost exceeds \$10,000.
978 The amount to be reserved shall be computed by means of a formula
979 which is based upon estimated remaining useful life and estimated
980 replacement cost or deferred maintenance expense of each reserve
981 item. The association may adjust replacement reserve assessments
982 annually to take into account any changes in estimates or
983 extension of the useful life of a reserve item caused by deferred
984 maintenance. This subsection does not apply to an adopted budget
985 in which the members of an association have determined, by a
986 majority vote at a duly called meeting of the association, to
987 provide no reserves or less reserves than required by this
988 subsection. However, prior to turnover of control of an
989 association by a developer to unit owners other than a developer
990 pursuant to s. 718.301, the developer may vote to waive the
991 reserves or reduce the funding of reserves for the first 2 fiscal
992 years of the association's operation, beginning with the fiscal
993 year in which the initial declaration is recorded, after which
994 time reserves may be waived or reduced only upon the vote of a
995 majority of all nondeveloper voting interests voting in person or
996 by limited proxy at a duly called meeting of the association. If
997 a meeting of the unit owners has been called to determine whether
998 to waive or reduce the funding of reserves, and no such result is
999 achieved or a quorum is not attained, the reserves as included in
1000 the budget shall go into effect. After the turnover, the



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1001 developer may vote its voting interest to waive or reduce the
1002 funding of reserves.

1003 3. Reserve funds and any interest accruing thereon shall
1004 remain in the reserve account or accounts, and shall be used only
1005 for authorized reserve expenditures unless their use for other
1006 purposes is approved in advance by a majority vote at a duly
1007 called meeting of the association. Prior to turnover of control
1008 of an association by a developer to unit owners other than the
1009 developer pursuant to s. 718.301, the developer-controlled
1010 association shall not vote to use reserves for purposes other
1011 than that for which they were intended without the approval of a
1012 majority of all nondeveloper voting interests, voting in person
1013 or by limited proxy at a duly called meeting of the association.

1014 4. The only voting interests which are eligible to vote on
1015 questions that involve waiving or reducing the funding of
1016 reserves, or using existing reserve funds for purposes other than
1017 purposes for which the reserves were intended, are the voting
1018 interests of the units subject to assessment to fund the reserves
1019 in question. Proxy questions relating to waiving or reducing the
1020 funding of reserves or using existing reserve funds for purposes
1021 other than purposes for which the reserves were intended must
1022 contain the following statement in capitalized, bold letters in a
1023 font size larger than any other used on the face of the proxy
1024 ballot: WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING
1025 ALTERNATIVE USES OF EXISTING RESERVES MAY RESULT IN UNIT OWNER
1026 LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS
1027 REGARDING THOSE ITEMS.

1028 (g) Assessments.--The manner of collecting from the unit
1029 owners their shares of the common expenses shall be stated in the
1030 bylaws. Assessments shall be made against units not less



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1031 frequently than quarterly in an amount which is not less than
1032 that required to provide funds in advance for payment of all of
1033 the anticipated current operating expenses and for all of the
1034 unpaid operating expenses previously incurred. Nothing in this
1035 paragraph shall preclude the right of an association to
1036 accelerate assessments of an owner delinquent in payment of
1037 common expenses. Accelerated assessments shall be due and payable
1038 on the date the claim of lien is filed. Such accelerated
1039 assessments shall include the amounts due for the remainder of
1040 the budget year in which the claim of lien was filed.

1041 (h) Amendment of bylaws.--

1042 1. The method by which the bylaws may be amended consistent
1043 with the provisions of this chapter shall be stated. If the
1044 bylaws fail to provide a method of amendment, the bylaws may be
1045 amended if the amendment is approved by the owners of not less
1046 than two-thirds of the voting interests.

1047 2. No bylaw shall be revised or amended by reference to its
1048 title or number only. Proposals to amend existing bylaws shall
1049 contain the full text of the bylaws to be amended; new words
1050 shall be inserted in the text underlined, and words to be deleted
1051 shall be lined through with hyphens. However, if the proposed
1052 change is so extensive that this procedure would hinder, rather
1053 than assist, the understanding of the proposed amendment, it is
1054 not necessary to use underlining and hyphens as indicators of
1055 words added or deleted, but, instead, a notation must be inserted
1056 immediately preceding the proposed amendment in substantially the
1057 following language: "Substantial rewording of bylaw. See bylaw
1058 _____ for present text."

1059 3. Nonmaterial errors or omissions in the bylaw process
1060 will not invalidate an otherwise properly promulgated amendment.



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1061 (i) Transfer fees.--No charge shall be made by the
1062 association or any body thereof in connection with the sale,
1063 mortgage, lease, sublease, or other transfer of a unit unless the
1064 association is required to approve such transfer and a fee for
1065 such approval is provided for in the declaration, articles, or
1066 bylaws. Any such fee may be preset, but in no event may such fee
1067 exceed \$100 per applicant other than husband/wife or
1068 parent/dependent child, which are considered one applicant.
1069 However, if the lease or sublease is a renewal of a lease or
1070 sublease with the same lessee or sublessee, no charge shall be
1071 made. The foregoing notwithstanding, an association may, if the
1072 authority to do so appears in the declaration or bylaws, require
1073 that a prospective lessee place a security deposit, in an amount
1074 not to exceed the equivalent of 1 month's rent, into an escrow
1075 account maintained by the association. The security deposit shall
1076 protect against damages to the common elements or association
1077 property. Payment of interest, claims against the deposit,
1078 refunds, and disputes under this paragraph shall be handled in
1079 the same fashion as provided in part II of chapter 83.

1080 (j) Recall of board members.--Subject to the provisions of
1081 s. 718.301, any member of the board of administration may be
1082 recalled and removed from office with or without cause by the
1083 vote or agreement in writing by a majority of all the voting
1084 interests. A special meeting of the unit owners to recall a
1085 member or members of the board of administration may be called by
1086 10 percent of the voting interests giving notice of the meeting
1087 as required for a meeting of unit owners, and the notice shall
1088 state the purpose of the meeting. Electronic transmission may not
1089 be used as a method of giving notice of a meeting called in whole
1090 or in part for this purpose.



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1091 | 1. If the recall is approved by a majority of all voting
1092 | interests by a vote at a meeting, the recall will be effective as
1093 | provided herein. The board shall duly notice and hold a board
1094 | meeting within 5 full business days of the adjournment of the
1095 | unit owner meeting to recall one or more board members. At the
1096 | meeting, the board shall either certify the recall, in which case
1097 | such member or members shall be recalled effective immediately
1098 | and shall turn over to the board within 5 full business days any
1099 | and all records and property of the association in their
1100 | possession, or shall proceed as set forth in subparagraph 3.

1101 | 2. If the proposed recall is by an agreement in writing by
1102 | a majority of all voting interests, the agreement in writing or a
1103 | copy thereof shall be served on the association by certified mail
1104 | or by personal service in the manner authorized by chapter 48 and
1105 | the Florida Rules of Civil Procedure. The board of administration
1106 | shall duly notice and hold a meeting of the board within 5 full
1107 | business days after receipt of the agreement in writing. At the
1108 | meeting, the board shall either certify the written agreement to
1109 | recall a member or members of the board, in which case such
1110 | member or members shall be recalled effective immediately and
1111 | shall turn over to the board within 5 full business days any and
1112 | all records and property of the association in their possession,
1113 | or proceed as described in subparagraph 3.

1114 | 3. If the board determines not to certify the written
1115 | agreement to recall a member or members of the board, or does not
1116 | certify the recall by a vote at a meeting, the board shall,
1117 | within 5 full business days after the meeting, file with the
1118 | division a petition for arbitration pursuant to the procedures in
1119 | s. 718.1255. For the purposes of this section, the unit owners
1120 | who voted at the meeting or who executed the agreement in writing



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1121 shall constitute one party under the petition for arbitration. If
1122 the arbitrator certifies the recall as to any member or members
1123 of the board, the recall will be effective upon mailing of the
1124 final order of arbitration to the association. If the association
1125 fails to comply with the order of the arbitrator, the division
1126 may take action pursuant to s. 718.501. Any member or members so
1127 recalled shall deliver to the board any and all records of the
1128 association in their possession within 5 full business days of
1129 the effective date of the recall.

1130 4. If the board fails to duly notice and hold a board
1131 meeting within 5 full business days of service of an agreement in
1132 writing or within 5 full business days of the adjournment of the
1133 unit owner recall meeting, the recall shall be deemed effective
1134 and the board members so recalled shall immediately turn over to
1135 the board any and all records and property of the association.

1136 5. If a vacancy occurs on the board as a result of a recall
1137 or removal and less than a majority of the board members are
1138 removed, the vacancy may be filled by the affirmative vote of a
1139 majority of the remaining directors, notwithstanding any
1140 provision to the contrary contained in this subsection. If
1141 vacancies occur on the board as a result of a recall and a
1142 majority or more of the board members are removed, the vacancies
1143 shall be filled in accordance with procedural rules to be adopted
1144 by the division, which rules need not be consistent with this
1145 subsection. The rules must provide procedures governing the
1146 conduct of the recall election as well as the operation of the
1147 association during the period after a recall but prior to the
1148 recall election.

1149 (k) Arbitration.--There shall be a provision for mandatory
1150 nonbinding arbitration as provided for in s. 718.1255.



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1151 (1) Certificate of compliance.--There shall be a provision
1152 that a certificate of compliance from a licensed electrical
1153 contractor or electrician may be accepted by the association's
1154 board as evidence of compliance of the condominium units with the
1155 applicable fire and life safety code. Notwithstanding the
1156 provisions of chapter 633 or of any other code, statute,
1157 ordinance, administrative rule, or regulation, or any
1158 interpretation of the foregoing, an association, condominium, or
1159 unit owner is not obligated to retrofit the common elements or
1160 units of a residential condominium with a fire sprinkler system
1161 or other engineered lifesafety system in a building that has been
1162 certified for occupancy by the applicable governmental entity, if
1163 the unit owners have voted to forego such retrofitting and
1164 engineered lifesafety system by the affirmative vote of two-
1165 thirds of all voting interests in the affected condominium.
1166 However, a condominium association may not vote to forego the
1167 retrofitting with a fire sprinkler system of common areas in a
1168 high-rise building. For purposes of this subsection, the term
1169 "high-rise building" means a building that is greater than 75
1170 feet in height where the building height is measured from the
1171 lowest level of fire department access to the floor of the
1172 highest occupiable story. For purposes of this subsection, the
1173 term "common areas" means any enclosed hallway, corridor, lobby,
1174 stairwell, or entryway. In no event shall the local authority
1175 having jurisdiction require completion of retrofitting of common
1176 areas with a sprinkler system before the end of 2014.

1177 1. A vote to forego retrofitting may be obtained by limited
1178 proxy or by a ballot personally cast at a duly called membership
1179 meeting, or by execution of a written consent by the member, and
1180 shall be effective upon the recording of a certificate attesting



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1181 to such vote in the public records of the county where the
1182 condominium is located. The association shall mail, hand deliver,
1183 or electronically transmit to each unit owner written notice at
1184 least 14 days prior to such membership meeting in which the vote
1185 to forego retrofitting of the required fire sprinkler system is
1186 to take place. Within 30 days after the association's opt-out
1187 vote, notice of the results of the opt-out vote shall be mailed,
1188 hand delivered, or electronically transmitted to all unit owners.
1189 Evidence of compliance with this 30-day notice shall be made by
1190 an affidavit executed by the person providing the notice and
1191 filed among the official records of the association. After such
1192 notice is provided to each owner, a copy of such notice shall be
1193 provided by the current owner to a new owner prior to closing and
1194 shall be provided by a unit owner to a renter prior to signing a
1195 lease.

1196 2. As part of the information collected annually from
1197 condominiums, the division shall require condominium associations
1198 to report the membership vote and recording of a certificate
1199 under this subsection and, if retrofitting has been undertaken,
1200 the per-unit cost of such work. The division shall annually
1201 report to the Division of State Fire Marshal of the Department of
1202 Financial Services the number of condominiums that have elected
1203 to forego retrofitting.

1204 (m) Common elements; limited power to convey.--

1205 1. With respect to condominiums created on or after October
1206 1, 1994, the bylaws shall include a provision granting the
1207 association a limited power to convey a portion of the common
1208 elements to a condemning authority for the purpose of providing
1209 utility easements, right-of-way expansion, or other public



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1210 purposes, whether negotiated or as a result of eminent domain
1211 proceedings.

1212 2. In any case where the bylaws are silent as to the
1213 association's power to convey common elements as described in
1214 subparagraph 1., the bylaws shall be deemed to include the
1215 provision described in subparagraph 1.

1216 (n) Director or officer delinquencies.--A director or
1217 officer who is more than 90 days delinquent in the payment of
1218 regular assessments shall be deemed to have abandoned the office,
1219 creating a vacancy in the office to be filled according to law.

1220 (o) Director and officer offenses.--A director or officer
1221 who is charged with a felony theft or embezzlement offense
1222 involving the association's funds or property shall be removed
1223 from office, creating a vacancy in the office to be filled
1224 according to applicable law. While a criminal charge is pending,
1225 a person may not be appointed or elected to a position as a
1226 director or officer. However, if the charges are resolved without
1227 a finding of guilt, the director or officer shall be reinstated
1228 for the remainder of his or her term of office, if any.

1229 Section 8. Section 718.1124, Florida Statutes, is amended
1230 to read:

1231 718.1124 Failure to fill vacancies on board of
1232 administration sufficient to constitute a quorum; appointment of
1233 receiver upon petition of unit owner.--

1234 (1) If an association fails to fill vacancies on the board
1235 of administration sufficient to constitute a quorum in accordance
1236 with the bylaws, any unit owner may give notice of his or her
1237 intent to apply to the circuit court within whose jurisdiction
1238 the condominium lies for the appointment of a receiver to manage



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1239 the affairs of the association. The form of the notice shall be
1240 as follows:

1241

1242 NOTICE OF INTENT TO APPLY FOR RECEIVERSHIP

1243

1244 YOU ARE HEREBY NOTIFIED that the undersigned owner of a
1245 condominium unit in (name of condominium) intends to
1246 file a petition in the circuit court for appointment of
1247 a receiver to manage the affairs of the association on
1248 the grounds that the association has failed to fill
1249 vacancies on the board of administration sufficient to
1250 constitute a quorum. This petition will not be filed if
1251 the vacancies are filled within 30 days after the date
1252 on which this notice was sent or posted, whichever is
1253 later. If a receiver is appointed, the receiver shall
1254 have all of the powers of the board and shall be
1255 entitled to receive a salary and reimbursement of all
1256 costs and attorney's fees payable from association
1257 funds.

1258

1259 (name and address of petitioning unit owner)

1260

1261 (2) The notice required by subsection (1) must be provided
1262 by ~~At least 30 days prior to applying to the circuit court,~~ the
1263 unit owner ~~shall mail~~ to the association by certified mail or
1264 personal delivery, must be posted ~~and post~~ in a conspicuous place
1265 on the condominium property, and must be provided to every unit
1266 owner of the association by certified mail or personal delivery.
1267 The ~~a~~ notice must be posted and mailed or delivered at least 30
1268 days before the filing of a petition seeking receivership. Notice



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1269 by mail to a unit owner shall be sent to the address used by the
1270 county property appraiser for notice to the unit owner ~~describing~~
1271 ~~the intended action, giving the association the opportunity to~~
1272 ~~fill the vacancies.~~

1273 (3) If during such time the association fails to fill the
1274 vacancies within 30 days after the notice required by subsection
1275 (1) is posted and mailed or delivered, the unit owner may proceed
1276 with the petition.

1277 (4) If a receiver is appointed, all unit owners shall be
1278 given written notice of such appointment as provided in s.
1279 718.127.

1280 (5) The association shall be responsible for the salary of
1281 the receiver, court costs, and attorney's fees. The receiver
1282 shall have all powers and duties of a duly constituted board of
1283 administration and shall serve until the association fills
1284 vacancies on the board sufficient to constitute a quorum and the
1285 court relieves the receiver of the appointment.

1286 Section 9. Section 718.113, Florida Statutes, is amended to
1287 read:

1288 718.113 Maintenance; limitation upon improvement; display
1289 of flag; hurricane shutters; display of religious decorations.--

1290 (1) Maintenance of the common elements is the
1291 responsibility of the association. The declaration may provide
1292 that certain limited common elements shall be maintained by those
1293 entitled to use the limited common elements or that the
1294 association shall provide the maintenance, either as a common
1295 expense or with the cost shared only by those entitled to use the
1296 limited common elements. If the maintenance is to be by the
1297 association at the expense of only those entitled to use the
1298 limited common elements, the declaration shall describe in detail



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1299 | the method of apportioning such costs among those entitled to use
1300 | the limited common elements, and the association may use the
1301 | provisions of s. 718.116 to enforce payment of the shares of such
1302 | costs by the unit owners entitled to use the limited common
1303 | elements.

1304 | (2) (a) Except as otherwise provided in this section, there
1305 | shall be no material alteration or substantial additions to the
1306 | common elements or to real property which is association
1307 | property, except in a manner provided in the declaration as
1308 | originally recorded or as amended under the procedures provided
1309 | therein. If the declaration as originally recorded or as amended
1310 | under the procedures provided therein does not specify the
1311 | procedure for approval of material alterations or substantial
1312 | additions, 75 percent of the total voting interests of the
1313 | association must approve the alterations or additions. This
1314 | paragraph is intended to clarify existing law and applies to
1315 | associations existing on October 1, 2008.

1316 | (b) There shall not be any material alteration of, or
1317 | substantial addition to, the common elements of any condominium
1318 | operated by a multicondominium association unless approved in the
1319 | manner provided in the declaration of the affected condominium or
1320 | condominiums as originally recorded or as amended under the
1321 | procedures provided therein. If a declaration as originally
1322 | recorded or as amended under the procedures provided therein does
1323 | not specify a procedure for approving such an alteration or
1324 | addition, the approval of 75 percent of the total voting
1325 | interests of each affected condominium is required. This
1326 | subsection does not prohibit a provision in any declaration,
1327 | articles of incorporation, or bylaws as originally recorded or as
1328 | amended under the procedures provided therein requiring the



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1329 approval of unit owners in any condominium operated by the same
1330 association or requiring board approval before a material
1331 alteration or substantial addition to the common elements is
1332 permitted. This paragraph is intended to clarify existing law and
1333 applies to associations existing on the effective date of this
1334 act.

1335 (c) There shall not be any material alteration or
1336 substantial addition made to association real property operated
1337 by a multicondominium association, except as provided in the
1338 declaration, articles of incorporation, or bylaws as originally
1339 recorded or as amended under the procedures provided therein. If
1340 the declaration, articles of incorporation, or bylaws as
1341 originally recorded or as amended under the procedures provided
1342 therein do not specify the procedure for approving an alteration
1343 or addition to association real property, the approval of 75
1344 percent of the total voting interests of the association is
1345 required. This paragraph is intended to clarify existing law and
1346 applies to associations existing on the effective date of this
1347 act.

1348 (3) A unit owner shall not do anything within his or her
1349 unit or on the common elements which would adversely affect the
1350 safety or soundness of the common elements or any portion of the
1351 association property or condominium property which is to be
1352 maintained by the association.

1353 (4) Any unit owner may display one portable, removable
1354 United States flag in a respectful way and, on Armed Forces Day,
1355 Memorial Day, Flag Day, Independence Day, and Veterans Day, may
1356 display in a respectful way portable, removable official flags,
1357 not larger than 4 1/2 feet by 6 feet, that represent the United
1358 States Army, Navy, Air Force, Marine Corps, or Coast Guard,



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1359 | regardless of any declaration rules or requirements dealing with
1360 | flags or decorations.

1361 | (5) Each board of administration shall adopt hurricane
1362 | shutter specifications for each building within each condominium
1363 | operated by the association which shall include color, style, and
1364 | other factors deemed relevant by the board. All specifications
1365 | adopted by the board shall comply with the applicable building
1366 | code. Notwithstanding any provision to the contrary in the
1367 | condominium documents, if approval is required by the documents,
1368 | a board shall not refuse to approve the installation or
1369 | replacement of hurricane shutters conforming to the
1370 | specifications adopted by the board. The board may, subject to
1371 | the provisions of s. 718.3026, and the approval of a majority of
1372 | voting interests of the condominium, install hurricane shutters
1373 | or hurricane protection complying with or exceeding the
1374 | applicable building code, or both, and may maintain, repair, or
1375 | replace such approved hurricane shutters, whether on or within
1376 | common elements, limited common elements, units, or association
1377 | property. However, where hurricane protection that complies with
1378 | or exceeds the applicable building code or laminated glass or
1379 | window film architecturally designed to function as hurricane
1380 | protection which complies with the applicable building code has
1381 | been installed, the board may not install hurricane shutters. The
1382 | board may operate shutters installed pursuant to this subsection
1383 | without permission of the unit owners only where such operation
1384 | is necessary to preserve and protect the condominium property and
1385 | association property. The installation, replacement, operation,
1386 | repair, and maintenance of such shutters in accordance with the
1387 | procedures set forth herein shall not be deemed a material



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1388 alteration to the common elements or association property within
1389 the meaning of this section.

1390 (6) As to any condominium building greater than three
1391 stories in height, at least every 5 years, and within 5 years if
1392 not available for inspection on October 1, 2008, the board shall
1393 have the condominium building inspected to provide a report under
1394 seal of an architect or engineer authorized to practice in this
1395 state attesting to required maintenance, useful life, and
1396 replacement costs of the elements.

1397 (7) An association may not refuse the request of a unit
1398 owner for a reasonable accommodation for the attachment on the
1399 mantle or frame of the door of the unit owner a religious object
1400 not to exceed 3 inches wide, 6 inches high, and 1.5 inches deep.

1401 Section 10. Paragraph (a) of subsection (7) of section
1402 718.117, Florida Statutes, is amended to read:

1403 718.117 Termination of condominium.--

1404 (7) NATURAL DISASTERS.--

1405 (a) If, after a natural disaster, the identity of the
1406 directors or their right to hold office is in doubt, if they are
1407 deceased or unable to act, if they fail or refuse to act, or if
1408 they cannot be located, any interested person may petition the
1409 circuit court to determine the identity of the directors or, if
1410 found to be in the best interests of the unit owners, to appoint
1411 a receiver to conclude the affairs of the association after a
1412 hearing following notice to such persons as the court directs.
1413 Lienholders shall be given notice of the petition and have the
1414 right to propose persons for the consideration by the court as
1415 receiver. If a receiver is appointed, the court shall direct the
1416 receiver to provide to all unit owners written notice of his or
1417 her appointment as receiver. Such notice shall be mailed or



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1418 delivered within 10 days after the appointment. Notice by mail to
1419 a unit owner shall be sent to the address used by the county
1420 property appraiser for notice to the unit owner.

1421 Section 11. Subsection (4) is added to section 718.121,
1422 Florida Statutes, to read:

1423 718.121 Liens.--

1424 (4) Except as otherwise provided in this chapter, a lien
1425 may not be filed by the association against a condominium unit
1426 until 30 days after the date on which a notice of intent to file
1427 a lien has been delivered to the owner by certified mail, return
1428 receipt requested, and by first-class United States mail to the
1429 owner at his or her last known address as reflected in the
1430 records of the association. However, if the address reflected in
1431 the records is outside the United States, the notice must be sent
1432 by first-class United States mail to the unit and to the last
1433 known address by regular mail with international postage, which
1434 shall be deemed sufficient. Delivery of the notice shall be
1435 deemed completed upon mailing as required by this subsection.
1436 Alternatively, notice shall be complete if served on the unit
1437 owner in the manner authorized by chapter 48 and the Florida
1438 Rules of Civil Procedure.

1439 Section 12. Section 718.1224, Florida Statutes, is created
1440 to read:

1441 718.1224 Prohibition against SLAPP suits.--

1442 (1) It is the intent of the Legislature to protect the
1443 right of condominium unit owners to exercise their rights to
1444 instruct their representatives and petition for redress of
1445 grievances before the various governmental entities of this state
1446 as protected by the First Amendment to the United States
1447 Constitution and s. 5, Art. I of the State Constitution. The



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1448 Legislature recognizes that strategic lawsuits against public
1449 participation, or "SLAPP suits," have occurred when association
1450 members are sued by individuals, business entities, or
1451 governmental entities arising out of a condominium unit owner's
1452 appearance and presentation before a governmental entity on
1453 matters related to the condominium association. However, it is
1454 the public policy of this state that governmental entities,
1455 business organizations, and individuals not engage in SLAPP
1456 suits, because such actions are inconsistent with the right of
1457 condominium unit owners to participate in the state's
1458 institutions of government. Therefore, the Legislature finds and
1459 declares that prohibiting such lawsuits by governmental entities,
1460 business entities, and individuals against condominium unit
1461 owners who address matters concerning their condominium
1462 association will preserve this fundamental state policy, preserve
1463 the constitutional rights of condominium unit owners, and ensure
1464 the continuation of representative government in this state. It
1465 is the intent of the Legislature that such lawsuits be
1466 expeditiously disposed of by the courts. As used in this
1467 subsection, the term "governmental entity" means the state,
1468 including the executive, legislative, and judicial branches of
1469 government, the independent establishments of the state,
1470 counties, municipalities, districts, authorities, boards, or
1471 commissions, or any government agencies that are subject to
1472 chapter 286.

1473 (2) A governmental entity, business organization, or
1474 individual in this state may not file or cause to be filed
1475 through its employees or agents any lawsuit, cause of action,
1476 claim, cross-claim, or counterclaim against a condominium unit
1477 owner without merit and solely because such condominium unit



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1478 owner has exercised the right to instruct his or her
1479 representatives or the right to petition for redress of
1480 grievances before the various governmental entities of this
1481 state, as protected by the First Amendment to the United States
1482 Constitution and s. 5, Art. I of the State Constitution.

1483 (3) A condominium unit owner sued by a governmental entity,
1484 business organization, or individual in violation of this section
1485 has a right to an expeditious resolution of a claim that the suit
1486 is in violation of this section. A condominium unit owner may
1487 petition the court for an order dismissing the action or granting
1488 final judgment in favor of that condominium unit owner. The
1489 petitioner may file a motion for summary judgment, together with
1490 supplemental affidavits, seeking a determination that the
1491 governmental entity's, business organization's, or individual's
1492 lawsuit has been brought in violation of this section. The
1493 governmental entity, business organization, or individual shall
1494 thereafter file its response and any supplemental affidavits. As
1495 soon as practicable, the court shall set a hearing on the
1496 petitioner's motion, which shall be held at the earliest possible
1497 time after the filing of the governmental entity's, business
1498 organization's, or individual's response. The court may award the
1499 condominium unit owner sued by the governmental entity, business
1500 organization, or individual actual damages arising from the
1501 governmental entity's, individual's, or business organization's
1502 violation of this section. A court may treble the damages awarded
1503 to a prevailing condominium unit owner and shall state the basis
1504 for the trebled damages award in its judgment. The court shall
1505 award the prevailing party reasonable attorney's fees and costs
1506 incurred in connection with a claim that an action was filed in
1507 violation of this section.



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1508 (4) Condominium associations may not expend association
1509 funds in prosecuting a SLAPP suit against a condominium unit
1510 owner.

1511 Section 13. Paragraph (b) of subsection (3) of section
1512 718.1255, Florida Statutes, is amended to read:

1513 718.1255 Alternative dispute resolution; voluntary
1514 mediation; mandatory nonbinding arbitration; legislative
1515 findings.--

1516 (3) LEGISLATIVE FINDINGS.--

1517 (b) The Legislature finds that ~~the courts are becoming~~
1518 ~~overcrowded with condominium and other disputes, and further~~
1519 ~~finds that~~ alternative dispute resolution has been making
1520 progress in reducing court dockets and trials and in offering a
1521 more efficient, cost-effective option to court litigation.
1522 However, the Legislature also finds that alternative dispute
1523 resolution should not be used as a mechanism to encourage the
1524 filing of frivolous or nuisance suits.

1525 Section 14. Section 718.1265, Florida Statutes, is created
1526 to read:

1527 718.1265 Association emergency powers.--

1528 (1) To the extent allowed by law and unless specifically
1529 prohibited by the declaration of condominium, the articles, or
1530 the bylaws of an association, and consistent with the provisions
1531 of s. 617.0830, the board of administration, in response to
1532 damage caused by an event for which a state of emergency is
1533 declared pursuant to s. 252.36 in the locale in which the
1534 condominium is located, may, but is not required to, exercise the
1535 following powers:

1536 (a) Conduct board meetings and membership meetings with
1537 notice given as is practicable. Such notice may be given in any



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1538 practicable manner, including publication, radio, United States
1539 mail, the Internet, public service announcements, and conspicuous
1540 posting on the condominium property or any other means the board
1541 deems reasonable under the circumstances. Notice of board
1542 decisions may be communicated as provided in this paragraph.

1543 (b) Cancel and reschedule any association meeting.

1544 (c) Name as assistant officers persons who are not
1545 directors, which assistant officers shall have the same authority
1546 as the executive officers to whom they are assistants during the
1547 state of emergency to accommodate the incapacity or
1548 unavailability of any officer of the association.

1549 (d) Relocate the association's principal office or
1550 designate alternative principal offices.

1551 (e) Enter into agreements with local counties and
1552 municipalities to assist counties and municipalities with debris
1553 removal.

1554 (f) Implement a disaster plan before or immediately
1555 following the event for which a state of emergency is declared
1556 which may include, but need not be limited to, shutting down or
1557 off elevators, electricity, water, sewer, or security systems, or
1558 air conditioners.

1559 (g) Declare any portion of the condominium property
1560 unavailable for entry or occupancy by unit owners, family
1561 members, tenants, guests, agents, or invitees to protect the
1562 health, safety, or welfare of such persons.

1563 (h) Require the evacuation of the condominium property in
1564 the event of a mandatory evacuation order in the locale in which
1565 the condominium is located. If any unit owner or other occupant
1566 of a condominium fails or refuses to evacuate the condominium
1567 property where the board has required evacuation, the association



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1568 is immune from liability or injury to persons or property arising
1569 from such failure or refusal.

1570 (i) Determine whether the condominium property may be
1571 safely inhabited or occupied. However, such determination is not
1572 conclusive as to any determination of habitability pursuant to
1573 the declaration.

1574 (j) Mitigate further damage, including taking action to
1575 contract for the removal of debris, and prevent or mitigate the
1576 spread of fungus, including, but not limited to, mold or mildew,
1577 by removing and disposing of wet drywall, insulation, carpet,
1578 cabinetry, or other fixtures on or within the condominium
1579 property, even if the unit owner is obligated by the declaration
1580 or law to insure or replace those fixtures and to remove personal
1581 property from a unit.

1582 (k) Contract, on behalf of any unit owner or owners, for
1583 items or services for which the owners are otherwise individually
1584 responsible for, but which are necessary to prevent further
1585 damage to the condominium property. In such event, the unit owner
1586 or owners on whose behalf the board has contracted are
1587 responsible for reimbursing the association for the actual costs
1588 of the items or services, and the association may use its lien
1589 authority provided by s. 718.116 to enforce collection of the
1590 charges. Without limitation, such items or services may include
1591 the drying of units, the boarding of broken windows or doors, and
1592 the replacement of damaged air conditioners or air handlers to
1593 provide climate control in the units or other portions of the
1594 property.

1595 (l) Regardless of any provision to the contrary and even if
1596 such authority does not specifically appear in the declaration of



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1597 condominium, articles, or bylaws of the association, levy special
1598 assessments without a vote of the owners.

1599 (m) Without approval of unit owners, borrow money and
1600 pledge association assets as collateral to fund emergency repairs
1601 and carry out the duties of the association when operating funds
1602 are insufficient. This paragraph does not limit the general
1603 authority of the association to borrow money, subject to such
1604 restrictions that are contained in the declaration of
1605 condominium, articles, or bylaws of the association.

1606 (2) The special powers authorized under subsection (1) are
1607 limited to that time reasonably necessary to protect the health,
1608 safety, and welfare of the association, the unit owners, their
1609 family members, tenants, guests, agents, or invitees and as
1610 reasonably necessary to mitigate further damage and make
1611 emergency repairs.

1612 Section 15. Section 718.127, Florida Statutes, is created
1613 to read:

1614 718.127 Receivership notification.--Upon the appointment of
1615 a receiver by a court for any reason relating to a condominium
1616 association, the court shall direct the receiver to provide to
1617 all unit owners written notice of his or her appointment as
1618 receiver. Such notice shall be mailed or delivered within 10 days
1619 after the appointment. Notice by mail to a unit owner shall be
1620 sent to the address used by the county property appraiser for
1621 notice to the unit owner.

1622 Section 16. Subsection (1) of section 718.301, Florida
1623 Statutes, is amended, and paragraph (p) is added to subsection
1624 (4) of that section, to read:

1625 718.301 Transfer of association control; claims of defect
1626 by association.--



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1627 (1) When unit owners other than the developer own 15
1628 percent or more of the units in a condominium that will be
1629 operated ultimately by an association, the unit owners other than
1630 the developer shall be entitled to elect no less than one-third
1631 of the members of the board of administration of the association.
1632 Unit owners other than the developer are entitled to elect not
1633 less than a majority of the members of the board of
1634 administration of an association:

1635 (a) Three years after 50 percent of the units that will be
1636 operated ultimately by the association have been conveyed to
1637 purchasers;

1638 (b) Three months after 90 percent of the units that will be
1639 operated ultimately by the association have been conveyed to
1640 purchasers;

1641 (c) When all the units that will be operated ultimately by
1642 the association have been completed, some of them have been
1643 conveyed to purchasers, and none of the others are being offered
1644 for sale by the developer in the ordinary course of business;

1645 (d) When some of the units have been conveyed to purchasers
1646 and none of the others are being constructed or offered for sale
1647 by the developer in the ordinary course of business; ~~or~~

1648 (e) When the developer files a petition seeking protection
1649 in bankruptcy;

1650 (f) When a receiver for the developer is appointed by a
1651 circuit court; or

1652 (g) ~~(e)~~ Seven years after recordation of the declaration of
1653 condominium; or, in the case of an association which may
1654 ultimately operate more than one condominium, 7 years after
1655 recordation of the declaration for the first condominium it
1656 operates; or, in the case of an association operating a phase



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1657 condominium created pursuant to s. 718.403, 7 years after
1658 recordation of the declaration creating the initial phase,
1659
1660 whichever occurs first. The developer is entitled to elect at
1661 least one member of the board of administration of an association
1662 as long as the developer holds for sale in the ordinary course of
1663 business at least 5 percent, in condominiums with fewer than 500
1664 units, and 2 percent, in condominiums with more than 500 units,
1665 of the units in a condominium operated by the association.
1666 Following the time the developer relinquishes control of the
1667 association, the developer may exercise the right to vote any
1668 developer-owned units in the same manner as any other unit owner
1669 except for purposes of reacquiring control of the association or
1670 selecting the majority members of the board of administration.

1671 (4) At the time that unit owners other than the developer
1672 elect a majority of the members of the board of administration of
1673 an association, the developer shall relinquish control of the
1674 association, and the unit owners shall accept control.
1675 Simultaneously, or for the purposes of paragraph (c) not more
1676 than 90 days thereafter, the developer shall deliver to the
1677 association, at the developer's expense, all property of the unit
1678 owners and of the association which is held or controlled by the
1679 developer, including, but not limited to, the following items, if
1680 applicable, as to each condominium operated by the association:

1681 (p) A report included in the official records, under seal
1682 of an architect or engineer authorized to practice in this state,
1683 attesting to required maintenance, useful life, and replacement
1684 costs of the following applicable common elements comprising a
1685 turnover inspection report:

1686 1. Roof.



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- 1687 | 2. Structure.
- 1688 | 3. Fireproofing and fire-protection systems.
- 1689 | 4. Elevators.
- 1690 | 5. Heating and cooling systems.
- 1691 | 6. Plumbing.
- 1692 | 7. Electrical systems.
- 1693 | 8. Swimming pool or spa and equipment.
- 1694 | 9. Seawalls.
- 1695 | 10. Pavement and parking areas.
- 1696 | 11. Drainage systems.
- 1697 | 12. Painting.
- 1698 | 13. Irrigation systems.

1699 | Section 17. Paragraph (f) is added to subsection (1) of
1700 | section 718.3025, Florida Statutes, to read:

1701 | 718.3025 Agreements for operation, maintenance, or
1702 | management of condominiums; specific requirements.--

1703 | (1) No written contract between a party contracting to
1704 | provide maintenance or management services and an association
1705 | which contract provides for operation, maintenance, or management
1706 | of a condominium association or property serving the unit owners
1707 | of a condominium shall be valid or enforceable unless the
1708 | contract:

1709 | (f) Discloses any financial or ownership interest a board
1710 | member or any party providing maintenance or management services
1711 | to the association holds with the contracting party.

1712 | Section 18. Section 718.3026, Florida Statutes, is amended
1713 | to read:

1714 | 718.3026 Contracts for products and services; in writing;
1715 | bids; exceptions.-- Associations having 10 or fewer ~~with less~~
1716 | ~~than 100~~ units may opt out of the provisions of this section if



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1717 two-thirds of the unit owners vote to do so, which opt-out may be
1718 accomplished by a proxy specifically setting forth the exception
1719 from this section.

1720 (1) All contracts as further described herein or any
1721 contract that is not to be fully performed within 1 year after
1722 the making thereof, for the purchase, lease, or renting of
1723 materials or equipment to be used by the association in
1724 accomplishing its purposes under this chapter, and all contracts
1725 for the provision of services, shall be in writing. If a contract
1726 for the purchase, lease, or renting of materials or equipment, or
1727 for the provision of services, requires payment by the
1728 association on behalf of any condominium operated by the
1729 association in the aggregate that exceeds 5 percent of the total
1730 annual budget of the association, including reserves, the
1731 association shall obtain competitive bids for the materials,
1732 equipment, or services. Nothing contained herein shall be
1733 construed to require the association to accept the lowest bid.

1734 (2) (a) ~~1.~~ Notwithstanding the foregoing, contracts with
1735 employees of the association, and contracts for attorney,
1736 accountant, architect, community association manager, timeshare
1737 management firm, engineering, and landscape architect services
1738 are not subject to the provisions of this section.

1739 ~~2. A contract executed before January 1, 1992, and any~~
1740 ~~renewal thereof, is not subject to the competitive bid~~
1741 ~~requirements of this section. If a contract was awarded under the~~
1742 ~~competitive bid procedures of this section, any renewal of that~~
1743 ~~contract is not subject to such competitive bid requirements if~~
1744 ~~the contract contains a provision that allows the board to cancel~~
1745 ~~the contract on 30 days' notice. Materials, equipment, or~~
1746 ~~services provided to a condominium under a local government~~



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1747 ~~franchise agreement by a franchise holder are not subject to the~~
1748 ~~competitive bid requirements of this section. A contract with a~~
1749 ~~manager, if made by a competitive bid, may be made for up to 3~~
1750 ~~years. A condominium whose declaration or bylaws provides for~~
1751 ~~competitive bidding for services may operate under the provisions~~
1752 ~~of that declaration or bylaws in lieu of this section if those~~
1753 ~~provisions are not less stringent than the requirements of this~~
1754 ~~section.~~

1755 (b) Nothing contained herein is intended to limit the
1756 ability of an association to obtain needed products and services
1757 in an emergency.

1758 (c) This section shall not apply if the business entity
1759 with which the association desires to enter into a contract is
1760 the only source of supply within the county serving the
1761 association.

1762 (d) Nothing contained herein shall excuse a party
1763 contracting to provide maintenance or management services from
1764 compliance with s. 718.3025.

1765 (3) As to any contract or other transaction between an
1766 association and one or more of its directors or any other
1767 corporation, firm, association, or entity in which one or more of
1768 its directors are directors or officers or are financially
1769 interested:

1770 (a) The association shall comply with the requirements of
1771 s. 617.0832.

1772 (b) The disclosures required by s. 617.0832 shall be
1773 entered into the written minutes of the meeting.

1774 (c) Approval of the contract or other transaction shall
1775 require an affirmative vote of two-thirds of the directors
1776 present.



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1777 (d) At the next regular or special meeting of the members,
1778 the existence of the contract or other transaction must be
1779 disclosed to the members. Upon the motion of any member, the
1780 contract or transaction shall be brought up for a vote and may be
1781 cancelled by a majority vote of the members present. If the
1782 members cancel the contract, the association is liable only for
1783 the reasonable value of goods and services provided up to the
1784 time of cancellation and is not liable for any termination fee,
1785 liquidated damages, or other form of penalty for such
1786 cancellation.

1787 Section 19. Subsection (3) of section 718.303, Florida
1788 Statutes, is amended to read:

1789 (3) If the declaration or bylaws so provide, the
1790 association may levy reasonable fines against a unit for the
1791 failure of the owner of the unit, or its occupant, licensee, or
1792 invitee, to comply with any provision of the declaration, the
1793 association bylaws, or reasonable rules of the association. No
1794 fine will become a lien against a unit. No fine may exceed \$100
1795 per violation. However, a fine may be levied on the basis of each
1796 day of a continuing violation, with a single notice and
1797 opportunity for hearing, provided that no such fine shall in the
1798 aggregate exceed \$1,000. No fine may be levied except after
1799 giving reasonable notice and opportunity for a hearing to the
1800 unit owner and, if applicable, its licensee or invitee. The
1801 hearing must be held before a committee of other unit owners who
1802 are not board members or persons who reside in a board member's
1803 household. If the committee does not agree with the fine, the
1804 fine may not be levied. The provisions of this subsection do not
1805 apply to unoccupied units.



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1806 Section 20. Section 718.501, Florida Statutes, is amended
1807 to read:

1808 718.501 Authority, responsibility, ~~Powers~~ and duties of
1809 Division of Florida Land Sales, Condominiums, and Mobile Homes.--

1810 (1) The Division of Florida Land Sales, Condominiums, and
1811 Mobile Homes of the Department of Business and Professional
1812 Regulation, referred to as the "division" in this part, in
1813 addition to other powers and duties prescribed by chapter 498,
1814 has the power to enforce and ensure compliance with the
1815 provisions of this chapter and rules promulgated pursuant hereto
1816 relating to the development, construction, sale, lease,
1817 ownership, operation, and management of residential condominium
1818 units. In performing its duties, the division has complete
1819 jurisdiction to investigate complaints and enforce compliance
1820 with the provisions of this chapter with respect to associations
1821 that are still under developer control and complaints against
1822 developers involving improper turnover or failure to turn over
1823 pursuant to s. 718.301. However, after turnover has occurred, the
1824 division shall have jurisdiction to investigate only complaints
1825 related to financial issues, elections, and unit owner access to
1826 association records pursuant to s. 718.111(12). ~~the following~~
1827 ~~powers and duties:~~

1828 (a) The division may make necessary public or private
1829 investigations within or outside this state to determine whether
1830 any person has violated this chapter or any rule or order
1831 hereunder, to aid in the enforcement of this chapter, or to aid
1832 in the adoption of rules or forms hereunder.

1833 (b) The division may require or permit any person to file a
1834 statement in writing, under oath or otherwise, as the division



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1835 determines, as to the facts and circumstances concerning a matter
1836 to be investigated.

1837 (c) For the purpose of any investigation under this
1838 chapter, the division director or any officer or employee
1839 designated by the division director may administer oaths or
1840 affirmations, subpoena witnesses and compel their attendance,
1841 take evidence, and require the production of any matter which is
1842 relevant to the investigation, including the existence,
1843 description, nature, custody, condition, and location of any
1844 books, documents, or other tangible things and the identity and
1845 location of persons having knowledge of relevant facts or any
1846 other matter reasonably calculated to lead to the discovery of
1847 material evidence. Upon the failure by a person to obey a
1848 subpoena or to answer questions propounded by the investigating
1849 officer and upon reasonable notice to all persons affected
1850 thereby, the division may apply to the circuit court for an order
1851 compelling compliance.

1852 (d) Notwithstanding any remedies available to unit owners
1853 and associations, if the division has reasonable cause to believe
1854 that a violation of any provision of this chapter or rule
1855 promulgated pursuant hereto has occurred, the division may
1856 institute enforcement proceedings in its own name against any
1857 developer, association, officer, or member of the board of
1858 administration, or its assignees or agents, as follows:

1859 1. The division may permit a person whose conduct or
1860 actions may be under investigation to waive formal proceedings
1861 and enter into a consent proceeding whereby orders, rules, or
1862 letters of censure or warning, whether formal or informal, may be
1863 entered against the person.



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1864 2. The division may issue an order requiring the developer,
1865 association, developer-designated officer, or developer-
1866 designated member of the board of administration, ~~or~~ developer-
1867 designated ~~its~~ assignees or agents, community association
1868 manager, or community association management firm to cease and
1869 desist from the unlawful practice and take such affirmative
1870 action as in the judgment of the division will carry out the
1871 purposes of this chapter. Such affirmative action may include,
1872 but is not limited to, an order requiring a developer to pay
1873 moneys determined to be owed to a condominium association.

1874 3. If a developer fails to pay any restitution determined
1875 by the division to be owed, plus any accrued interest at the
1876 highest rate permitted by law, within 30 days after expiration of
1877 any appellate time period of a final order requiring payment of
1878 restitution or the conclusion of any appeal thereof, whichever is
1879 later, the division shall bring an action in circuit or county
1880 court on behalf of any association, class of unit owners,
1881 lessees, or purchasers for restitution, declaratory relief,
1882 injunctive relief, or any other available remedy. The division
1883 may also temporarily revoke its acceptance of the filing for the
1884 developer to which the restitution relates until payment of
1885 restitution is made. ~~The division may bring an action in circuit~~
1886 ~~court on behalf of a class of unit owners, lessees, or purchasers~~
1887 ~~for declaratory relief, injunctive relief, or restitution.~~

1888 4. The division may impose a civil penalty against a
1889 developer or association, or its assignee or agent, for any
1890 violation of this chapter or a rule promulgated pursuant hereto.
1891 The division may impose a civil penalty individually against any
1892 officer or board member who willfully and knowingly violates a
1893 provision of this chapter, a rule adopted pursuant hereto, or a



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1894 | final order of the division; may order the removal of such
1895 | individual as an officer or from the board of administration or
1896 | as an officer of the association; and may prohibit such
1897 | individual from serving as an officer or on the board of a
1898 | community association for a period of time. The term "willfully
1899 | and knowingly" means that the division informed the officer or
1900 | board member that his or her action or intended action violates
1901 | this chapter, a rule adopted under this chapter, or a final order
1902 | of the division and that the officer or board member refused to
1903 | comply with the requirements of this chapter, a rule adopted
1904 | under this chapter, or a final order of the division. The
1905 | division, prior to initiating formal agency action under chapter
1906 | 120, shall afford the officer or board member an opportunity to
1907 | voluntarily comply with this chapter, a rule adopted under this
1908 | chapter, or a final order of the division. An officer or board
1909 | member who complies within 10 days is not subject to a civil
1910 | penalty. A penalty may be imposed on the basis of each day of
1911 | continuing violation, but in no event shall the penalty for any
1912 | offense exceed \$5,000. By January 1, 1998, the division shall
1913 | adopt, by rule, penalty guidelines applicable to possible
1914 | violations or to categories of violations of this chapter or
1915 | rules adopted by the division. The guidelines must specify a
1916 | meaningful range of civil penalties for each such violation of
1917 | the statute and rules and must be based upon the harm caused by
1918 | the violation, the repetition of the violation, and upon such
1919 | other factors deemed relevant by the division. For example, the
1920 | division may consider whether the violations were committed by a
1921 | developer or owner-controlled association, the size of the
1922 | association, and other factors. The guidelines must designate the
1923 | possible mitigating or aggravating circumstances that justify a



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1924 departure from the range of penalties provided by the rules. It
1925 is the legislative intent that minor violations be distinguished
1926 from those which endanger the health, safety, or welfare of the
1927 condominium residents or other persons and that such guidelines
1928 provide reasonable and meaningful notice to the public of likely
1929 penalties that may be imposed for proscribed conduct. This
1930 subsection does not limit the ability of the division to
1931 informally dispose of administrative actions or complaints by
1932 stipulation, agreed settlement, or consent order. All amounts
1933 collected shall be deposited with the Chief Financial Officer to
1934 the credit of the Division of Florida Land Sales, Condominiums,
1935 and Mobile Homes Trust Fund. If a developer fails to pay the
1936 civil penalty and the amount deemed to be owed to the
1937 association, the division shall thereupon issue an order
1938 directing that such developer cease and desist from further
1939 operation until such time as the civil penalty is paid or may
1940 pursue enforcement of the penalty in a court of competent
1941 jurisdiction. If an association fails to pay the civil penalty,
1942 the division shall thereupon pursue enforcement in a court of
1943 competent jurisdiction, and the order imposing the civil penalty
1944 or the cease and desist order will not become effective until 20
1945 days after the date of such order. Any action commenced by the
1946 division shall be brought in the county in which the division has
1947 its executive offices or in the county where the violation
1948 occurred.

1949 5. If a unit owner presents the division with proof that
1950 the unit owner has requested access to official records in
1951 writing by certified mail, that after 10 days the unit owner
1952 again made the same request for access to official records in
1953 writing by certified mail, and that more than 10 days has elapsed



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1954 | since the second request and the association has still failed or
1955 | refused to provide access to official records as required by this
1956 | chapter, the division shall issue a subpoena requiring production
1957 | of the requested records where the records are kept pursuant to
1958 | s. 718.112.

1959 | (e) The division is authorized to prepare and disseminate a
1960 | prospectus and other information to assist prospective owners,
1961 | purchasers, lessees, and developers of residential condominiums
1962 | in assessing the rights, privileges, and duties pertaining
1963 | thereto.

1964 | (f) The division has authority to adopt rules pursuant to
1965 | ss. 120.536(1) and 120.54 to implement and enforce the provisions
1966 | of this chapter.

1967 | (g) The division shall establish procedures for providing
1968 | notice to an association and the developer during the period
1969 | where the developer controls the association when the division is
1970 | considering the issuance of a declaratory statement with respect
1971 | to the declaration of condominium or any related document
1972 | governing in such condominium community.

1973 | (h) The division shall furnish each association which pays
1974 | the fees required by paragraph (2) (a) a copy of this act,
1975 | subsequent changes to this act on an annual basis, an amended
1976 | version of this act as it becomes available from the Secretary of
1977 | State's office on a biennial basis, and the rules promulgated
1978 | pursuant thereto on an annual basis.

1979 | (i) The division shall annually provide each association
1980 | with a summary of declaratory statements and formal legal
1981 | opinions relating to the operations of condominiums which were
1982 | rendered by the division during the previous year.



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1983 (j) The division shall provide training and educational
1984 programs for condominium association board members and unit
1985 owners. The training may include web-based, electronic-media-
1986 based, and live training and seminars in various locations
1987 throughout the state. The division may review and approve
1988 education and training programs for board members and unit owners
1989 offered by providers and shall maintain a current list of
1990 approved programs and providers and make such list available to
1991 board members and unit owners in a reasonable and cost-effective
1992 manner.

1993 (k) The division shall maintain a toll-free telephone
1994 number accessible to condominium unit owners.

1995 (l) The division shall develop a program to certify both
1996 volunteer and paid mediators to provide mediation of condominium
1997 disputes. The division shall provide, upon request, a list of
1998 such mediators to any association, unit owner, or other
1999 participant in arbitration proceedings under s. 718.1255
2000 requesting a copy of the list. The division shall include on the
2001 list of volunteer mediators only the names of persons who have
2002 received at least 20 hours of training in mediation techniques or
2003 who have mediated at least 20 disputes. In order to become
2004 initially certified by the division, paid mediators must be
2005 certified by the Supreme Court to mediate court cases in either
2006 county or circuit courts. However, the division may adopt, by
2007 rule, additional factors for the certification of paid mediators,
2008 which factors must be related to experience, education, or
2009 background. Any person initially certified as a paid mediator by
2010 the division must, in order to continue to be certified, comply
2011 with the factors or requirements imposed by rules adopted by the
2012 division.



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2013 (m) When a complaint is made, the division shall conduct
2014 its inquiry with due regard to the interests of the affected
2015 parties. Within 30 days after receipt of a complaint, the
2016 division shall acknowledge the complaint in writing and notify
2017 the complainant whether the complaint is within the jurisdiction
2018 of the division and whether additional information is needed by
2019 the division from the complainant. The division shall conduct its
2020 investigation and shall, within 90 days after receipt of the
2021 original complaint or of timely requested additional information,
2022 take action upon the complaint. However, the failure to complete
2023 the investigation within 90 days does not prevent the division
2024 from continuing the investigation, accepting or considering
2025 evidence obtained or received after 90 days, or taking
2026 administrative action if reasonable cause exists to believe that
2027 a violation of this chapter or a rule of the division has
2028 occurred. If an investigation is not completed within the time
2029 limits established in this paragraph, the division shall, on a
2030 monthly basis, notify the complainant in writing of the status of
2031 the investigation. When reporting its action to the complainant,
2032 the division shall inform the complainant of any right to a
2033 hearing pursuant to ss. 120.569 and 120.57.

2034 (n) Condominium association directors, officers, and
2035 employees, condominium developers, community association
2036 managers, and community association management firms must at all
2037 times reasonably cooperate with the division in any investigation
2038 pursuant to this section. The division shall refer to local law
2039 enforcement authorities any person whom the division believes has
2040 altered, destroyed, concealed, or removed any record, document,
2041 or thing required to be kept or maintained by this chapter with



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2042 the purpose to impair its verity or availability in the
2043 department's investigation.

2044 (2) (a) ~~Effective January 1, 1992,~~ Each condominium
2045 association which operates more than two units shall pay to the
2046 division an annual fee in the amount of \$4 for each residential
2047 unit in condominiums operated by the association. If the fee is
2048 not paid by March 1, then the association shall be assessed a
2049 penalty of 10 percent of the amount due, and the association will
2050 not have standing to maintain or defend any action in the courts
2051 of this state until the amount due, plus any penalty, is paid.

2052 (b) All fees shall be deposited in the Division of Florida
2053 Land Sales, Condominiums, and Mobile Homes Trust Fund as provided
2054 by law.

2055 Section 21. Section 718.50151, Florida Statutes, is amended
2056 to read:

2057 718.50151 Community Association Living Study ~~Advisory~~
2058 Council; membership functions.--

2059 (1) There is created the Community Association Living Study
2060 Advisory Council on Condominiums. The council shall consist of
2061 seven appointed members. Two members shall be appointed by the
2062 President of the Senate, two members shall be appointed by the
2063 Speaker of the House of Representatives, and three members shall
2064 be appointed by the Governor. ~~At least~~ One member that is
2065 appointed by the Governor may ~~shall~~ represent timeshare
2066 condominiums. The council shall be created as of July 1 every 5
2067 years, commencing July 1, 2008, and shall exist for a 6-month
2068 term. ~~Members shall be appointed to 2-year terms; however, one of~~
2069 ~~the persons initially appointed by the Governor, by the President~~
2070 ~~of the Senate, and by the Speaker of the House of Representatives~~
2071 ~~shall be appointed to a 1-year term.~~ The director of the division



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2072 shall appoint ~~serve as~~ an ex officio nonvoting member. The
2073 Legislature intends that the persons appointed represent a cross-
2074 section of persons interested in condominium issues. The council
2075 shall be located within the division for administrative purposes.
2076 Members of the council shall serve without compensation but are
2077 entitled to receive per diem and travel expenses pursuant to s.
2078 112.061 while on official business.

2079 (2) The functions of the ~~advisory~~ council shall be to:

2080 (a) Receive, from the public, input regarding issues of
2081 concern with respect to community association living, including
2082 living in condominiums, cooperatives, and homeowners'
2083 associations. The council shall make ~~and~~ recommendations for
2084 changes in the ~~condominium~~ law related to community association
2085 living. The issues that the council shall consider include, but
2086 are not limited to, the rights and responsibilities of the unit
2087 owners in relation to the rights and responsibilities of the
2088 association.

2089 (b) Review, evaluate, and advise the division concerning
2090 revisions and adoption of rules affecting condominiums and
2091 cooperatives.

2092 (c) Recommend improvements, if needed, in the education
2093 programs offered by the division.

2094 (d) Review, evaluate, and advise the Legislature concerning
2095 revisions and improvements to the laws relating to condominiums,
2096 cooperatives, and homeowners' associations.

2097 (3) The council may elect a chair and vice chair and such
2098 other officers as it may deem advisable. The council shall meet
2099 at the call of its chair, at the request of a majority of its
2100 membership, at the request of the division, or at such times as
2101 it may prescribe. A majority of the members of the council shall



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2102 constitute a quorum. Council action may be taken by vote of a
2103 majority of the voting members who are present at a meeting where
2104 there is a quorum.

2105 Section 22. Paragraph (a) of subsection (2) of section
2106 718.503, Florida Statutes, is amended to read:

2107 718.503 Developer disclosure prior to sale; nondeveloper
2108 unit owner disclosure prior to sale; voidability.--

2109 (2) NONDEVELOPER DISCLOSURE.--

2110 (a) Each unit owner who is not a developer as defined by
2111 this chapter shall comply with the provisions of this subsection
2112 prior to the sale of his or her unit. Each prospective purchaser
2113 who has entered into a contract for the purchase of a condominium
2114 unit is entitled, at the seller's expense, to a current copy of
2115 the declaration of condominium, articles of incorporation of the
2116 association, bylaws and rules of the association, financial
2117 information required by s. 718.111, and the document entitled
2118 "Frequently Asked Questions and Answers" required by s. 718.504.
2119 On and after January 1, 2009, the prospective purchaser shall
2120 also receive from the seller a copy of a governance form. Such
2121 form shall be provided by the division summarizing governance of
2122 condominium associations. In addition to such other information
2123 as the division considers helpful to a prospective purchaser in
2124 understanding association governance, the governance form shall
2125 address the following subjects:

2126 1. The role of the board in conducting the day-to-day
2127 affairs of the association on behalf of, and in the best
2128 interests of, the owners.

2129 2. The board's responsibility to provide advance notice of
2130 board and membership meetings.



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2131 | 3. The rights of owners to attend and speak at board and
2132 | membership meetings.

2133 | 4. The responsibility of the board and of owners with
2134 | respect to maintenance of the condominium property.

2135 | 5. The responsibility of the board and owners to abide by
2136 | the condominium documents, this chapter, rules adopted by the
2137 | division, and reasonable rules adopted by the board.

2138 | 6. Owners' rights to inspect and copy association records
2139 | and the limitations on such rights.

2140 | 7. Remedies available to owners with respect to actions by
2141 | the board which may be abusive or beyond the board's power and
2142 | authority.

2143 | 8. The right of the board to hire a property management
2144 | firm, subject to its own primary responsibility for such
2145 | management.

2146 | 9. The responsibility of owners with regard to payment of
2147 | regular or special assessments necessary for the operation of the
2148 | property and the potential consequences of failure to pay such
2149 | assessments.

2150 | 10. The voting rights of owners.

2151 | 11. Rights and obligations of the board in enforcement of
2152 | rules in the condominium documents and rules adopted by the
2153 | board.

2154 |
2155 | The governance form shall also include the following statement in
2156 | conspicuous type: "This publication is intended as an informal
2157 | educational overview of condominium governance. In the event of a
2158 | conflict, the provisions of chapter 718, Florida Statutes, rules
2159 | adopted by the Division of Florida Land Sales, Condominiums, and
2160 | Mobile Homes of the Department of Business and Professional



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2161 Regulation, the provisions of the condominium documents, and
2162 reasonable rules adopted by the condominium association's board
2163 of administration prevail over the contents of this publication."

2164 Section 23. This act shall take effect October 1, 2008.

2165
2166 ===== T I T L E A M E N D M E N T =====

2167 And the title is amended as follows:

2168 Delete everything before the enacting clause
2169 and insert:

2170 A bill to be entitled

2171 An act relating to community associations; amending s.
2172 468.431, F.S.; defining the term "community association
2173 management firm"; redefining the term "community
2174 association manager" to apply only to natural persons;
2175 amending s. 468.4315, F.S.; revising membership
2176 criteria for members of the Regulatory Council of
2177 Community Association Managers; requiring the board to
2178 establish a public education program; providing for
2179 board members to serve without compensation but be
2180 entitled to receive per diem and travel expenses;
2181 providing responsibilities of the board; amending s.
2182 468.432, F.S.; providing for the licensure of community
2183 association management firms; providing application,
2184 licensure, and fee requirements; providing for the
2185 cancellation of the license of a community association
2186 management firm under certain circumstances; providing
2187 that such firm or similar organization agrees that, by
2188 being licensed, it shall employ only licensed persons
2189 providing certain services; amending s. 468.433, F.S.;
2190 providing for the refusal of an applicant certification



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2191 | under certain circumstances; amending s. 468.436, F.S.;

2192 | requiring the Department of Business and Professional

2193 | Regulation to investigate certain complaints and

2194 | allegations; providing complaint and investigation

2195 | procedures; providing grounds for which disciplinary

2196 | action may be taken; amending s. 718.111, F.S.;

2197 | providing duties of officers, directors, and agents of

2198 | a condominium association and liability for monetary

2199 | damages under certain circumstances; providing that a

2200 | person who knowingly or intentionally fails to create

2201 | or maintain, or who defaces or destroys certain

2202 | records, is subject to civil penalties as prescribed by

2203 | state law; requiring that a copy of the inspection

2204 | report be maintained as an official record of the

2205 | association; requiring official records of the

2206 | association to be maintained for a specified minimum

2207 | period and be made available at certain locations and

2208 | in specified formats; providing that any person who

2209 | knowingly or intentionally defaces, destroys, or fails

2210 | to create or maintain accounting records is subject to

2211 | civil and criminal sanctions; prohibiting accessibility

2212 | to certain personal identifying information of unit

2213 | owners by fellow unit owners; requiring that the

2214 | Division of Florida Land Sales, Condominiums, and

2215 | Mobile Homes of the Department of Business and

2216 | Professional Regulation adopt certain rules; requiring

2217 | certain audits and reports to be paid for by the

2218 | developer if done before control of the association is

2219 | turned over; restricting a condominium association from

2220 | waiving a financial report for more than a specified



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2221 period; amending s. 718.112, F.S.; prohibiting a voting
2222 interest or a consent right allocated to a unit owner
2223 from being exercised under certain circumstances;
2224 requiring the board to address certain agenda items
2225 proposed by a petition of a specified percentage of the
2226 unit owners; providing requirements for the location of
2227 annual unit owner meetings; revising terms of service
2228 for board members; prohibiting certain persons from
2229 serving on the board; requiring the association to
2230 provide a certification form to unit owners for
2231 specified purposes; authorizing an association
2232 consisting of a specified maximum number of units to
2233 provide for different voting and election procedures in
2234 its bylaws by affirmative vote of a majority of the
2235 association's voting interests; revising requirements
2236 related to the annual budget; requiring proxy questions
2237 relating to reserves to contain a specified statement;
2238 providing for the removal of board members under
2239 certain circumstances; requiring that directors who are
2240 delinquent in certain payments owed in excess of
2241 certain periods of time be suspended from office or
2242 deemed to have abandoned their offices; requiring that
2243 directors charged with certain offenses involving an
2244 association's funds or property be suspended from
2245 office pending resolution of the charge; providing for
2246 the reinstatement of such officers or directors under
2247 certain circumstances; amending s. 718.1124, F.S.;
2248 providing that any unit owner may give notice of his or
2249 her intent to apply to the circuit court for the
2250 appointment of a receiver to manage the affairs of the



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2251 association under certain circumstances; providing a
2252 form for such notice; providing for the delivery of
2253 such notice; providing procedures for resolving a
2254 petition submitted pursuant to such notice; requiring
2255 that all unit owners be provided written notice of the
2256 appointment of a receiver; amending s. 718.113, F.S.;
2257 providing a statement of clarification; authorizing the
2258 board to install certain hurricane protection;
2259 prohibiting the board from installing hurricane
2260 shutters under certain circumstances; requiring that
2261 the board inspect certain condominium buildings and a
2262 issue a report thereupon; prohibiting the board from
2263 refusing a request for reasonable accommodation for the
2264 attachment to a unit of religious objects meeting
2265 certain size specifications; amending s. 718.117, F.S.;
2266 requiring that all unit owners be provided written
2267 notice of the appointment of a receiver; providing for
2268 the delivery of such notice; amending s. 718.121, F.S.;
2269 providing requirements and restrictions for liens filed
2270 by the association against a condominium unit;
2271 providing for notice and delivery thereof; creating s.
2272 718.1224, F.S.; prohibiting strategic lawsuits against
2273 public participation; providing legislative findings
2274 and intent; prohibiting a governmental entity, business
2275 organization, or individual from filing certain
2276 lawsuits made upon specified bases against a unit
2277 owner; providing rights of a unit owner who has been
2278 served with such a lawsuit; providing procedures for
2279 the resolution of claims that such suit violates
2280 certain provisions of state law; providing for the



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2281 | award of damages and attorney's fees; prohibiting
2282 | associations from expending association funds in
2283 | prosecuting such a suit against a unit owner; amending
2284 | s. 718.1255, F.S.; revising legislative intent
2285 | concerning alternative dispute resolution; creating s.
2286 | 718.1265, F.S.; authorizing an association to exercise
2287 | certain powers in instances involving damage caused by
2288 | an event for which a state of emergency has been
2289 | declared; limiting the applicability of such powers;
2290 | creating s. 718.127, F.S.; requiring that all unit
2291 | owners be provided written notice of the appointment of
2292 | a receiver; providing for the delivery of such notice;
2293 | amending s. 718.301, F.S.; providing circumstances
2294 | under which unit owners other than a developer may
2295 | elect not fewer than a majority of the members of the
2296 | board of administration of an association; requiring
2297 | that a developer deliver certain property of the unit
2298 | owners and the association within a specified period
2299 | after such election and upon relinquishing control of
2300 | the association; requiring a turnover inspection
2301 | report; requiring that the report contain certain
2302 | information; amending s. 718.3025, F.S.; requiring that
2303 | maintenance and management services contracts disclose
2304 | certain information; amending s. 718.3026, F.S.;
2305 | removing a provision authorizing certain associations
2306 | to opt out of provisions relating to contracts for
2307 | products and services; removing provisions relating to
2308 | competitive bid requirements for contracts executed
2309 | before a specified date; providing requirements for any
2310 | contract or transaction between an association and one



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2311 | or more of its directors or any other entity in which
2312 | one or more of its directors are directors or officers
2313 | or have a financial interest; amending s. 718.303,
2314 | F.S.; providing that hearings regarding noncompliance
2315 | with a declaration be held before certain persons;
2316 | amending s. 718.501, F.S.; providing authority and
2317 | responsibilities of the division; providing for
2318 | enforcement actions brought by the division in its own
2319 | name; providing for the imposition of penalties by the
2320 | division; requiring that the division issue a subpoena
2321 | requiring production of certain requested records under
2322 | certain circumstances; providing for the issuance of
2323 | notice of a declaratory statement with respect to
2324 | documents governing a condominium community; requiring
2325 | that the division provide training and education for
2326 | condominium association board members and unit owners;
2327 | authorizing the division to include certain training
2328 | components and review or approve training programs
2329 | offered by providers; requiring that certain
2330 | individuals cooperate with the division in any
2331 | investigation conducted by the division; amending s.
2332 | 718.50151, F.S.; redesignating the Advisory Council on
2333 | Condominiums as the "Community Association Living Study
2334 | Council"; providing for the creation of the council;
2335 | providing functions of the council; amending s.
2336 | 718.503, F.S.; providing for disclosure of certain
2337 | information upon the sale of a unit by a nondeveloper;
2338 | requiring the provisions of a governance form by the
2339 | seller to the prospective buyer; requiring that such



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form contain certain information and a specified

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statement; providing an effective date.