

By Senator Villalobos

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1 A bill to be entitled

2 An act relating to condominiums; amending s. 718.111,  
3 F.S.; requiring official records of the association to be  
4 maintained for at least 5 years and to be made available  
5 at certain locations; providing civil and criminal  
6 sanctions, including personally against any officer,  
7 director, or manager who knowingly or intentionally  
8 defaces, destroys, or fails to create or maintain  
9 accounting records; prohibiting accessibility to certain  
10 personal identifying information of unit owners by fellow  
11 unit owners; restricting a condominium association from  
12 waiving a financial report for more than 2 years; amending  
13 s. 718.112, F.S.; prohibiting votes allocated to units  
14 owned by the association from being cast by proxy, ballot,  
15 or otherwise, for any purpose; requiring the board to  
16 address certain agenda items proposed by a petition of a  
17 specified percent of the unit owners; providing  
18 requirements for the location of annual unit owner  
19 meetings; revising notice procedures; providing for the  
20 securing of ballots; revising procedures relating to the  
21 filling of a vacancy on the board; authorizing persons  
22 acting under a specific power of attorney to vote on  
23 behalf of a unit owner; removing a provision allowing an  
24 association to provide for different voting and election  
25 procedures in its bylaws; requiring the association to  
26 prepare an annual budget of estimated revenues and  
27 expenses; requiring certain ballot statements to contain  
28 certain statements; requiring a vote to provide for no  
29 reserves or a percentage of reserves to be made at annual

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30 meetings; authorizing the association to use reserve funds  
31 for nonscheduled purposes under certain conditions;  
32 amending s. 718.113, F.S.; requiring the board to have the  
33 condominium buildings periodically inspected for  
34 structural and electrical soundness by a professional  
35 engineer or professional architect registered in the  
36 state; requiring the inspector to provide a report to the  
37 association and unit owners; prohibiting the board from  
38 adopting rules or regulations impairing certain rights or  
39 prohibiting reasonable accommodation for religious  
40 practices; creating s. 718.1224, F.S.; prohibiting certain  
41 lawsuits arising from unit owners' appearances and  
42 presentations before a governmental entity; providing a  
43 definition; providing for award of damages and attorney  
44 fees; prohibiting associations from expending association  
45 funds in prosecuting such a suit against a unit owner;  
46 providing an effective date.

47  
48 Be It Enacted by the Legislature of the State of Florida:

49  
50 Section 1. Paragraphs (a), (b), and (c) of subsection (12)  
51 and subsection (13) of section 718.111, Florida Statutes, are  
52 amended to read:

53 718.111 The association.--

54 (12) OFFICIAL RECORDS.--

55 (a) From the inception of the association, the association  
56 shall maintain each of the following items, when applicable,  
57 which shall constitute the official records of the association:

58 1. A copy of the plans, permits, warranties, and other

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59 items provided by the developer pursuant to s. 718.301(4).

60 2. A photocopy of the recorded declaration of condominium  
61 of each condominium operated by the association and of each  
62 amendment to each declaration.

63 3. A photocopy of the recorded bylaws of the association  
64 and of each amendment to the bylaws.

65 4. A certified copy of the articles of incorporation of the  
66 association, or other documents creating the association, and of  
67 each amendment thereto.

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

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

73 7. A current roster of all unit owners and their mailing  
74 addresses, unit identifications, voting certifications, and, if  
75 known, telephone numbers. The association shall also maintain the  
76 electronic mailing addresses and the numbers designated by unit  
77 owners for receiving notice sent by electronic transmission of  
78 those unit owners consenting to receive notice by electronic  
79 transmission. The electronic mailing addresses and numbers  
80 provided by unit owners to receive notice by electronic  
81 transmission shall be removed from association records when  
82 consent to receive notice by electronic transmission is revoked.  
83 However, the association is not liable for an erroneous  
84 disclosure of the electronic mail address or the number for  
85 receiving electronic transmission of notices.

86 8. All current insurance policies of the association and  
87 condominiums operated by the association.

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88 9. A current copy of any management agreement, lease, or  
89 other contract to which the association is a party or under which  
90 the association or the unit owners have an obligation or  
91 responsibility.

92 10. Bills of sale or transfer for all property owned by the  
93 association.

94 11. Accounting records for the association and separate  
95 accounting records for each condominium which the association  
96 operates. All accounting records shall be maintained for a period  
97 of not less than 7 years. Any officer, director, or manager who  
98 knowingly or intentionally defaces, destroys, or fails to create  
99 or maintain accounting records is personally subject to a civil  
100 penalty pursuant to s. 718.501(1)(d) and appropriate criminal  
101 sanctions. The accounting records shall include, but are not  
102 limited to:

103 a. Accurate, itemized, and detailed records of all receipts  
104 and expenditures.

105 b. A current account and a monthly, bimonthly, or quarterly  
106 statement of the account for each unit designating the name of  
107 the unit owner, the due date and amount of each assessment, the  
108 amount paid upon the account, and the balance due.

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

111 d. All contracts for work to be performed. Bids for work to  
112 be performed shall also be considered official records and shall  
113 be maintained for a period of 1 year.

114 12. Ballots, sign-in sheets, voting proxies, and all other  
115 papers relating to voting by unit owners, which shall be  
116 maintained for a period of 1 year from the date of the election,

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117 | vote, or meeting to which the document relates.

118 |       13. All rental records, when the association is acting as  
119 | agent for the rental of condominium units.

120 |       14. A copy of the current question and answer sheet as  
121 | described by s. 718.504.

122 |       15. All other records of the association not specifically  
123 | included in the foregoing which are related to the operation of  
124 | the association.

125 |       (b) The official records of the association shall be  
126 | maintained within the state for at least 5 years. The records of  
127 | the association shall be made available to a unit owner, at a  
128 | location within the county in which the condominium property is  
129 | located, within 5 working days after receipt of written request  
130 | by the board or its designee. This paragraph may be complied with  
131 | by having a copy of the official records of the association  
132 | available for inspection or copying on the condominium property  
133 | or association property.

134 |       (c) The official records of the association are open to  
135 | inspection by any association member or the authorized  
136 | representative of such member at all reasonable times. The right  
137 | to inspect the records includes the right to make or obtain  
138 | copies, at the reasonable expense, if any, of the association  
139 | member. The association may adopt reasonable rules regarding the  
140 | frequency, time, location, notice, and manner of record  
141 | inspections and copying. The failure of an association to provide  
142 | the records within 10 working days after receipt of a written  
143 | request shall create a rebuttable presumption that the  
144 | association willfully failed to comply with this paragraph. A  
145 | unit owner who is denied access to official records is entitled

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146 to the actual damages or minimum damages for the association's  
147 willful failure to comply with this paragraph. The minimum  
148 damages shall be \$50 per calendar day up to 10 days, the  
149 calculation to begin on the 11th working day after receipt of the  
150 written request. The failure to permit inspection of the  
151 association records as provided herein entitles any person  
152 prevailing in an enforcement action to recover reasonable  
153 attorney's fees from the person in control of the records who,  
154 directly or indirectly, knowingly denied access to the records  
155 for inspection. Any officer, director, or manager who knowingly  
156 or intentionally defaces, destroys, or fails to create or  
157 maintain accounting records is personally subject to a civil  
158 penalty pursuant to s. 718.501(1)(d) and appropriate criminal  
159 sanctions. The association shall maintain an adequate number of  
160 copies of the declaration, articles of incorporation, bylaws, and  
161 rules, and all amendments to each of the foregoing, as well as  
162 the question and answer sheet provided for in s. 718.504 and  
163 year-end financial information required in this section on the  
164 condominium property to ensure their availability to unit owners  
165 and prospective purchasers, and may charge its actual costs for  
166 preparing and furnishing these documents to those requesting the  
167 same. Notwithstanding the provisions of this paragraph, the  
168 following records shall not be accessible to unit owners:

169 1. Any record protected by the lawyer-client privilege as  
170 described in s. 90.502; and any record protected by the work-  
171 product privilege, including any record prepared by an  
172 association attorney or prepared at the attorney's express  
173 direction; which reflects a mental impression, conclusion,  
174 litigation strategy, or legal theory of the attorney or the

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175 association, and which was prepared exclusively for civil or  
176 criminal litigation or for adversarial administrative  
177 proceedings, or which was prepared in anticipation of imminent  
178 civil or criminal litigation or imminent adversarial  
179 administrative proceedings until the conclusion of the litigation  
180 or adversarial administrative proceedings.

181 2. Information obtained by an association in connection  
182 with the approval of the lease, sale, or other transfer of a  
183 unit.

184 3. Medical records of unit owners.

185 4. Social security numbers, driver's license numbers,  
186 credit card numbers, and other personal identifying information  
187 of unit owners, occupants, or tenants.

188 (13) FINANCIAL REPORTING.--Within 90 days after the end of  
189 the fiscal year, or annually on a date provided in the bylaws,  
190 the association shall prepare and complete, or contract for the  
191 preparation and completion of, a financial report for the  
192 preceding fiscal year. Within 21 days after the final financial  
193 report is completed by the association or received from the third  
194 party, but not later than 120 days after the end of the fiscal  
195 year or other date as provided in the bylaws, the association  
196 shall mail to each unit owner at the address last furnished to  
197 the association by the unit owner, or hand deliver to each unit  
198 owner, a copy of the financial report or a notice that a copy of  
199 the financial report will be mailed or hand delivered to the unit  
200 owner, without charge, upon receipt of a written request from the  
201 unit owner. The division shall adopt rules setting forth uniform  
202 accounting principles and standards to be used by all  
203 associations and shall adopt rules addressing financial reporting

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204 requirements for multicondominium associations. In adopting such  
205 rules, the division shall consider the number of members and  
206 annual revenues of an association. Financial reports shall be  
207 prepared as follows:

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

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

216 2. An association with total annual revenues of at least  
217 \$200,000, but less than \$400,000, shall prepare reviewed  
218 financial statements.

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

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

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

228 3. A report of cash receipts and disbursements must  
229 disclose the amount of receipts by accounts and receipt  
230 classifications and the amount of expenses by accounts and  
231 expense classifications, including, but not limited to, the  
232 following, as applicable: costs for security, professional and



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233 management fees and expenses, taxes, costs for recreation  
234 facilities, expenses for refuse collection and utility services,  
235 expenses for lawn care, costs for building maintenance and  
236 repair, insurance costs, administration and salary expenses, and  
237 reserves accumulated and expended for capital expenditures,  
238 deferred maintenance, and any other category for which the  
239 association maintains reserves.

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

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

245 2. Reviewed or audited financial statements, if the  
246 association is required to prepare compiled financial statements;  
247 or

248 3. Audited financial statements if the association is  
249 required to prepare reviewed financial statements.

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

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

255 2. A report of cash receipts and expenditures or a compiled  
256 financial statement in lieu of a reviewed or audited financial  
257 statement; or

258 3. A report of cash receipts and expenditures, a compiled  
259 financial statement, or a reviewed financial statement in lieu of  
260 an audited financial statement.

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262 Such meeting and approval must occur prior to the end of the  
263 fiscal year and is effective only for the fiscal year in which  
264 the vote is taken. With respect to an association to which the  
265 developer has not turned over control of the association, all  
266 unit owners, including the developer, may vote on issues related  
267 to the preparation of financial reports for the first 2 fiscal  
268 years of the association's operation, beginning with the fiscal  
269 year in which the declaration is recorded. Thereafter, all unit  
270 owners except the developer may vote on such issues until control  
271 is turned over to the association by the developer. An  
272 association or board of administration may not waive the  
273 financial reporting requirements of this section for more than 2  
274 consecutive years.

275 Section 2. Subsection (2) of section 718.112, Florida  
276 Statutes, is amended to read:

277 718.112 Bylaws.--

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

281 (a) Administration.--

282 1. The form of administration of the association shall be  
283 described indicating the title of the officers and board of  
284 administration and specifying the powers, duties, manner of  
285 selection and removal, and compensation, if any, of officers and  
286 boards. In the absence of such a provision, the board of  
287 administration shall be composed of five members, except in the  
288 case of a condominium which has five or fewer units, in which  
289 case in a not-for-profit corporation the board shall consist of  
290 not fewer than three members. In the absence of provisions to the

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291 | contrary in the bylaws, the board of administration shall have a  
292 | president, a secretary, and a treasurer, who shall perform the  
293 | duties of such officers customarily performed by officers of  
294 | corporations. Unless prohibited in the bylaws, the board of  
295 | administration may appoint other officers and grant them the  
296 | duties it deems appropriate. Unless otherwise provided in the  
297 | bylaws, the officers shall serve without compensation and at the  
298 | pleasure of the board of administration. Unless otherwise  
299 | provided in the bylaws, the members of the board shall serve  
300 | without compensation.

301 |         2. When a unit owner files a written inquiry by certified  
302 | mail with the board of administration, the board shall respond in  
303 | writing to the unit owner within 30 days of receipt of the  
304 | inquiry. The board's response shall either give a substantive  
305 | response to the inquirer, notify the inquirer that a legal  
306 | opinion has been requested, or notify the inquirer that advice  
307 | has been requested from the division. If the board requests  
308 | advice from the division, the board shall, within 10 days of its  
309 | receipt of the advice, provide in writing a substantive response  
310 | to the inquirer. If a legal opinion is requested, the board  
311 | shall, within 60 days after the receipt of the inquiry, provide  
312 | in writing a substantive response to the inquiry. The failure to  
313 | provide a substantive response to the inquiry as provided herein  
314 | precludes the board from recovering attorney's fees and costs in  
315 | any subsequent litigation, administrative proceeding, or  
316 | arbitration arising out of the inquiry. The association may  
317 | through its board of administration adopt reasonable rules and  
318 | regulations regarding the frequency and manner of responding to  
319 | unit owner inquiries, one of which may be that the association is

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320 only obligated to respond to one written inquiry per unit in any  
321 given 30-day period. In such a case, any additional inquiry or  
322 inquiries must be responded to in the subsequent 30-day period,  
323 or periods, as applicable.

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

325 1. Unless a lower number is provided in the bylaws, the  
326 percentage of voting interests required to constitute a quorum at  
327 a meeting of the members shall be a majority of the voting  
328 interests. Unless otherwise provided in this chapter or in the  
329 declaration, articles of incorporation, or bylaws, and except as  
330 provided in subparagraph (d)3., decisions shall be made by owners  
331 of a majority of the voting interests represented at a meeting at  
332 which a quorum is present.

333 2. Except as specifically otherwise provided herein, after  
334 January 1, 1992, unit owners may not vote by general proxy, but  
335 may vote by limited proxies substantially conforming to a limited  
336 proxy form adopted by the division. Votes allocated to units  
337 owned by the association may not be cast by proxy, ballot, or  
338 otherwise for any purpose. Limited proxies and general proxies  
339 may be used to establish a quorum. Limited proxies shall be used  
340 for votes taken to waive or reduce reserves in accordance with  
341 subparagraph (f)2.; for votes taken to waive the financial  
342 reporting requirements of s. 718.111(13); for votes taken to  
343 amend the declaration pursuant to s. 718.110; for votes taken to  
344 amend the articles of incorporation or bylaws pursuant to this  
345 section; and for any other matter for which this chapter requires  
346 or permits a vote of the unit owners. Except as provided in  
347 paragraph (d), after January 1, 1992, no proxy, limited or  
348 general, shall be used in the election of board members. General

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349 proxies may be used for other matters for which limited proxies  
350 are not required, and may also be used in voting for  
351 nonsubstantive changes to items for which a limited proxy is  
352 required and given. Notwithstanding the provisions of this  
353 subparagraph, unit owners may vote in person at unit owner  
354 meetings. Nothing contained herein shall limit the use of general  
355 proxies or require the use of limited proxies for any agenda item  
356 or election at any meeting of a timeshare condominium  
357 association.

358 3. Any proxy given shall be effective only for the specific  
359 meeting for which originally given and any lawfully adjourned  
360 meetings thereof. In no event shall any proxy be valid for a  
361 period longer than 90 days after the date of the first meeting  
362 for which it was given. Every proxy is revocable at any time at  
363 the pleasure of the unit owner executing it.

364 4. A member of the board of administration or a committee  
365 may submit in writing his or her agreement or disagreement with  
366 any action taken at a meeting that the member did not attend.  
367 This agreement or disagreement may not be used as a vote for or  
368 against the action taken and may not be used for the purposes of  
369 creating a quorum.

370 5. When any of the board or committee members meet by  
371 telephone conference, those board or committee members attending  
372 by telephone conference may be counted toward obtaining a quorum  
373 and may vote by telephone. A telephone speaker must be used so  
374 that the conversation of those board or committee members  
375 attending by telephone may be heard by the board or committee  
376 members attending in person as well as by any unit owners present  
377 at a meeting.

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378 (c) Board of administration meetings.--Meetings of the  
379 board of administration at which a quorum of the members is  
380 present shall be open to all unit owners. Any unit owner may tape  
381 record or videotape meetings of the board of administration. The  
382 right to attend such meetings includes the right to speak at such  
383 meetings with reference to all designated agenda items. The  
384 division shall adopt reasonable rules governing the tape  
385 recording and videotaping of the meeting. The association may  
386 adopt written reasonable rules governing the frequency, duration,  
387 and manner of unit owner statements. Adequate notice of all  
388 meetings, which notice shall specifically incorporate an  
389 identification of agenda items, shall be posted conspicuously on  
390 the condominium property at least 48 continuous hours preceding  
391 the meeting except in an emergency. Any item not included on the  
392 notice may be taken up on an emergency basis by at least a  
393 majority plus one of the members of the board or by a petition of  
394 20 percent of the unit owners. Such emergency action shall be  
395 noticed and ratified at the next regular meeting of the board.  
396 However, written notice of any meeting at which nonemergency  
397 special assessments, or at which amendment to rules regarding  
398 unit use, will be considered shall be mailed, delivered, or  
399 electronically transmitted to the unit owners and posted  
400 conspicuously on the condominium property not less than 14 days  
401 prior to the meeting. Evidence of compliance with this 14-day  
402 notice shall be made by an affidavit executed by the person  
403 providing the notice and filed among the official records of the  
404 association. Upon notice to the unit owners, the board shall by  
405 duly adopted rule designate a specific location on the  
406 condominium property or association property upon which all

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407 notices of board meetings shall be posted. If there is no  
408 condominium property or association property upon which notices  
409 can be posted, notices of board meetings shall be mailed,  
410 delivered, or electronically transmitted at least 14 days before  
411 the meeting to the owner of each unit. In lieu of or in addition  
412 to the physical posting of notice of any meeting of the board of  
413 administration on the condominium property, the association may,  
414 by reasonable rule, adopt a procedure for conspicuously posting  
415 and repeatedly broadcasting the notice and the agenda on a  
416 closed-circuit cable television system serving the condominium  
417 association. However, if broadcast notice is used in lieu of a  
418 notice posted physically on the condominium property, the notice  
419 and agenda must be broadcast at least four times every broadcast  
420 hour of each day that a posted notice is otherwise required under  
421 this section. When broadcast notice is provided, the notice and  
422 agenda must be broadcast in a manner and for a sufficient  
423 continuous length of time so as to allow an average reader to  
424 observe the notice and read and comprehend the entire content of  
425 the notice and the agenda. Notice of any meeting in which regular  
426 or special assessments against unit owners are to be considered  
427 for any reason shall specifically state ~~contain a statement~~ that  
428 assessments will be considered and the nature, cost, and  
429 breakdown of any such assessments. Meetings of a committee to  
430 take final action on behalf of the board or make recommendations  
431 to the board regarding the association budget are subject to the  
432 provisions of this paragraph. Meetings of a committee that does  
433 not take final action on behalf of the board or make  
434 recommendations to the board regarding the association budget are  
435 subject to the provisions of this section, unless those meetings

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436 are exempted from this section by the bylaws of the association.  
437 Notwithstanding any other law, the requirement that board  
438 meetings and committee meetings be open to the unit owners is  
439 inapplicable to meetings between the board or a committee and the  
440 association's attorney, with respect to proposed or pending  
441 litigation, when the meeting is held for the purpose of seeking  
442 or rendering legal advice.

443 (d) Unit owner meetings.--

444 1. There shall be an annual meeting of the unit owners held  
445 at the location provided in the association bylaws; and, if the  
446 bylaws are silent as to the location, the meeting shall be held  
447 in the state within 30 miles of the condominium property. Unless  
448 the bylaws provide otherwise, a vacancy on the board caused by  
449 the expiration of a director's term shall be filled by electing a  
450 new board member, and the election shall be by secret ballot;  
451 however, if the number of vacancies equals or exceeds the number  
452 of candidates, no election is required. If there is no provision  
453 in the bylaws for terms of the members of the board, the terms of  
454 all members of the board shall expire upon the election of their  
455 successors at the annual meeting. Any unit owner desiring to be a  
456 candidate for board membership shall comply with subparagraph 3.  
457 A person is not eligible for board membership if that person ~~who~~  
458 has been convicted of any felony by any court of record in the  
459 United States and who has not had his or her right to vote  
460 restored pursuant to law in the jurisdiction of his or her  
461 residence ~~is not eligible for board membership.~~ The validity of  
462 an action by the board is not affected if it is later determined  
463 that a member of the board is ineligible for board membership due  
464 to having been convicted of a felony.



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465           2. The bylaws shall provide the method of calling meetings  
466 of unit owners, including annual meetings. Written notice, which  
467 notice must include an agenda, shall be mailed, hand delivered,  
468 or electronically transmitted to each unit owner at least 14 days  
469 prior to the annual meeting and shall be posted in a conspicuous  
470 place on the condominium property at least 14 continuous days  
471 preceding the annual meeting. Upon notice to the unit owners, the  
472 board shall by duly adopted rule designate a specific location on  
473 the condominium property or association property upon which all  
474 notices of unit owner meetings shall be posted; however, if there  
475 is no condominium property or association property upon which  
476 notices can be posted, this requirement does not apply. In lieu  
477 of or in addition to the physical posting of notice of any  
478 meeting of the unit owners on the condominium property, the  
479 association may, by reasonable rule, adopt a procedure for  
480 conspicuously posting and repeatedly broadcasting the notice and  
481 the agenda on a closed-circuit cable television system serving  
482 the condominium association. However, if broadcast notice is used  
483 in lieu of a notice posted physically on the condominium  
484 property, the notice and agenda must be broadcast at least four  
485 times every broadcast hour of each day that a posted notice is  
486 otherwise required under this section. When broadcast notice is  
487 provided, the notice and agenda must be broadcast in a manner and  
488 for a sufficient continuous length of time so as to allow an  
489 average reader to observe the notice and read and comprehend the  
490 entire content of the notice and the agenda. Unless a unit owner  
491 waives in writing the right to receive notice of the annual  
492 meeting, such notice shall be hand delivered, mailed, or  
493 electronically transmitted to each unit owner. Notice for

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494 meetings and notice for all other purposes shall be mailed to  
495 each unit owner at the address last furnished to the association  
496 by the unit owner, or hand delivered to each unit owner. However,  
497 if a unit is owned by more than one person, the association shall  
498 provide notice, for meetings and all other purposes, to that one  
499 address which the developer initially identifies for that purpose  
500 and thereafter as one or more of the owners of the unit shall so  
501 advise the association in writing, or if no address is given or  
502 the owners of the unit do not agree, to the address provided on  
503 the deed of record. An officer of the association, or the manager  
504 or other person providing notice of the association meeting,  
505 shall provide an affidavit or United States Postal Service  
506 certificate of mailing, to be included in the official records of  
507 the association affirming that the notice was mailed or hand  
508 delivered, in accordance with this provision.

509       3. The members of the board shall be elected by written  
510 ballot or voting machine. Proxies shall in no event be used in  
511 electing the board, either in general elections or elections to  
512 fill vacancies caused by recall, resignation, or otherwise,  
513 unless otherwise provided in this chapter. Not less than 60 days  
514 before a scheduled election, the association or its  
515 representative shall mail, deliver, or electronically transmit,  
516 whether by separate association mailing or included in another  
517 association mailing, delivery, or transmission, including  
518 regularly published newsletters, to each unit owner entitled to a  
519 vote, a first notice of the date of the election. Any unit owner  
520 or other eligible person desiring to be a candidate for the board  
521 must give written notice to the association or its representative  
522 not less than 40 days before a scheduled election. Together with

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523 the written notice and agenda as set forth in subparagraph 2.,  
524 the association or its representative shall mail, deliver, or  
525 electronically transmit a second notice of the election to all  
526 unit owners entitled to vote therein, together with a ballot  
527 which shall list all candidates. Upon request of a candidate, the  
528 association or its representative shall include an information  
529 sheet, no larger than 8 1/2 inches by 11 inches, which must be  
530 furnished by the candidate not less than 35 days before the  
531 election, to be included with the mailing, delivery, or  
532 transmission of the ballot, with the costs of mailing, delivery,  
533 or electronic transmission and copying to be borne by the  
534 association. An officer of the association, or the manager or  
535 other person providing the first and second notices, shall  
536 provide an affidavit or United States Postal Service certificate  
537 of mailing, to be included in the official records of the  
538 association, affirming that the notices were mailed or hand  
539 delivered in accordance with this subparagraph. The association  
540 or its representative is not liable for the contents of the  
541 information sheets prepared by the candidates. In order to reduce  
542 costs, the association may print or duplicate the information  
543 sheets on both sides of the paper. The division shall by rule  
544 establish voting procedures consistent with the provisions  
545 contained herein, including rules establishing procedures for  
546 giving notice by electronic transmission and rules providing for  
547 the secrecy of ballots. All ballot envelopes must be placed in a  
548 locked or sealed ballot drop box immediately upon receipt, and  
549 the box shall not be opened in advance of the election meeting.  
550 Elections shall be decided by a plurality of those ballots cast.  
551 There shall be no quorum requirement; however, at least 20

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552 percent of the eligible voters must cast a ballot in order to  
553 have a valid election of members of the board. No unit owner  
554 shall permit any other person to vote his or her ballot, except  
555 for a person acting under a specific power of attorney, and any  
556 such ballots improperly cast shall be deemed invalid, provided  
557 any unit owner who violates this provision may be fined by the  
558 association in accordance with s. 718.303. A unit owner who needs  
559 assistance in casting the ballot for the reasons stated in s.  
560 101.051 may obtain assistance in casting the ballot. The regular  
561 election shall occur on the date of the annual meeting. The  
562 provisions of this subparagraph shall not apply to timeshare  
563 condominium associations. Notwithstanding the provisions of this  
564 subparagraph, an election is not required unless more candidates  
565 file notices of intent to run or are nominated than board  
566 vacancies exist.

567 4. Any approval by unit owners called for by this chapter  
568 or the applicable declaration or bylaws, including, but not  
569 limited to, the approval requirement in s. 718.111(8), shall be  
570 made at a duly noticed meeting of unit owners and shall be  
571 subject to all requirements of this chapter or the applicable  
572 condominium documents relating to unit owner decisionmaking,  
573 except that unit owners may take action by written agreement,  
574 without meetings, on matters for which action by written  
575 agreement without meetings is expressly allowed by the applicable  
576 bylaws or declaration or any statute that provides for such  
577 action.

578 5. Unit owners may waive notice of specific meetings if  
579 allowed by the applicable bylaws or declaration or any statute.  
580 If authorized by the bylaws, notice of meetings of the board of

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581 administration, unit owner meetings, except unit owner meetings  
582 called to recall board members under paragraph (j), and committee  
583 meetings may be given by electronic transmission to unit owners  
584 who consent to receive notice by electronic transmission.

585 6. Unit owners shall have the right to participate in  
586 meetings of unit owners with reference to all designated agenda  
587 items. However, the association may adopt reasonable rules  
588 governing the frequency, duration, and manner of unit owner  
589 participation.

590 7. Any unit owner may tape record or videotape a meeting of  
591 the unit owners subject to reasonable rules adopted by the  
592 division.

593 8. Unless otherwise provided in the bylaws, any vacancy  
594 occurring on the board before the expiration of a term may be  
595 filled by the affirmative vote of the majority of the remaining  
596 directors, even if the remaining directors constitute less than a  
597 quorum, or by the sole remaining director. In the alternative, a  
598 board may hold an election to fill the vacancy, in which case the  
599 election procedures must conform to the requirements of  
600 subparagraph 3. ~~unless the association has opted out of the~~  
601 ~~statutory election process, in which case the bylaws of the~~  
602 ~~association control.~~ Unless otherwise provided in the bylaws, a  
603 board member appointed or elected under this section shall fill  
604 the vacancy for the unexpired term of the seat being filled.  
605 Filling vacancies created by recall is governed by paragraph (j)  
606 and rules adopted by the division.

607  
608 ~~Notwithstanding subparagraphs (b)2. and (d)3., an association~~  
609 ~~may, by the affirmative vote of a majority of the total voting~~

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610 ~~interests, provide for different voting and election procedures~~  
611 ~~in its bylaws, which vote may be by a proxy specifically~~  
612 ~~delineating the different voting and election procedures. The~~  
613 ~~different voting and election procedures may provide for~~  
614 ~~elections to be conducted by limited or general proxy.~~

615 (e) Budget meeting.--

616 1. Any meeting at which a proposed annual budget of an  
617 association will be considered by the board or unit owners shall  
618 be open to all unit owners. At least 14 days prior to such a  
619 meeting, the board shall hand deliver to each unit owner, mail to  
620 each unit owner at the address last furnished to the association  
621 by the unit owner, or electronically transmit to the location  
622 furnished by the unit owner for that purpose a notice of such  
623 meeting and a copy of the proposed annual budget. An officer or  
624 manager of the association, or other person providing notice of  
625 such meeting, shall execute an affidavit evidencing compliance  
626 with such notice requirement, and such affidavit shall be filed  
627 among the official records of the association.

628 2.a. If a board adopts in any fiscal year an annual budget  
629 which requires assessments against unit owners which exceed 115  
630 percent of assessments for the preceding fiscal year, the board  
631 shall conduct a special meeting of the unit owners to consider a  
632 substitute budget if the board receives, within 21 days after  
633 adoption of the annual budget, a written request for a special  
634 meeting from at least 10 percent of all voting interests. The  
635 special meeting shall be conducted within 60 days after adoption  
636 of the annual budget. At least 14 days prior to such special  
637 meeting, the board shall hand deliver to each unit owner, or mail  
638 to each unit owner at the address last furnished to the

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639 association, a notice of the meeting. An officer or manager of  
640 the association, or other person providing notice of such meeting  
641 shall execute an affidavit evidencing compliance with this notice  
642 requirement, and such affidavit shall be filed among the official  
643 records of the association. Unit owners may consider and adopt a  
644 substitute budget at the special meeting. A substitute budget is  
645 adopted if approved by a majority of all voting interests unless  
646 the bylaws require adoption by a greater percentage of voting  
647 interests. If there is not a quorum at the special meeting or a  
648 substitute budget is not adopted, the annual budget previously  
649 adopted by the board shall take effect as scheduled.

650 b. Any determination of whether assessments exceed 115  
651 percent of assessments for the prior fiscal year shall exclude  
652 any authorized provision for reasonable reserves for repair or  
653 replacement of the condominium property, anticipated expenses of  
654 the association which the board does not expect to be incurred on  
655 a regular or annual basis, or assessments for betterments to the  
656 condominium property.

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

660 (f) Annual budget.--

661 1. The association shall prepare an annual budget of  
662 estimated revenues and expenses. The adopted budget of the prior  
663 fiscal year shall remain in effect until the association has  
664 adopted a new budget for the current fiscal year. The proposed  
665 annual budget of estimated revenues and ~~common~~ expenses shall be  
666 detailed and shall show the amounts budgeted by accounts and  
667 expense classifications, including, if applicable, but not

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668 limited to, those expenses listed in s. 718.504(21). A  
669 multicondominium association shall adopt a separate budget of  
670 common expenses for each condominium the association operates and  
671 shall adopt a separate budget of common expenses for the  
672 association. In addition, if the association maintains limited  
673 common elements with the cost to be shared only by those entitled  
674 to use the limited common elements as provided for in s.  
675 718.113(1), the budget or a schedule attached thereto shall show  
676 amounts budgeted therefor. If, after turnover of control of the  
677 association to the unit owners, any of the expenses listed in s.  
678 718.504(21) are not applicable, they need not be listed.

679 2. In addition to annual operating expenses, the budget  
680 shall include reserve accounts for capital expenditures and  
681 deferred maintenance. These accounts shall include, but are not  
682 limited to, roof replacement, building painting, and pavement  
683 resurfacing, regardless of the amount of deferred maintenance  
684 expense or replacement cost, and for any other item for which the  
685 deferred maintenance expense or replacement cost exceeds \$10,000.  
686 The amount to be reserved shall be computed by means of a formula  
687 which is based upon estimated remaining useful life and estimated  
688 replacement cost or deferred maintenance expense of each reserve  
689 item. The association may adjust replacement reserve assessments  
690 annually to take into account any changes in estimates or  
691 extension of the useful life of a reserve item caused by deferred  
692 maintenance. This subsection does not apply to an adopted budget  
693 in which the members of an association have determined, by a  
694 majority vote at a duly called meeting of the association, to  
695 provide no reserves or less reserves than required by this  
696 subsection. However, prior to turnover of control of an



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697 association by a developer to unit owners other than a developer  
698 pursuant to s. 718.301, the developer may vote to waive the  
699 reserves or reduce the funding of reserves for the first 2 fiscal  
700 years of the association's operation, beginning with the fiscal  
701 year in which the initial declaration is recorded, after which  
702 time reserves may be waived or reduced only upon the vote of a  
703 majority of all nondeveloper voting interests voting in person or  
704 by limited proxy at a duly called meeting of the association. If  
705 a meeting of the unit owners has been called to determine whether  
706 to waive or reduce the funding of reserves, and no such result is  
707 achieved or a quorum is not attained, the reserves as included in  
708 the budget shall go into effect. After the turnover, the  
709 developer may vote its voting interest to waive or reduce the  
710 funding of reserves.

711 3. Reserve funds and any interest accruing thereon shall  
712 remain in the reserve account or accounts, and shall be used only  
713 for authorized reserve expenditures unless their use for other  
714 purposes is approved in advance by a majority vote at a duly  
715 called meeting of the association. Prior to turnover of control  
716 of an association by a developer to unit owners other than the  
717 developer pursuant to s. 718.301, the developer-controlled  
718 association shall not vote to use reserves for purposes other  
719 than that for which they were intended without the approval of a  
720 majority of all nondeveloper voting interests, voting in person  
721 or by limited proxy at a duly called meeting of the association.

722 4. The only voting interests which are eligible to vote on  
723 questions that involve waiving or reducing the funding of  
724 reserves, or using existing reserve funds for purposes other than  
725 purposes for which the reserves were intended, are the voting

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726 interests of the units subject to assessment to fund the reserves  
727 in question. The face of all ballots that involve questions  
728 relating to waiving or reducing the funding of reserves or using  
729 existing reserve funds for purposes other than purposes for which  
730 the reserves were intended shall contain the following statement  
731 in capitalized, bold letters in a font size larger than any other  
732 used on the face of the ballot: WAIVING OF RESERVES, IN WHOLE OR  
733 IN PART, OR ALLOWING ALTERNATE USES OF EXISTING RESERVES MAY  
734 RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED  
735 SPECIAL ASSESSMENTS REGARDING THOSE RESERVE ITEMS.

736 5. A vote to provide for no reserves or a percentage of  
737 reserves shall be made at the annual meeting of the unit owners  
738 called under paragraph (d). The division shall adopt the form for  
739 the ballot for no reserves and a percentage of reserves.

740 6. Notwithstanding subparagraph 3., the association after  
741 turnover of control of the association may, in case of a  
742 catastrophic event, use reserve funds for nonscheduled purposes  
743 to mitigate further damage to units or common elements or to make  
744 the condominium accessible for repairs.

745 (g) Assessments.--The manner of collecting from the unit  
746 owners their shares of the common expenses shall be stated in the  
747 bylaws. Assessments shall be made against units not less  
748 frequently than quarterly in an amount which is not less than  
749 that required to provide funds in advance for payment of all of  
750 the anticipated current operating expenses and for all of the  
751 unpaid operating expenses previously incurred. Nothing in this  
752 paragraph shall preclude the right of an association to  
753 accelerate assessments of an owner delinquent in payment of  
754 common expenses. Accelerated assessments shall be due and payable

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755 on the date the claim of lien is filed. Such accelerated  
756 assessments shall include the amounts due for the remainder of  
757 the budget year in which the claim of lien was filed.

758 (h) Amendment of bylaws.--

759 1. The method by which the bylaws may be amended consistent  
760 with the provisions of this chapter shall be stated. If the  
761 bylaws fail to provide a method of amendment, the bylaws may be  
762 amended if the amendment is approved by the owners of not less  
763 than two-thirds of the voting interests.

764 2. No bylaw shall be revised or amended by reference to its  
765 title or number only. Proposals to amend existing bylaws shall  
766 contain the full text of the bylaws to be amended; new words  
767 shall be inserted in the text underlined, and words to be deleted  
768 shall be lined through with hyphens. However, if the proposed  
769 change is so extensive that this procedure would hinder, rather  
770 than assist, the understanding of the proposed amendment, it is  
771 not necessary to use underlining and hyphens as indicators of  
772 words added or deleted, but, instead, a notation must be inserted  
773 immediately preceding the proposed amendment in substantially the  
774 following language: "Substantial rewording of bylaw. See bylaw  
775 \_\_\_\_\_ for present text."

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

778 (i) Transfer fees.--No charge shall be made by the  
779 association or any body thereof in connection with the sale,  
780 mortgage, lease, sublease, or other transfer of a unit unless the  
781 association is required to approve such transfer and a fee for  
782 such approval is provided for in the declaration, articles, or  
783 bylaws. Any such fee may be preset, but in no event may such fee

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784 exceed \$100 per applicant other than husband/wife or  
785 parent/dependent child, which are considered one applicant.  
786 However, if the lease or sublease is a renewal of a lease or  
787 sublease with the same lessee or sublessee, no charge shall be  
788 made. The foregoing notwithstanding, an association may, if the  
789 authority to do so appears in the declaration or bylaws, require  
790 that a prospective lessee place a security deposit, in an amount  
791 not to exceed the equivalent of 1 month's rent, into an escrow  
792 account maintained by the association. The security deposit shall  
793 protect against damages to the common elements or association  
794 property. Payment of interest, claims against the deposit,  
795 refunds, and disputes under this paragraph shall be handled in  
796 the same fashion as provided in part II of chapter 83.

797 (j) Recall of board members.--Subject to the provisions of  
798 s. 718.301, any member of the board of administration may be  
799 recalled and removed from office with or without cause by the  
800 vote or agreement in writing by a majority of all the voting  
801 interests. A special meeting of the unit owners to recall a  
802 member or members of the board of administration may be called by  
803 10 percent of the voting interests giving notice of the meeting  
804 as required for a meeting of unit owners, and the notice shall  
805 state the purpose of the meeting. Electronic transmission may not  
806 be used as a method of giving notice of a meeting called in whole  
807 or in part for this purpose.

808 1. If the recall is approved by a majority of all voting  
809 interests by a vote at a meeting, the recall will be effective as  
810 provided herein. The board shall duly notice and hold a board  
811 meeting within 5 full business days of the adjournment of the  
812 unit owner meeting to recall one or more board members. At the

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813 meeting, the board shall either certify the recall, in which case  
814 such member or members shall be recalled effective immediately  
815 and shall turn over to the board within 5 full business days any  
816 and all records and property of the association in their  
817 possession, or shall proceed as set forth in subparagraph 3.

818         2. If the proposed recall is by an agreement in writing by  
819 a majority of all voting interests, the agreement in writing or a  
820 copy thereof shall be served on the association by certified mail  
821 or by personal service in the manner authorized by chapter 48 and  
822 the Florida Rules of Civil Procedure. The board of administration  
823 shall duly notice and hold a meeting of the board within 5 full  
824 business days after receipt of the agreement in writing. At the  
825 meeting, the board shall either certify the written agreement to  
826 recall a member or members of the board, in which case such  
827 member or members shall be recalled effective immediately and  
828 shall turn over to the board within 5 full business days any and  
829 all records and property of the association in their possession,  
830 or proceed as described in subparagraph 3.

831         3. If the board determines not to certify the written  
832 agreement to recall a member or members of the board, or does not  
833 certify the recall by a vote at a meeting, the board shall,  
834 within 5 full business days after the meeting, file with the  
835 division a petition for arbitration pursuant to the procedures in  
836 s. 718.1255. For the purposes of this section, the unit owners  
837 who voted at the meeting or who executed the agreement in writing  
838 shall constitute one party under the petition for arbitration. If  
839 the arbitrator certifies the recall as to any member or members  
840 of the board, the recall will be effective upon mailing of the  
841 final order of arbitration to the association. If the association

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842 fails to comply with the order of the arbitrator, the division  
843 may take action pursuant to s. 718.501. Any member or members so  
844 recalled shall deliver to the board any and all records of the  
845 association in their possession within 5 full business days of  
846 the effective date of the recall.

847 4. If the board fails to duly notice and hold a board  
848 meeting within 5 full business days of service of an agreement in  
849 writing or within 5 full business days of the adjournment of the  
850 unit owner recall meeting, the recall shall be deemed effective  
851 and the board members so recalled shall immediately turn over to  
852 the board any and all records and property of the association.

853 5. If a vacancy occurs on the board as a result of a recall  
854 and less than a majority of the board members are removed, the  
855 vacancy may be filled by the affirmative vote of a majority of  
856 the remaining directors, notwithstanding any provision to the  
857 contrary contained in this subsection. If vacancies occur on the  
858 board as a result of a recall and a majority or more of the board  
859 members are removed, the vacancies shall be filled in accordance  
860 with procedural rules to be adopted by the division, which rules  
861 need not be consistent with this subsection. The rules must  
862 provide procedures governing the conduct of the recall election  
863 as well as the operation of the association during the period  
864 after a recall but prior to the recall election.

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

867 (l) Certificate of compliance.--There shall be a provision  
868 that a certificate of compliance from a licensed electrical  
869 contractor or electrician may be accepted by the association's  
870 board as evidence of compliance of the condominium units with the

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871 applicable fire and life safety code. Notwithstanding the  
872 provisions of chapter 633 or of any other code, statute,  
873 ordinance, administrative rule, or regulation, or any  
874 interpretation of the foregoing, an association, condominium, or  
875 unit owner is not obligated to retrofit the common elements or  
876 units of a residential condominium with a fire sprinkler system  
877 or other engineered lifesafety system in a building that has been  
878 certified for occupancy by the applicable governmental entity, if  
879 the unit owners have voted to forego such retrofitting and  
880 engineered lifesafety system by the affirmative vote of two-  
881 thirds of all voting interests in the affected condominium.  
882 However, a condominium association may not vote to forego the  
883 retrofitting with a fire sprinkler system of common areas in a  
884 high-rise building. For purposes of this subsection, the term  
885 "high-rise building" means a building that is greater than 75  
886 feet in height where the building height is measured from the  
887 lowest level of fire department access to the floor of the  
888 highest occupiable story. For purposes of this subsection, the  
889 term "common areas" means any enclosed hallway, corridor, lobby,  
890 stairwell, or entryway. In no event shall the local authority  
891 having jurisdiction require completion of retrofitting of common  
892 areas with a sprinkler system before the end of 2014.

893 1. A vote to forego retrofitting may be obtained by limited  
894 proxy or by a ballot personally cast at a duly called membership  
895 meeting, or by execution of a written consent by the member, and  
896 shall be effective upon the recording of a certificate attesting  
897 to such vote in the public records of the county where the  
898 condominium is located. The association shall mail, hand deliver,  
899 or electronically transmit to each unit owner written notice at

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900 | least 14 days prior to such membership meeting in which the vote  
901 | to forego retrofitting of the required fire sprinkler system is  
902 | to take place. Within 30 days after the association's opt-out  
903 | vote, notice of the results of the opt-out vote shall be mailed,  
904 | hand delivered, or electronically transmitted to all unit owners.  
905 | Evidence of compliance with this 30-day notice shall be made by  
906 | an affidavit executed by the person providing the notice and  
907 | filed among the official records of the association. After such  
908 | notice is provided to each owner, a copy of such notice shall be  
909 | provided by the current owner to a new owner prior to closing and  
910 | shall be provided by a unit owner to a renter prior to signing a  
911 | lease.

912 |         2. As part of the information collected annually from  
913 | condominiums, the division shall require condominium associations  
914 | to report the membership vote and recording of a certificate  
915 | under this subsection and, if retrofitting has been undertaken,  
916 | the per-unit cost of such work. The division shall annually  
917 | report to the Division of State Fire Marshal of the Department of  
918 | Financial Services the number of condominiums that have elected  
919 | to forego retrofitting.

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

921 |         1. With respect to condominiums created on or after October  
922 | 1, 1994, the bylaws shall include a provision granting the  
923 | association a limited power to convey a portion of the common  
924 | elements to a condemning authority for the purpose of providing  
925 | utility easements, right-of-way expansion, or other public  
926 | purposes, whether negotiated or as a result of eminent domain  
927 | proceedings.

928 |         2. In any case where the bylaws are silent as to the



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929 association's power to convey common elements as described in  
930 subparagraph 1., the bylaws shall be deemed to include the  
931 provision described in subparagraph 1.

932 Section 3. Subsections (6) and (7) are added to section  
933 718.113, Florida Statutes, to read:

934 718.113 Maintenance; limitation upon improvement; display  
935 of flag; hurricane shutters; display of religious decorations.--

936 (6) Every 5 years, each board of administration shall have  
937 the condominium buildings inspected by a professional engineer or  
938 professional architect registered in the state for the purposes  
939 of determining whether the buildings are structurally and  
940 electrically safe and determining any immediate maintenance  
941 required as well as any long-term maintenance necessary in the  
942 form of a long-term maintenance plan. The long-term maintenance  
943 plan shall include an executive summary that shall be distributed  
944 to all unit owners. The engineer or architect shall provide a  
945 report indicating the manner and type of inspection forming the  
946 basis for the report and description of any matters identified as  
947 requiring remedial action. The report shall become an official  
948 record of the association and be provided to the members upon  
949 request pursuant to s. 718.111(12).

950 (7) The board of administration may not adopt any rule or  
951 regulation impairing any rights guaranteed by the First Amendment  
952 to the Constitution of the United States or s. 3, Art. I of the  
953 Florida Constitution, including, but not limited to, the free  
954 exercise of religion, nor may any rules or regulations conflict  
955 with the provisions of this chapter or the condominium  
956 instruments. A rule or regulation may not prohibit any reasonable  
957 accommodation for religious practices, including the attachment

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958 of religiously mandated objects to the front-door area of a  
959 condominium unit.

960 Section 4. Section 718.1224, Florida Statutes, is created  
961 to read:

962 718.1224 Prohibition against SLAPP suits.--

963 (1) It is the intent of the Legislature to protect the  
964 right of condominium unit owners to exercise their rights to  
965 instruct their representatives and petition for redress of  
966 grievances before the various governmental entities of this state  
967 as protected by the First Amendment to the United States  
968 Constitution and s. 5, Art. I of the State Constitution. The  
969 Legislature recognizes that strategic lawsuits against public  
970 participation, or "SLAPP suits" as they are typically referred  
971 to, have occurred when association members are sued by  
972 individuals, business entities, or governmental entities arising  
973 out of a condominium unit owner's appearance and presentation  
974 before a governmental entity on matters related to the  
975 condominium association. However, it is the public policy of this  
976 state that governmental entities, business organizations, and  
977 individuals not engage in SLAPP suits, because such actions are  
978 inconsistent with the right of condominium unit owners to  
979 participate in the state's institutions of government. Therefore,  
980 the Legislature finds and declares that prohibiting such lawsuits  
981 by governmental entities, business entities, and individuals  
982 against condominium unit owners who address matters concerning  
983 their condominium association will preserve this fundamental  
984 state policy, preserve the constitutional rights of condominium  
985 unit owners, and ensure the continuation of representative  
986 government in this state. It is the intent of the Legislature

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987 that such lawsuits be expeditiously disposed of by the courts. As  
988 used in this subsection, the term "governmental entity" means the  
989 state, including the executive, legislative, and judicial  
990 branches of government; the independent establishments of the  
991 state, counties, municipalities, districts, authorities, boards,  
992 or commissions; or any agencies of these branches which are  
993 subject to chapter 286.

994 (2) A governmental entity, business organization, or  
995 individual in this state may not file or cause to be filed  
996 through its employees or agents any lawsuit, cause of action,  
997 claim, cross-claim, or counterclaim against a condominium unit  
998 owner without merit and solely because such condominium unit  
999 owner has exercised the right to instruct his or her  
1000 representatives or the right to petition for redress of  
1001 grievances before the various governmental entities of this  
1002 state, as protected by the First Amendment to the United States  
1003 Constitution and s. 5, Art. I of the State Constitution.

1004 (3) A condominium unit owner sued by a governmental entity,  
1005 business organization, or individual in violation of this section  
1006 has a right to an expeditious resolution of a claim that the suit  
1007 is in violation of this section. A condominium unit owner may  
1008 petition the court for an order dismissing the action or granting  
1009 final judgment in favor of that condominium unit owner. The  
1010 petitioner may file a motion for summary judgment, together with  
1011 supplemental affidavits, seeking a determination that the  
1012 governmental entity's, business organization's, or individual's  
1013 lawsuit has been brought in violation of this section. The  
1014 governmental entity, business organization, or individual shall  
1015 thereafter file its response and any supplemental affidavits. As

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1016 soon as practicable, the court shall set a hearing on the  
1017 petitioner's motion, which shall be held at the earliest possible  
1018 time after the filing of the governmental entity's, business  
1019 organization's, or individual's response. The court may award the  
1020 condominium unit owner sued by the governmental entity, business  
1021 organization, or individual actual damages arising from the  
1022 governmental entity's, individual's, or business organization's  
1023 violation of this section. A court may treble the damages awarded  
1024 to a prevailing condominium unit owner and shall state the basis  
1025 for the treble damages award in its judgment. The court shall  
1026 award the prevailing party reasonable attorney fees and costs  
1027 incurred in connection with a claim that an action was filed in  
1028 violation of this section.

1029 (4) Condominium associations may not expend association  
1030 funds in prosecuting a SLAPP suit against a condominium unit  
1031 owner.

1032 Section 5. This act shall take effect July 1, 2008.