

By the Committee on Regulated Industries; and Senator Villalobos

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1 A bill to be entitled

2 An act relating to community associations; amending s.
3 468.431, F.S.; revising and providing definitions;
4 amending s. 468.4315, F.S.; redesignating the Regulatory
5 Council of Community Association Managers as the Board of
6 Community Association Managers; revising membership
7 criteria for members of the board; requiring the board to
8 establish a public education program; providing that board
9 members shall serve without compensation but are entitled
10 to per diem and travel expenses; providing
11 responsibilities of the board; amending s. 468.432, F.S.;
12 providing for licensure of community association
13 management firms; providing application, licensure, and
14 fee requirements; amending s. 468.433, F.S.; providing for
15 the refusal of applicant certification under certain
16 circumstances; conforming terminology; amending ss.
17 468.4337 and 468.4338, F.S.; conforming terminology to
18 changes made by the act; amending s. 468.435, F.S.;
19 conforming terminology to changes made by the act;
20 removing statutory fee ranges; authorizing the board to
21 establish specified fees; requiring the board to adopt
22 rules establishing such fees; amending s. 468.436, F.S.;
23 requiring that the Department of Business and Professional
24 Regulation investigate certain complaints and allegations;
25 providing complaint and investigation procedures;
26 conforming cross-references and terminology; providing
27 grounds for which disciplinary actions may be taken;
28 authorizing the department to impose specified penalties
29 on a community association management firm; authorizing

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30 | the department to reissue the license of a disciplined
31 | community association manager or firm under certain
32 | circumstances; amending s. 718.110, F.S.; revising
33 | instances under which a declaration may be amended;
34 | requiring a majority vote of owners for approval of an
35 | amendment to a declaration; deleting a provision requiring
36 | amendments to declarations recorded after a specified date
37 | to be approved by more than four-fifths of the voting
38 | interests; amending s. 718.111, F.S.; providing duties of
39 | officers, directors, and agents of a condominium
40 | association and liability for monetary damages under
41 | certain circumstances; deleting legislative intent
42 | relating to insurance premiums for associations; providing
43 | policy requirements for windstorm insurance for
44 | condominium associations; providing deductible
45 | requirements; providing that a copy of the inspection
46 | report shall be maintained as an official record of the
47 | association; requiring official records of the association
48 | to be maintained for at least 5 years and to be made
49 | available at certain locations and in specified formats;
50 | providing civil and criminal sanctions, including
51 | sanctions against any person who knowingly or
52 | intentionally defaces, destroys, or fails to create or
53 | maintain accounting records; requiring the association to
54 | maintain certain documents; prohibiting accessibility to
55 | certain personal identifying information of unit owners by
56 | fellow unit owners; requiring the Division of Florida Land
57 | Sales, Condominiums, and Mobile Homes to adopt certain
58 | rules; requiring certain audits and reports to be paid for

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59 | by the developer if done prior to turnover of control of
60 | the association; restricting a condominium association
61 | from waiving a financial report for more than 2
62 | consecutive years; amending s. 718.112, F.S.; prohibiting
63 | votes allocated to units owned by the association from
64 | being cast by proxy, ballot, or otherwise, for any
65 | purpose; providing an exception that proxies may be used
66 | to establish a quorum; requiring the board to address
67 | certain agenda items proposed by a petition of a specified
68 | percentage of the unit owners; revising notice
69 | requirements for meetings to consider assessments;
70 | providing requirements for the location of annual unit
71 | owner meetings; revising terms of service for board
72 | members; prohibiting certain persons from serving on the
73 | board; providing exceptions; requiring the association to
74 | provide a certification form to unit owners for specified
75 | purposes; removing a provision allowing an association to
76 | provide for different voting and election procedures in
77 | its bylaws; revising annual budget requirements; requiring
78 | proxy questions relating to reserves to contain a certain
79 | statement; authorizing the association to use reserve
80 | funds for nonscheduled purposes under certain conditions;
81 | revising methods by which the bylaws may be amended;
82 | providing for the removal of board members under certain
83 | circumstances; providing that directors delinquent in
84 | certain payments owed in excess of certain periods of time
85 | be suspended from office or deemed to have abandoned their
86 | offices; providing that directors charged with certain
87 | offenses involving an association's funds or property be

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88 | suspended from office pending resolution of the charge;
89 | amending s. 718.113, F.S.; authorizing the board to
90 | install specified hurricane protection; providing that no
91 | obligation of the board to close or cause to be closed any
92 | hurricane shutters is created; prohibiting any
93 | restrictions from being placed on the closing of hurricane
94 | shutters unless the board and association assume such
95 | responsibility when appropriate; requiring the board to
96 | have condominium buildings periodically inspected for
97 | specified purposes; prohibiting the board from adopting
98 | rules or regulations impairing certain rights or
99 | prohibiting reasonable accommodation for religious
100 | practices; creating s. 718.1224, F.S.; prohibiting certain
101 | lawsuits arising from unit owners' appearances and
102 | presentations before a governmental entity; providing a
103 | definition; providing for award of damages and attorney
104 | fees; prohibiting associations from expending association
105 | funds in prosecuting such a suit against a unit owner;
106 | amending s. 718.1255, F.S.; revising legislative intent
107 | concerning alternative dispute resolution; amending s.
108 | 718.301, F.S.; requiring developers to provide certain
109 | documents to the association within a specified time after
110 | turnover of control of the association; amending s.
111 | 718.3025, F.S.; providing maintenance and management
112 | services contract disclosure requirements; amending s.
113 | 718.3026, F.S.; removing a provision authorizing
114 | associations to opt out of certain provisions relating to
115 | contracts for products and services; removing provisions
116 | relating to competitive bid requirements for contracts

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117 executed before a specified date; amending s. 718.501,
118 F.S.; providing authority and responsibilities of the
119 division; revising who constitutes an agent for purposes
120 of cease and desist orders issued by the division;
121 requiring the division to bring an action against a
122 developer under certain circumstances; providing the
123 division with certain powers; requiring the division to
124 issue a subpoena under certain circumstances; requiring
125 the division to maintain a list of condominium association
126 board member and unit owner training programs and program
127 providers; deleting obsolete language; amending s.
128 718.50151, F.S.; revising membership requirements for the
129 Advisory Council on Condominiums; providing an effective
130 date.

131
132 Be It Enacted by the Legislature of the State of Florida:

133
134 Section 1. Section 468.431, Florida Statutes, is amended to
135 read:

136 468.431 Definitions.--As used in this part:

137 (1) "Board" means the Board of Community Association
138 Managers.

139 (2)~~(1)~~ "Community association" means a residential
140 homeowners' association in which membership is a condition of
141 ownership of a unit in a planned unit development, or of a lot
142 for a home or a mobile home, or of a townhouse, villa,
143 condominium, cooperative, or other residential unit which is part
144 of a residential development scheme and which is authorized to
145 impose a fee which may become a lien on the parcel.

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146 (3)~~(2)~~ "Community association management" means any of the
147 following practices requiring substantial specialized knowledge,
148 judgment, and managerial skill when done for remuneration ~~and~~
149 ~~when the association or associations served contain more than 50~~
150 ~~units or have an annual budget or budgets in excess of \$100,000:~~
151 controlling or disbursing funds of a community association,
152 preparing budgets or other financial documents for a community
153 association, assisting in the noticing or conduct of community
154 association meetings, and coordinating maintenance for the
155 residential development and other day-to-day services involved
156 with the operation of a community association. A person who
157 performs clerical or ministerial functions under the direct
158 supervision and control of a licensed manager or who is charged
159 only with performing the maintenance of a community association
160 and who does not assist in any of the management services
161 described in this subsection is not required to be licensed under
162 this part.

163 (4) "Community association management firm" means a
164 corporation, limited liability company, partnership, trust,
165 association, sole proprietorship, or other similar organization
166 engaging in the business of community association management for
167 the purpose of providing any of the services described in
168 subsection (3).

169 (5)~~(3)~~ "Community association manager" means a natural
170 person who is licensed pursuant to this part to perform community
171 association management services.

172 ~~(4)~~ "Council" means ~~the Regulatory Council of Community~~
173 ~~Association Managers.~~

174 (6)~~(5)~~ "Department" means the Department of Business and

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175 Professional Regulation.

176 (7) "Division" means the Division of Florida Land Sales,
177 Condominiums, and Mobile Homes.

178 Section 2. Section 468.4315, Florida Statutes, is amended
179 to read:

180 468.4315 Board ~~Regulatory Council~~ of Community Association
181 Managers.--

182 (1) The Board ~~Regulatory Council~~ of Community Association
183 Managers is created within the department and shall consist of
184 seven members appointed by the Governor and confirmed by the
185 Senate.

186 (a) Five members of the board ~~council~~ shall be licensed
187 community association managers, one of whom may ~~shall~~ be a
188 community association manager employed by a timeshare managing
189 entity as described in ss. 468.438 and 721.13, who have held an
190 active license for at least 5 years. The remaining two board
191 ~~council~~ members shall be residents of this state, and must not be
192 or ever have been connected with the business of community
193 association management, and are not prohibited from serving
194 because the member is or has been a resident or board member of a
195 community association.

196 (b) The Governor shall appoint members for terms of 4
197 years. Such members shall serve until their successors are
198 appointed. Members' service on the board ~~council~~ shall begin upon
199 appointment and shall continue until their successors are
200 appointed.

201 (2) The board shall ~~council may~~ adopt rules relating to the
202 licensure examination, continuing education requirements,
203 continuing education providers, fees, and professional practice

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204 standards to assist the department in carrying out the duties and
205 authorities conferred upon the department by this part.

206 (3) The board ~~To the extent the council~~ is authorized to
207 exercise functions otherwise exercised by a board pursuant to
208 chapter 455, the provisions of chapter 455 and s. 20.165 relating
209 to regulatory boards ~~shall apply~~, including, but not limited to,
210 provisions relating to board rules and the accountability and
211 liability of board members. All proceedings and actions of the
212 board ~~council~~ are subject to the provisions of chapter 120. In
213 addition, the provisions of chapter 455 and s. 20.165 shall apply
214 to the department in carrying out the duties and authorities
215 conferred upon the department by this part.

216 (4) The board shall establish a public education program
217 relating to professional community association management.

218 (5) Members of the board shall serve without compensation
219 but are entitled to receive per diem and travel expenses pursuant
220 to s. 112.061 while carrying out business approved by the board.

221 (6) The responsibilities of the board include, but are not
222 limited to:

223 (a) Receiving input regarding issues of concern with
224 respect to community association management and recommendations
225 for changes in applicable laws.

226 (b) Reviewing, evaluating, and advising the division
227 concerning revisions and adoption of rules affecting community
228 association management.

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

231 Section 3. Section 468.432, Florida Statutes, is amended to
232 read:

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233 468.432 Licensure of community association managers and
234 community association management firms; exceptions.--

235 (1) A person shall not manage or hold herself or himself
236 out to the public as being able to manage a community association
237 in this state unless she or he is licensed by the department in
238 accordance with the provisions of this part. However, nothing in
239 this part prohibits any person licensed in this state under any
240 other law or court rule from engaging in the profession for which
241 she or he is licensed.

242 (2) As of January 1, 2009, a community association
243 management firm or other similar organization may not engage or
244 hold itself out to the public as being able to engage in the
245 business of community association management in this state unless
246 it is licensed by the department as a community association
247 management firm in accordance with the provisions of this part.

248 (a) A community association management firm or other
249 similar organization desiring to be licensed as a community
250 association management firm shall apply to the department on a
251 form approved by the department and submit the application and
252 licensure fees required by s. 468.435(1)(a) and (c). Each
253 community association management firm applying for licensure
254 under this subsection must be actively registered and authorized
255 to do business in this state.

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

259 (c) Each licensed community association management firm
260 shall notify the department within 30 days after any change of
261 information contained in the application upon which licensure is

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262 | based.

263 | (d) Community association management firm licenses shall
264 | expire on September 30 of odd-numbered years and shall be renewed
265 | every 2 years. An application for renewal shall be accompanied by
266 | the renewal fee as required by s. 468.435(1)(d).

267 | (e) The department shall license each applicant whom the
268 | department certifies as meeting the requirements of this
269 | subsection.

270 | (f) If the license of at least one individual active
271 | community association manager member is not in force, the license
272 | of the community association management firm or other similar
273 | organization is canceled automatically during that time.

274 | (g) Any community association management firm or other
275 | similar organization agrees by being licensed that it will employ
276 | only licensed persons in the direct provision of community
277 | association management services as described in s. 468.431(3).

278 | ~~(2) Nothing in this part prohibits a corporation,~~
279 | ~~partnership, trust, association, or other like organization from~~
280 | ~~engaging in the business of community association management~~
281 | ~~without being licensed if it employs licensed natural persons in~~
282 | ~~the direct provision of community association management~~
283 | ~~services. Such corporation, partnership, trust, association, or~~
284 | ~~other organization shall also file with the department a~~
285 | ~~statement on a form approved by the department that it submits~~
286 | ~~itself to the rules of the council and the department and the~~
287 | ~~provisions of this part which the department deems applicable.~~

288 | Section 4. Section 468.433, Florida Statutes, is amended to
289 | read:

290 | 468.433 Licensure by examination.--

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291 (1) A person desiring to be licensed as a community
292 association manager shall apply to the department to take the
293 licensure examination. Each applicant must file a complete set of
294 fingerprints that have been taken by an authorized law
295 enforcement officer, which set of fingerprints shall be submitted
296 to the Department of Law Enforcement for state processing and to
297 the Federal Bureau of Investigation for federal processing. The
298 cost of processing shall be borne by the applicant.

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

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

306 (b) The department may refuse to certify an applicant ~~only~~
307 if:

308 1. There is a substantial connection between the lack of
309 good moral character of the applicant and the professional
310 responsibilities of a community association manager; ~~and~~

311 2. The finding by the department of lack of good moral
312 character is supported by clear and convincing evidence; ~~and~~.

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

315 (c) When an applicant is found to be unqualified for a
316 license because of a lack of good moral character, the department
317 shall furnish the applicant a statement containing its findings,
318 a complete record of the evidence upon which the determination
319 was based, and a notice of the rights of the applicant to a

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320 rehearing and appeal.

321 (d) The board ~~council~~ shall establish by rule the required
322 amount of prelicensure education, which shall consist of not more
323 than 24 hours of in-person instruction by a department-approved
324 provider and which shall cover all areas of the examination
325 specified in subsection (3). Such instruction shall be completed
326 within 12 months prior to the date of the examination.
327 Prelicensure education providers shall be considered continuing
328 education providers for purposes of establishing provider
329 approval fees. A licensee shall not be required to comply with
330 the continuing education requirements of s. 468.4337 prior to the
331 first license renewal. The department shall, by rule, set
332 standards for exceptions to the requirement of in-person
333 instruction in cases of hardship or disability.

334 (3) The board ~~council~~ shall approve an examination for
335 licensure. The examination must demonstrate that the applicant
336 has a fundamental knowledge of state and federal laws relating to
337 the operation of all types of community associations and state
338 laws relating to corporations and nonprofit corporations, proper
339 preparation of community association budgets, proper procedures
340 for noticing and conducting community association meetings,
341 insurance matters relating to community associations, and
342 management skills.

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

347 Section 5. Section 468.4337, Florida Statutes, is amended
348 to read:

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349 468.4337 Continuing education.-- The department may not
350 renew a license until the licensee submits proof that the
351 licensee has completed the requisite hours of continuing
352 education. No more than 10 hours of continuing education annually
353 shall be required for renewal of a license. The number of hours,
354 criteria, and course content shall be approved by the board
355 ~~council~~ by rule.

356 Section 6. Section 468.4338, Florida Statutes, is amended
357 to read:

358 468.4338 Reactivation; continuing education.-- The board
359 ~~council~~ shall prescribe by rule continuing education requirements
360 for reactivating a license. The continuing education requirements
361 for reactivating a license may not exceed 10 classroom hours for
362 each year the license was inactive.

363 Section 7. Section 468.435, Florida Statutes, is amended to
364 read:

365 468.435 Fees; establishment; disposition.--

366 (1) The board ~~council~~ shall, by rule, establish fees for
367 the described purposes and within the ranges specified in this
368 section:

369 (a) Application fee: not less than \$25, or more than \$50.

370 (b) Examination fee: not less than \$25, or more than \$100.

371 (c) Initial license fee: not less than \$25, or more than
372 \$100.

373 (d) Renewal of license fee: not less than \$25, or more than
374 \$100.

375 (e) Delinquent license fee: not less than \$25, or more than
376 \$50.

377 (f) Inactive license fee: not less than \$10, or more than

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378 | \$25.

379 | (2) Until the board ~~council~~ adopts rules establishing fees
380 | under subsection (1), the lower amount in each range shall apply.

381 | (3) Fees collected under this section shall be deposited to
382 | the credit of the Professional Regulation Trust Fund.

383 | (4) The board ~~council~~ shall establish fees that are
384 | adequate to fund the cost to implement the provisions of this
385 | part. Fees shall be based on the department estimates of the
386 | revenue required to implement this part and the provisions of law
387 | with respect to the regulation of community association managers.

388 | Section 8. Section 468.436, Florida Statutes, is amended to
389 | read:

390 | 468.436 Disciplinary proceedings.--

391 | (1) The department shall investigate complaints and
392 | allegations of a violation of this part or chapter 455, or any
393 | rule adopted thereunder, which is filed against community
394 | association managers or firms or forwarded from other divisions
395 | of the Department of Business and Professional Regulation. After
396 | a complaint is received, the department shall conduct its inquiry
397 | with due regard for the interests of the affected parties. Within
398 | 30 days after receipt of a complaint, the department shall
399 | acknowledge the complaint in writing and notify the complainant
400 | whether or not the complaint is within the jurisdiction of the
401 | department and whether or not additional information is needed by
402 | the department from the complainant. The department shall conduct
403 | an investigation and shall, within 90 days after receipt of the
404 | original complaint or of timely requested additional information,
405 | take action upon the complaint. However, failure to complete the
406 | investigation within 90 days does not prevent the department from

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407 continuing the investigation, accepting or considering evidence
408 obtained or received after 90 days, or taking administrative
409 action if reasonable cause exists to believe that a violation of
410 this part or chapter 455 or a rule of the department has
411 occurred. If an investigation is not completed within the time
412 limits established in this subsection, the department shall, on a
413 monthly basis, notify the complainant in writing of the status of
414 the investigation. When reporting its action to the complainant,
415 the department shall inform the complainant of any right to a
416 hearing pursuant to ss. 120.569 and 120.57.

417 (2)~~(1)~~ The following acts constitute grounds for which the
418 disciplinary actions in subsection (4) ~~(3)~~ may be taken:

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

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

421 2. Violation of any lawful order or rule rendered or
422 adopted by the department or the board ~~council~~.

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

425 4. Obtaining a license or certification or any other order,
426 ruling, or authorization by means of fraud, misrepresentation, or
427 concealment of material facts.

428 5. Committing acts of gross misconduct or gross negligence
429 in connection with the profession.

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

433 (3)~~(2)~~ The board ~~council~~ shall specify by rule the acts or
434 omissions that constitute a violation of subsection (2) ~~(1)~~.

435 (4)~~(3)~~ When the department finds any community association

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436 manager or firm guilty of any of the grounds set forth in
437 subsection (2) ~~(1)~~, it may enter an order imposing one or more of
438 the following penalties:

439 (a) Denial of an application for licensure.

440 (b) Revocation or suspension of a license.

441 (c) Imposition of an administrative fine not to exceed
442 \$5,000 for each count or separate offense.

443 (d) Issuance of a reprimand.

444 (e) Placement of the community association manager on
445 probation for a period of time and subject to such conditions as
446 the department specifies.

447 (f) Restriction of the authorized scope of practice by the
448 community association manager.

449 (5)~~(4)~~ The department may ~~shall~~ reissue the license of a
450 disciplined community association manager or firm upon
451 certification by the department that the disciplined person or
452 firm has complied with all of the terms and conditions set forth
453 in the final order.

454 Section 9. Paragraph (a) of subsection (1) of section
455 718.110, Florida Statutes, is amended to read:

456 718.110 Amendment of declaration; correction of error or
457 omission in declaration by circuit court.--

458 (1) (a) ~~If the declaration fails to provide a method of~~
459 ~~amendment,~~ The declaration may be amended as to all matters
460 except those described in subsection (4) or subsection (8) if the
461 amendment is approved by the owners of not less than a majority
462 ~~two-thirds~~ of the units. If the declaration provides a method of
463 amendment requiring approval by a majority of the voting
464 interests, or less than a majority of the voting interests, the

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465 declaration shall prevail. ~~Except as to those matters described~~
466 ~~in subsection (4) or subsection (8), no declaration recorded~~
467 ~~after April 1, 1992, shall require that amendments be approved by~~
468 ~~more than four-fifths of the voting interests.~~

469 Section 10. Paragraph (d) is added to subsection (1) of
470 section 718.111, Florida Statutes, and subsections (11), (12),
471 and (13) of that section are amended, to read:

472 718.111 The association.--

473 (1) CORPORATE ENTITY.--

474 (d) As required by s. 617.0830, an officer, director, or
475 agent shall discharge his or her duties in good faith, with the
476 care an ordinarily prudent person in a like position would
477 exercise under similar circumstances, and in a manner he or she
478 reasonably believes to be in the interests of the association.
479 Regardless of any indemnification provision in the documents or
480 contract, an officer, director, or agent is liable for monetary
481 damages as provided in s. 617.0834 if such officer, director, or
482 agent breached or failed to perform his or her duties and the
483 breach of, or failure to perform, his or her duties constitutes a
484 criminal violation of state law as provided in s. 617.0834, a
485 transaction from which the officer or director derived an
486 improper personal benefit, either directly or indirectly, or
487 recklessness or an act or omission performed or omitted in bad
488 faith, with malicious purpose, or in a manner exhibiting wanton
489 and willful disregard of human rights, safety, or property.

490 (11) INSURANCE.--In order to protect the safety, health,
491 and welfare of the people of the State of Florida and to ensure
492 consistency in the provision of insurance coverage to
493 condominiums and their unit owners, paragraphs (a), (b), and (c)

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494 are deemed to apply to every residential condominium in the
495 state, regardless of the date of its declaration of condominium.
496 ~~It is the intent of the Legislature to encourage lower or stable~~
497 ~~insurance premiums for associations described in this section.~~
498 ~~Therefore, the Legislature requires a report to be prepared by~~
499 ~~the Office of Insurance Regulation of the Department of Financial~~
500 ~~Services for publication 18 months from the effective date of~~
501 ~~this act, evaluating premium increases or decreases for~~
502 ~~associations, unit owner premium increases or decreases,~~
503 ~~recommended changes to better define common areas, or any other~~
504 ~~information the Office of Insurance Regulation deems appropriate.~~

505 (a) A unit-owner controlled association operating a
506 residential condominium shall use its best efforts to obtain and
507 maintain adequate insurance to protect the association, the
508 association property, the common elements, and the condominium
509 property required to be insured by the association pursuant to
510 paragraph (b). If the association is developer controlled, the
511 association shall exercise due diligence to obtain and maintain
512 such insurance. Failure to obtain and maintain adequate insurance
513 during any period of developer control shall constitute a breach
514 of fiduciary responsibility by the developer-appointed members of
515 the board of directors of the association, unless said members
516 can show that despite such failure, they have exercised due
517 diligence. The declaration of condominium as originally recorded,
518 or amended pursuant to procedures provided therein, may require
519 that condominium property consisting of freestanding buildings
520 where there is no more than one building in or on such unit need
521 not be insured by the association if the declaration requires the
522 unit owner to obtain adequate insurance for the condominium

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523 | property. An association may also obtain and maintain liability
524 | insurance for directors and officers, insurance for the benefit
525 | of association employees, and flood insurance for common
526 | elements, association property, and units. Adequate insurance,
527 | regardless of any requirement in the declaration of condominium
528 | for coverage by the association for "full insurable value,"
529 | "replacement cost," or the like, may include reasonable
530 | deductibles as determined by the board based upon available funds
531 | or predetermined assessment authority at the time that the
532 | insurance is obtained.

533 | 1. Windstorm insurance coverage for a group of no fewer
534 | than three communities created and operating under this chapter,
535 | chapter 719, chapter 720, or chapter 721 may be obtained and
536 | maintained for the communities if the insurance coverage is
537 | sufficient to cover an amount equal to the probable maximum loss
538 | for the communities for a 250-year windstorm event. Such probable
539 | maximum loss must be determined through the use of a competent
540 | model that has been accepted by the Florida Commission on
541 | Hurricane Loss Projection Methodology, and any policy of
542 | insurance coverage issued or renewed after July 1, 2008, must
543 | receive prior approval by the Office of Insurance Regulation
544 | before coverage is deemed adequate. ~~Such insurance coverage is~~
545 | ~~deemed adequate windstorm insurance for the purposes of this~~
546 | ~~section.~~

547 | 2. An association or group of associations may self-insure
548 | against claims against the association, the association property,
549 | and the condominium property required to be insured by an
550 | association, upon compliance with the applicable provisions of
551 | ss. 624.460-624.488, which shall be considered adequate insurance

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552 | for the purposes of this section. A copy of each policy of
553 | insurance in effect shall be made available for inspection by
554 | unit owners at reasonable times.

555 | (b) Every hazard insurance policy issued or renewed on or
556 | after January 1, 2004, to protect the condominium shall provide
557 | primary coverage for:

558 | 1. All portions of the condominium property located outside
559 | the units;

560 | 2. The condominium property located inside the units as
561 | such property was initially installed, or replacements thereof of
562 | like kind and quality and in accordance with the original plans
563 | and specifications or, if the original plans and specifications
564 | are not available, as they existed at the time the unit was
565 | initially conveyed; and

566 | 3. All portions of the condominium property for which the
567 | declaration of condominium requires coverage by the association.

568 |
569 | Anything to the contrary notwithstanding, the terms "condominium
570 | property," "building," "improvements," "insurable improvements,"
571 | "common elements," "association property," or any other term
572 | found in the declaration of condominium which defines the scope
573 | of property or casualty insurance that a condominium association
574 | must obtain shall exclude all floor, wall, and ceiling coverings,
575 | electrical fixtures, appliances, air conditioner or heating
576 | equipment, water heaters, water filters, built-in cabinets and
577 | countertops, and window treatments, including curtains, drapes,
578 | blinds, hardware, and similar window treatment components, or
579 | replacements of any of the foregoing which are located within the
580 | boundaries of a unit and serve only one unit and all air

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581 | conditioning compressors that service only an individual unit,
582 | whether or not located within the unit boundaries. The foregoing
583 | is intended to establish the property or casualty insuring
584 | responsibilities of the association and those of the individual
585 | unit owner and do not serve to broaden or extend the perils of
586 | coverage afforded by any insurance contract provided to the
587 | individual unit owner. Beginning January 1, 2004, the association
588 | shall have the authority to amend the declaration of condominium,
589 | without regard to any requirement for mortgagee approval of
590 | amendments affecting insurance requirements, to conform the
591 | declaration of condominium to the coverage requirements of this
592 | section.

593 | (c) Every hazard insurance policy issued or renewed on or
594 | after January 1, 2004, to an individual unit owner shall provide
595 | that the coverage afforded by such policy is excess over the
596 | amount recoverable under any other policy covering the same
597 | property. Each insurance policy issued to an individual unit
598 | owner providing such coverage shall be without rights of
599 | subrogation against the condominium association that operates the
600 | condominium in which such unit owner's unit is located. All real
601 | or personal property located within the boundaries of the unit
602 | owner's unit which is excluded from the coverage to be provided
603 | by the association as set forth in paragraph (b) shall be insured
604 | by the individual unit owner.

605 | (d) The association shall obtain and maintain adequate
606 | insurance or fidelity bonding of all persons who control or
607 | disburse funds of the association. The insurance policy or
608 | fidelity bond must cover the maximum funds that will be in the
609 | custody of the association or its management agent at any one

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610 time. As used in this paragraph, the term "persons who control or
611 disburse funds of the association" includes, but is not limited
612 to, those individuals authorized to sign checks and the
613 president, secretary, and treasurer of the association. The
614 association shall bear the cost of bonding.

615 (e) The association shall pay the deductible for coverage
616 of an element that is the responsibility of the association to
617 repair or replace. The deductible shall be paid by the unit owner
618 if the element is the responsibility of the unit owner to repair
619 or replace. A unit owner policy may not incur another deductible
620 if the deductible has already been exercised on the association
621 policy for the same occurrence.

622 (12) OFFICIAL RECORDS.--

623 (a) From the inception of the association, the association
624 shall maintain each of the following items, when applicable,
625 which shall constitute the official records of the association:

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

628 2. A photocopy of the recorded declaration of condominium
629 of each condominium operated by the association and of each
630 amendment to each declaration.

631 3. A photocopy of the recorded bylaws of the association
632 and of each amendment to the bylaws.

633 4. A certified copy of the articles of incorporation of the
634 association, or other documents creating the association, and of
635 each amendment thereto.

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

637 6. A book or books which contain the minutes of all
638 meetings of the association, of the board of administration

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639 ~~directors~~, and of unit owners, which minutes shall be retained
640 for a period of not less than 7 years.

641 7. A current roster of all unit owners and their mailing
642 addresses, unit identifications, voting certifications, and, if
643 known, telephone numbers. The association shall also maintain the
644 electronic mailing addresses and the numbers designated by unit
645 owners for receiving notice sent by electronic transmission of
646 those unit owners consenting to receive notice by electronic
647 transmission. The electronic mailing addresses and numbers
648 provided by unit owners to receive notice by electronic
649 transmission shall be removed from association records when
650 consent to receive notice by electronic transmission is revoked.
651 However, the association is not liable for an erroneous
652 disclosure of the electronic mail address or the number for
653 receiving electronic transmission of notices.

654 8. All current insurance policies of the association and
655 condominiums operated by the association.

656 9. A current copy of any management agreement, lease, or
657 other contract to which the association is a party or under which
658 the association or the unit owners have an obligation or
659 responsibility.

660 10. Bills of sale or transfer for all property owned by the
661 association.

662 11. Accounting records for the association and separate
663 accounting records for each condominium which the association
664 operates. All accounting records shall be maintained for a period
665 of not less than 7 years. Any person who knowingly or
666 intentionally defaces, destroys, or fails to create or maintain
667 accounting records is personally subject to a civil penalty

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668 pursuant to s. 718.501(1)(d). The accounting records shall
669 include, but are not limited to:

670 a. Accurate, itemized, and detailed records of all receipts
671 and expenditures.

672 b. A current account and a monthly, bimonthly, or quarterly
673 statement of the account for each unit designating the name of
674 the unit owner, the due date and amount of each assessment, the
675 amount paid upon the account, and the balance due.

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

678 d. All contracts for work to be performed. Bids for work to
679 be performed shall also be considered official records and shall
680 be maintained for a period of 1 year.

681 12. Ballots, sign-in sheets, voting proxies, and all other
682 papers relating to voting by unit owners, which shall be
683 maintained for a period of 1 year from the date of the election,
684 vote, or meeting to which the document relates.

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

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

689 15. All other records of the association not specifically
690 included in the foregoing which are related to the operation of
691 the association.

692 16. A copy of the inspection report as provided in s.
693 718.301(4)(p).

694 (b) The official records of the association shall be
695 maintained within the state for at least 5 years. The records of
696 the association shall be made available to a unit owner within 45

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697 miles of the condominium property within 5 working days after
698 receipt of written request by the board or its designee. This
699 paragraph may be complied with by having a copy of the official
700 records of the association available for inspection or copying on
701 the condominium property or association property. The association
702 may offer the option of making the records of the association
703 available to a unit owner electronically via the Internet or by
704 allowing the records to be viewed in electronic format on a
705 computer screen and printed upon request.

706 (c) The official records of the association are open to
707 inspection by any association member or the authorized
708 representative of such member at all reasonable times. The right
709 to inspect the records includes the right to make or obtain
710 copies, at the reasonable expense, if any, of the association
711 member. The association may adopt reasonable rules regarding the
712 frequency, time, location, notice, and manner of record
713 inspections and copying. The failure of an association to provide
714 the records within 10 working days after receipt of a written
715 request shall create a rebuttable presumption that the
716 association willfully failed to comply with this paragraph. A
717 unit owner who is denied access to official records is entitled
718 to the actual damages or minimum damages for the association's
719 willful failure to comply with this paragraph. The minimum
720 damages shall be \$50 per calendar day up to 10 days, the
721 calculation to begin on the 11th working day after receipt of the
722 written request. The failure to permit inspection of the
723 association records as provided herein entitles any person
724 prevailing in an enforcement action to recover reasonable
725 attorney's fees from the person in control of the records who,

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726 directly or indirectly, knowingly denied access to the records
727 for inspection. Any person who knowingly or intentionally
728 defaces, destroys, or fails to create or maintain accounting
729 records is personally subject to a civil penalty pursuant to s.
730 718.501(1)(d). The association shall maintain an adequate number
731 of copies of the declaration, articles of incorporation, bylaws,
732 and rules, and all amendments to each of the foregoing, as well
733 as the question and answer sheet provided for in s. 718.504 and
734 year-end financial information required in this section on the
735 condominium property to ensure their availability to unit owners
736 and prospective purchasers, and may charge its actual costs for
737 preparing and furnishing these documents to those requesting the
738 same. Notwithstanding the provisions of this paragraph, the
739 following records shall not be accessible to unit owners:

740 1. Any record protected by the lawyer-client privilege as
741 described in s. 90.502; and any record protected by the work-
742 product privilege, including any record prepared by an
743 association attorney or prepared at the attorney's express
744 direction; which reflects a mental impression, conclusion,
745 litigation strategy, or legal theory of the attorney or the
746 association, and which was prepared exclusively for civil or
747 criminal litigation or for adversarial administrative
748 proceedings, or which was prepared in anticipation of imminent
749 civil or criminal litigation or imminent adversarial
750 administrative proceedings until the conclusion of the litigation
751 or adversarial administrative proceedings.

752 2. Information obtained by an association in connection
753 with the approval of the lease, sale, or other transfer of a
754 unit.

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755 3. Medical records of unit owners.

756 4. Social security numbers, driver's license numbers,
757 credit card numbers, and other personal identifying information
758 in possession of the association.

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

761 (e)1. The association or its authorized agent is not
762 required to provide a prospective purchaser or lienholder with
763 information about the condominium or the association other than
764 information or documents required by this chapter to be made
765 available or disclosed. The association or its authorized agent
766 may charge a reasonable fee to the prospective purchaser,
767 lienholder, or the current unit owner for providing good faith
768 responses to requests for information by or on behalf of a
769 prospective purchaser or lienholder, other than that required by
770 law, if the fee does not exceed \$150 plus the reasonable cost of
771 photocopying and any attorney's fees incurred by the association
772 in connection with the response.

773 2. An association and its authorized agent are not liable
774 for providing such information in good faith pursuant to a
775 written request if the person providing the information includes
776 a written statement in substantially the following form: "The
777 responses herein are made in good faith and to the best of my
778 ability as to their accuracy."

779 (13) FINANCIAL REPORTING.--Within 90 days after the end of
780 the fiscal year, or annually on a date provided in the bylaws,
781 the association shall prepare and complete, or contract for the
782 preparation and completion of, a financial report for the
783 preceding fiscal year. Within 21 days after the final financial

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784 report is completed by the association or received from the third
785 party, but not later than 120 days after the end of the fiscal
786 year or other date as provided in the bylaws, the association
787 shall mail to each unit owner at the address last furnished to
788 the association by the unit owner, or hand deliver to each unit
789 owner, a copy of the financial report or a notice that a copy of
790 the financial report will be mailed or hand delivered to the unit
791 owner, without charge, upon receipt of a written request from the
792 unit owner. The division shall adopt rules setting forth uniform
793 accounting principles and standards to be used by all
794 associations and shall adopt rules addressing financial reporting
795 requirements for multicondominium associations. The rules shall
796 include, but not be limited to, disclosure of at least a summary
797 of the reserves, including the information as to whether such
798 reserves are being funded at a level sufficient to prevent the
799 need for a special assessment to do the deferred maintenance or
800 replacement as required and, if not, what amount of assessment
801 will be necessary to bring such reserves up to the level that
802 would prevent a special assessment. The person preparing the
803 financial reports may rely on the inspection report as provided
804 for in s. 718.301(4)(p) for verification. The statement shall
805 confirm that the financial operations of the association meet
806 fiscal and fiduciary standards of this chapter. In adopting such
807 rules, the division shall consider the number of members and
808 annual revenues of an association. Financial reports shall be
809 prepared as follows:

810 (a) An association that meets the criteria of this
811 paragraph shall prepare or cause to be prepared a complete set of
812 financial statements in accordance with generally accepted

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813 accounting principles. The financial statements shall be based
814 upon the association's total annual revenues, as follows:

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

818 2. An association with total annual revenues of at least
819 \$200,000, but less than \$400,000, shall prepare reviewed
820 financial statements.

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

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

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

830 3. A report of cash receipts and disbursements must
831 disclose the amount of receipts by accounts and receipt
832 classifications and the amount of expenses by accounts and
833 expense classifications, including, but not limited to, the
834 following, as applicable: costs for security, professional and
835 management fees and expenses, taxes, costs for recreation
836 facilities, expenses for refuse collection and utility services,
837 expenses for lawn care, costs for building maintenance and
838 repair, insurance costs, administration and salary expenses, and
839 reserves accumulated and expended for capital expenditures,
840 deferred maintenance, and any other category for which the
841 association maintains reserves.

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

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

847 2. Reviewed or audited financial statements, if the
848 association is required to prepare compiled financial statements;
849 or

850 3. Audited financial statements if the association is
851 required to prepare reviewed financial statements.

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

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

857 2. A report of cash receipts and expenditures or a compiled
858 financial statement in lieu of a reviewed or audited financial
859 statement; or

860 3. A report of cash receipts and expenditures, a compiled
861 financial statement, or a reviewed financial statement in lieu of
862 an audited financial statement.

863

864 Such meeting and approval must occur prior to the end of the
865 fiscal year and is effective only for the fiscal year in which
866 the vote is taken. With respect to an association to which the
867 developer has not turned over control of the association, all
868 unit owners, including the developer, may vote on issues related
869 to the preparation of financial reports for the first 2 fiscal
870 years of the association's operation, beginning with the fiscal

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871 | year in which the declaration is recorded. Thereafter, all unit
872 | owners except the developer may vote on such issues until control
873 | is turned over to the association by the developer. Any audit or
874 | review prepared under this section shall be paid by the developer
875 | if done prior to turnover of control of the association. An
876 | association may not waive the financial reporting requirements of
877 | this section for more than 2 consecutive years.

878 | Section 11. Subsection (2) of section 718.112, Florida
879 | Statutes, is amended to read:

880 | 718.112 Bylaws.--

881 | (2) REQUIRED PROVISIONS.--The bylaws shall provide for the
882 | following and, if they do not do so, shall be deemed to include
883 | the following:

884 | (a) Administration.--

885 | 1. The form of administration of the association shall be
886 | described indicating the title of the officers and board of
887 | administration and specifying the powers, duties, manner of
888 | selection and removal, and compensation, if any, of officers and
889 | boards. In the absence of such a provision, the board of
890 | administration shall be composed of five members, except in the
891 | case of a condominium which has five or fewer units, in which
892 | case in a not-for-profit corporation the board shall consist of
893 | not fewer than three members. In the absence of provisions to the
894 | contrary in the bylaws, the board of administration shall have a
895 | president, a secretary, and a treasurer, who shall perform the
896 | duties of such officers customarily performed by officers of
897 | corporations. Unless prohibited in the bylaws, the board of
898 | administration may appoint other officers and grant them the
899 | duties it deems appropriate. Unless otherwise provided in the

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900 | bylaws, the officers shall serve without compensation and at the
901 | pleasure of the board of administration. Unless otherwise
902 | provided in the bylaws, the members of the board shall serve
903 | without compensation.

904 | 2. When a unit owner files a written inquiry by certified
905 | mail with the board of administration, the board shall respond in
906 | writing to the unit owner within 30 days of receipt of the
907 | inquiry. The board's response shall either give a substantive
908 | response to the inquirer, notify the inquirer that a legal
909 | opinion has been requested, or notify the inquirer that advice
910 | has been requested from the division. If the board requests
911 | advice from the division, the board shall, within 10 days of its
912 | receipt of the advice, provide in writing a substantive response
913 | to the inquirer. If a legal opinion is requested, the board
914 | shall, within 60 days after the receipt of the inquiry, provide
915 | in writing a substantive response to the inquiry. The failure to
916 | provide a substantive response to the inquiry as provided herein
917 | precludes the board from recovering attorney's fees and costs in
918 | any subsequent litigation, administrative proceeding, or
919 | arbitration arising out of the inquiry. The association may
920 | through its board of administration adopt reasonable rules and
921 | regulations regarding the frequency and manner of responding to
922 | unit owner inquiries, one of which may be that the association is
923 | only obligated to respond to one written inquiry per unit in any
924 | given 30-day period. In such a case, any additional inquiry or
925 | inquiries must be responded to in the subsequent 30-day period,
926 | or periods, as applicable.

927 | (b) Quorum; voting requirements; proxies.--

928 | 1. Unless a lower number is provided in the bylaws, the

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929 | percentage of voting interests required to constitute a quorum at
930 | a meeting of the members shall be a majority of the voting
931 | interests. Unless otherwise provided in this chapter or in the
932 | declaration, articles of incorporation, or bylaws, and except as
933 | provided in subparagraph (d)3., decisions shall be made by owners
934 | of a majority of the voting interests represented at a meeting at
935 | which a quorum is present.

936 | 2. Except as specifically otherwise provided herein, after
937 | January 1, 1992, unit owners may not vote by general proxy, but
938 | may vote by limited proxies substantially conforming to a limited
939 | proxy form adopted by the division. Votes allocated to units
940 | owned by the association may not be cast by proxy, ballot, or
941 | otherwise for any purpose. However, proxies may be used to
942 | establish a quorum. Limited proxies and general proxies may be
943 | used to establish a quorum. Limited proxies shall be used for
944 | votes taken to waive or reduce reserves in accordance with
945 | subparagraph (f)2.; for votes taken to waive the financial
946 | reporting requirements of s. 718.111(13); for votes taken to
947 | amend the declaration pursuant to s. 718.110; for votes taken to
948 | amend the articles of incorporation or bylaws pursuant to this
949 | section; and for any other matter for which this chapter requires
950 | or permits a vote of the unit owners. Except as provided in
951 | paragraph (d), after January 1, 1992, no proxy, limited or
952 | general, shall be used in the election of board members. General
953 | proxies may be used for other matters for which limited proxies
954 | are not required, and may also be used in voting for
955 | nonsubstantive changes to items for which a limited proxy is
956 | required and given. Notwithstanding the provisions of this
957 | subparagraph, unit owners may vote in person at unit owner

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958 meetings. Nothing contained herein shall limit the use of general
959 proxies or require the use of limited proxies for any agenda item
960 or election at any meeting of a timeshare condominium
961 association.

962 3. Any proxy given shall be effective only for the specific
963 meeting for which originally given and any lawfully adjourned
964 meetings thereof. In no event shall any proxy be valid for a
965 period longer than 90 days after the date of the first meeting
966 for which it was given. Every proxy is revocable at any time at
967 the pleasure of the unit owner executing it.

968 4. A member of the board of administration or a committee
969 may submit in writing his or her agreement or disagreement with
970 any action taken at a meeting that the member did not attend.
971 This agreement or disagreement may not be used as a vote for or
972 against the action taken and may not be used for the purposes of
973 creating a quorum.

974 5. When any of the board or committee members meet by
975 telephone conference, those board or committee members attending
976 by telephone conference may be counted toward obtaining a quorum
977 and may vote by telephone. A telephone speaker must be used so
978 that the conversation of those board or committee members
979 attending by telephone may be heard by the board or committee
980 members attending in person as well as by any unit owners present
981 at a meeting.

982 (c) Board of administration meetings.--Meetings of the
983 board of administration at which a quorum of the members is
984 present shall be open to all unit owners. Any unit owner may tape
985 record or videotape meetings of the board of administration. The
986 right to attend such meetings includes the right to speak at such

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987 meetings with reference to all designated agenda items. The
988 division shall adopt reasonable rules governing the tape
989 recording and videotaping of the meeting. The association may
990 adopt written reasonable rules governing the frequency, duration,
991 and manner of unit owner statements. Adequate notice of all
992 meetings, which notice shall specifically incorporate an
993 identification of agenda items, shall be posted conspicuously on
994 the condominium property at least 48 continuous hours preceding
995 the meeting except in an emergency. If 20 percent of the voting
996 interests petition the board to address an item of business, the
997 board shall at its next regular board meeting or at a special
998 meeting of the board, but not later than 60 days after the
999 receipt of the petition, take up the petitioned item on the
1000 agenda. Any item not included on the notice may be taken up on an
1001 emergency basis by at least a majority plus one of the members of
1002 the board. Such emergency action shall be noticed and ratified at
1003 the next regular meeting of the board. However, written notice of
1004 any meeting at which nonemergency special assessments, or at
1005 which amendment to rules regarding unit use, will be considered
1006 shall be mailed, delivered, or electronically transmitted to the
1007 unit owners and posted conspicuously on the condominium property
1008 not less than 14 days prior to the meeting. Evidence of
1009 compliance with this 14-day notice shall be made by an affidavit
1010 executed by the person providing the notice and filed among the
1011 official records of the association. Upon notice to the unit
1012 owners, the board shall by duly adopted rule designate a specific
1013 location on the condominium property or association property upon
1014 which all notices of board meetings shall be posted. If there is
1015 no condominium property or association property upon which

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1016 notices can be posted, notices of board meetings shall be mailed,
1017 delivered, or electronically transmitted at least 14 days before
1018 the meeting to the owner of each unit. In lieu of or in addition
1019 to the physical posting of notice of any meeting of the board of
1020 administration on the condominium property, the association may,
1021 by reasonable rule, adopt a procedure for conspicuously posting
1022 and repeatedly broadcasting the notice and the agenda on a
1023 closed-circuit cable television system serving the condominium
1024 association. However, if broadcast notice is used in lieu of a
1025 notice posted physically on the condominium property, the notice
1026 and agenda must be broadcast at least four times every broadcast
1027 hour of each day that a posted notice is otherwise required under
1028 this section. When broadcast notice is provided, the notice and
1029 agenda must be broadcast in a manner and for a sufficient
1030 continuous length of time so as to allow an average reader to
1031 observe the notice and read and comprehend the entire content of
1032 the notice and the agenda. Notice of any meeting in which regular
1033 or special assessments against unit owners are to be considered
1034 for any reason shall specifically state ~~contain a statement~~ that
1035 assessments will be considered and the nature, estimated cost,
1036 and description of any such assessments. Meetings of a committee
1037 to take final action on behalf of the board or make
1038 recommendations to the board regarding the association budget are
1039 subject to the provisions of this paragraph. Meetings of a
1040 committee that does not take final action on behalf of the board
1041 or make recommendations to the board regarding the association
1042 budget are subject to the provisions of this section, unless
1043 those meetings are exempted from this section by the bylaws of
1044 the association. Notwithstanding any other law, the requirement

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1045 that board meetings and committee meetings be open to the unit
1046 owners is inapplicable to meetings between the board or a
1047 committee and the association's attorney, with respect to
1048 proposed or pending litigation, when the meeting is held for the
1049 purpose of seeking or rendering legal advice.

1050 (d) Unit owner meetings.--

1051 1. There shall be an annual meeting of the unit owners held
1052 at the location provided in the association bylaws and, if the
1053 bylaws are silent as to the location, the meeting shall be held
1054 within 30 miles of the condominium property. Unless the bylaws
1055 provide otherwise, a vacancy on the board caused by the
1056 expiration of a director's term shall be filled by electing a new
1057 board member, and the election shall be by secret ballot;
1058 however, if the number of vacancies equals or exceeds the number
1059 of candidates, no election is required. ~~If there is no provision~~
1060 ~~in the bylaws for terms of the members of the board,~~ The terms of
1061 all members of the board shall expire upon the election of their
1062 successors at the annual meeting and they may stand for
1063 reelection. However, if no person is interested in or
1064 demonstrates an intention to run for the position of a board
1065 member whose term has expired according to the provisions of this
1066 subparagraph, such board member whose term has expired shall be
1067 automatically reappointed to the board of directors and need not
1068 stand for reelection. Coowners of a unit may not serve as members
1069 of the board of directors at the same time. Any unit owner
1070 desiring to be a candidate for board membership shall comply with
1071 subparagraph 3. A person who has been convicted of any felony by
1072 any court of record ~~in the United States and who has not had his~~
1073 ~~or her right to vote restored pursuant to law in the jurisdiction~~

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1074 ~~of his or her residence~~ is not eligible for board membership
1075 unless such felon's civil rights have been restored for a period
1076 of no less than 5 years as of the date on which such person seeks
1077 election to the board. The validity of an action by the board is
1078 not affected if it is later determined that a member of the board
1079 is ineligible for board membership due to having been convicted
1080 of a felony.

1081 2. The bylaws shall provide the method of calling meetings
1082 of unit owners, including annual meetings. Written notice, which
1083 notice must include an agenda, shall be mailed, hand delivered,
1084 or electronically transmitted to each unit owner at least 14 days
1085 prior to the annual meeting and shall be posted in a conspicuous
1086 place on the condominium property at least 14 continuous days
1087 preceding the annual meeting. Upon notice to the unit owners, the
1088 board shall by duly adopted rule designate a specific location on
1089 the condominium property or association property upon which all
1090 notices of unit owner meetings shall be posted; however, if there
1091 is no condominium property or association property upon which
1092 notices can be posted, this requirement does not apply. In lieu
1093 of or in addition to the physical posting of notice of any
1094 meeting of the unit owners on the condominium property, the
1095 association may, by reasonable rule, adopt a procedure for
1096 conspicuously posting and repeatedly broadcasting the notice and
1097 the agenda on a closed-circuit cable television system serving
1098 the condominium association. However, if broadcast notice is used
1099 in lieu of a notice posted physically on the condominium
1100 property, the notice and agenda must be broadcast at least four
1101 times every broadcast hour of each day that a posted notice is
1102 otherwise required under this section. When broadcast notice is

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1103 | provided, the notice and agenda must be broadcast in a manner and
1104 | for a sufficient continuous length of time so as to allow an
1105 | average reader to observe the notice and read and comprehend the
1106 | entire content of the notice and the agenda. Unless a unit owner
1107 | waives in writing the right to receive notice of the annual
1108 | meeting, such notice shall be hand delivered, mailed, or
1109 | electronically transmitted to each unit owner. Notice for
1110 | meetings and notice for all other purposes shall be mailed to
1111 | each unit owner at the address last furnished to the association
1112 | by the unit owner, or hand delivered to each unit owner. However,
1113 | if a unit is owned by more than one person, the association shall
1114 | provide notice, for meetings and all other purposes, to that one
1115 | address which the developer initially identifies for that purpose
1116 | and thereafter as one or more of the owners of the unit shall so
1117 | advise the association in writing, or if no address is given or
1118 | the owners of the unit do not agree, to the address provided on
1119 | the deed of record. An officer of the association, or the manager
1120 | or other person providing notice of the association meeting,
1121 | shall provide an affidavit or United States Postal Service
1122 | certificate of mailing, to be included in the official records of
1123 | the association affirming that the notice was mailed or hand
1124 | delivered, in accordance with this provision.

1125 | 3. The members of the board shall be elected by written
1126 | ballot or voting machine. Proxies shall in no event be used in
1127 | electing the board, either in general elections or elections to
1128 | fill vacancies caused by recall, resignation, or otherwise,
1129 | unless otherwise provided in this chapter. Not less than 60 days
1130 | before a scheduled election, the association shall mail, deliver,
1131 | or electronically transmit, whether by separate association

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1132 mailing or included in another association mailing, delivery, or
1133 transmission, including regularly published newsletters, to each
1134 unit owner entitled to a vote, a first notice of the date of the
1135 election along with a certification form provided by the division
1136 attesting that he or she has read and understands, to the best of
1137 his or her ability, the governing documents of the association
1138 and the provisions of this chapter and any applicable rules. Any
1139 unit owner or other eligible person desiring to be a candidate
1140 for the board must give written notice to the association not
1141 less than 40 days before a scheduled election. Together with the
1142 written notice and agenda as set forth in subparagraph 2., the
1143 association shall mail, deliver, or electronically transmit a
1144 second notice of the election to all unit owners entitled to vote
1145 therein, together with a ballot which shall list all candidates.
1146 Upon request of a candidate, the association shall include an
1147 information sheet, no larger than 8 1/2 inches by 11 inches, which
1148 must be furnished by the candidate not less than 35 days before
1149 the election, along with the signed certification form provided
1150 for in this subparagraph, to be included with the mailing,
1151 delivery, or transmission of the ballot, with the costs of
1152 mailing, delivery, or electronic transmission and copying to be
1153 borne by the association. The association is not liable for the
1154 contents of the information sheets prepared by the candidates. In
1155 order to reduce costs, the association may print or duplicate the
1156 information sheets on both sides of the paper. The division shall
1157 by rule establish voting procedures consistent with the
1158 provisions contained herein, including rules establishing
1159 procedures for giving notice by electronic transmission and rules
1160 providing for the secrecy of ballots. Elections shall be decided

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1161 | by a plurality of those ballots cast. There shall be no quorum
1162 | requirement; however, at least 20 percent of the eligible voters
1163 | must cast a ballot in order to have a valid election of members
1164 | of the board. No unit owner shall permit any other person to vote
1165 | his or her ballot, and any such ballots improperly cast shall be
1166 | deemed invalid, provided any unit owner who violates this
1167 | provision may be fined by the association in accordance with s.
1168 | 718.303. A unit owner who needs assistance in casting the ballot
1169 | for the reasons stated in s. 101.051 may obtain assistance in
1170 | casting the ballot. The regular election shall occur on the date
1171 | of the annual meeting. The provisions of this subparagraph shall
1172 | not apply to timeshare condominium associations. Notwithstanding
1173 | the provisions of this subparagraph, an election is not required
1174 | unless more candidates file notices of intent to run or are
1175 | nominated than board vacancies exist.

1176 | 4. Any approval by unit owners called for by this chapter
1177 | or the applicable declaration or bylaws, including, but not
1178 | limited to, the approval requirement in s. 718.111(8), shall be
1179 | made at a duly noticed meeting of unit owners and shall be
1180 | subject to all requirements of this chapter or the applicable
1181 | condominium documents relating to unit owner decisionmaking,
1182 | except that unit owners may take action by written agreement,
1183 | without meetings, on matters for which action by written
1184 | agreement without meetings is expressly allowed by the applicable
1185 | bylaws or declaration or any statute that provides for such
1186 | action.

1187 | 5. Unit owners may waive notice of specific meetings if
1188 | allowed by the applicable bylaws or declaration or any statute.
1189 | If authorized by the bylaws, notice of meetings of the board of

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1190 administration, unit owner meetings, except unit owner meetings
1191 called to recall board members under paragraph (j), and committee
1192 meetings may be given by electronic transmission to unit owners
1193 who consent to receive notice by electronic transmission.

1194 6. Unit owners shall have the right to participate in
1195 meetings of unit owners with reference to all designated agenda
1196 items. However, the association may adopt reasonable rules
1197 governing the frequency, duration, and manner of unit owner
1198 participation.

1199 7. Any unit owner may tape record or videotape a meeting of
1200 the unit owners subject to reasonable rules adopted by the
1201 division.

1202 8. Unless otherwise provided in the bylaws, any vacancy
1203 occurring on the board before the expiration of a term may be
1204 filled by the affirmative vote of the majority of the remaining
1205 directors, even if the remaining directors constitute less than a
1206 quorum, or by the sole remaining director. In the alternative, a
1207 board may hold an election to fill the vacancy, in which case the
1208 election procedures must conform to the requirements of
1209 subparagraph 3. ~~unless the association has opted out of the~~
1210 ~~statutory election process, in which case the bylaws of the~~
1211 ~~association control.~~ Unless otherwise provided in the bylaws, a
1212 board member appointed or elected under this section shall fill
1213 the vacancy for the unexpired term of the seat being filled.
1214 Filling vacancies created by recall is governed by paragraph (j)
1215 and rules adopted by the division.

1216
1217 ~~Notwithstanding subparagraphs (b)2. and (d)3., an association~~
1218 ~~may, by the affirmative vote of a majority of the total voting~~

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1219 ~~interests, provide for different voting and election procedures~~
1220 ~~in its bylaws, which vote may be by a proxy specifically~~
1221 ~~delineating the different voting and election procedures. The~~
1222 ~~different voting and election procedures may provide for~~
1223 ~~elections to be conducted by limited or general proxy.~~

1224 (e) Budget meeting.--

1225 1. Any meeting at which a proposed annual budget of an
1226 association will be considered by the board or unit owners shall
1227 be open to all unit owners. At least 14 days prior to such a
1228 meeting, the board shall hand deliver to each unit owner, mail to
1229 each unit owner at the address last furnished to the association
1230 by the unit owner, or electronically transmit to the location
1231 furnished by the unit owner for that purpose a notice of such
1232 meeting and a copy of the proposed annual budget. An officer or
1233 manager of the association, or other person providing notice of
1234 such meeting, shall execute an affidavit evidencing compliance
1235 with such notice requirement, and such affidavit shall be filed
1236 among the official records of the association.

1237 2.a. If a board adopts in any fiscal year an annual budget
1238 which requires assessments against unit owners which exceed 115
1239 percent of assessments for the preceding fiscal year, the board
1240 shall conduct a special meeting of the unit owners to consider a
1241 substitute budget if the board receives, within 21 days after
1242 adoption of the annual budget, a written request for a special
1243 meeting from at least 10 percent of all voting interests. The
1244 special meeting shall be conducted within 60 days after adoption
1245 of the annual budget. At least 14 days prior to such special
1246 meeting, the board shall hand deliver to each unit owner, or mail
1247 to each unit owner at the address last furnished to the

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1248 association, a notice of the meeting. An officer or manager of
1249 the association, or other person providing notice of such meeting
1250 shall execute an affidavit evidencing compliance with this notice
1251 requirement, and such affidavit shall be filed among the official
1252 records of the association. Unit owners may consider and adopt a
1253 substitute budget at the special meeting. A substitute budget is
1254 adopted if approved by a majority of all voting interests unless
1255 the bylaws require adoption by a greater percentage of voting
1256 interests. If there is not a quorum at the special meeting or a
1257 substitute budget is not adopted, the annual budget previously
1258 adopted by the board shall take effect as scheduled.

1259 b. Any determination of whether assessments exceed 115
1260 percent of assessments for the prior fiscal year shall exclude
1261 any authorized provision for reasonable reserves for repair or
1262 replacement of the condominium property, anticipated expenses of
1263 the association which the board does not expect to be incurred on
1264 a regular or annual basis, or assessments for betterments to the
1265 condominium property.

1266 c. If the developer controls the board, assessments shall
1267 not exceed 115 percent of assessments for the prior fiscal year
1268 unless approved by a majority of all voting interests.

1269 (f) Annual budget.--

1270 1. The proposed annual budget of estimated revenues and
1271 ~~common~~ expenses shall be detailed and shall show the amounts
1272 budgeted by accounts and expense classifications, including, if
1273 applicable, but not limited to, those expenses listed in s.
1274 718.504(21). A multicondominium association shall adopt a
1275 separate budget of common expenses for each condominium the
1276 association operates and shall adopt a separate budget of common

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1277 expenses for the association. In addition, if the association
1278 maintains limited common elements with the cost to be shared only
1279 by those entitled to use the limited common elements as provided
1280 for in s. 718.113(1), the budget or a schedule attached thereto
1281 shall show amounts budgeted therefor. If, after turnover of
1282 control of the association to the unit owners, any of the
1283 expenses listed in s. 718.504(21) are not applicable, they need
1284 not be listed.

1285 2. In addition to annual operating expenses, the budget
1286 shall include reserve accounts for capital expenditures and
1287 deferred maintenance. These accounts shall include, but are not
1288 limited to, roof replacement, building painting, and pavement
1289 resurfacing, regardless of the amount of deferred maintenance
1290 expense or replacement cost, and for any other item for which the
1291 deferred maintenance expense or replacement cost exceeds \$10,000.
1292 The amount to be reserved shall be computed by means of a formula
1293 which is based upon estimated remaining useful life and estimated
1294 replacement cost or deferred maintenance expense of each reserve
1295 item. The association may adjust replacement reserve assessments
1296 annually to take into account any changes in estimates or
1297 extension of the useful life of a reserve item caused by deferred
1298 maintenance. This subsection does not apply to an adopted budget
1299 in which the members of an association have determined, by a
1300 majority vote at a duly called meeting of the association, to
1301 provide no reserves or less reserves than required by this
1302 subsection. However, prior to turnover of control of an
1303 association by a developer to unit owners other than a developer
1304 pursuant to s. 718.301, the developer may vote to waive the
1305 reserves or reduce the funding of reserves for the first 2 fiscal

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1306 | years of the association's operation, beginning with the fiscal
1307 | year in which the initial declaration is recorded, after which
1308 | time reserves may be waived or reduced only upon the vote of a
1309 | majority of all nondeveloper voting interests voting in person or
1310 | by limited proxy at a duly called meeting of the association. If
1311 | a meeting of the unit owners has been called to determine whether
1312 | to waive or reduce the funding of reserves, and no such result is
1313 | achieved or a quorum is not attained, the reserves as included in
1314 | the budget shall go into effect. After the turnover, the
1315 | developer may vote its voting interest to waive or reduce the
1316 | funding of reserves.

1317 | 3. Reserve funds and any interest accruing thereon shall
1318 | remain in the reserve account or accounts, and shall be used only
1319 | for authorized reserve expenditures unless their use for other
1320 | purposes is approved in advance by a majority vote at a duly
1321 | called meeting of the association. Prior to turnover of control
1322 | of an association by a developer to unit owners other than the
1323 | developer pursuant to s. 718.301, the developer-controlled
1324 | association shall not vote to use reserves for purposes other
1325 | than that for which they were intended without the approval of a
1326 | majority of all nondeveloper voting interests, voting in person
1327 | or by limited proxy at a duly called meeting of the association.

1328 | 4. The only voting interests which are eligible to vote on
1329 | questions that involve waiving or reducing the funding of
1330 | reserves, or using existing reserve funds for purposes other than
1331 | purposes for which the reserves were intended, are the voting
1332 | interests of the units subject to assessment to fund the reserves
1333 | in question. Proxy questions relating to waiving or reducing the
1334 | funding of reserves or using existing reserve funds for purposes

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1335 other than purposes for which the reserves were intended shall
1336 contain the following statement in capitalized, bold letters in a
1337 font size larger than any other used on the face of the proxy
1338 ballot: Waiving of reserves, in whole or in part, or allowing
1339 alternate uses of existing reserves may result in unit owner
1340 liability for payment of unanticipated special assessments
1341 regarding those reserve items.

1342 5. Notwithstanding subparagraph 3., the association, after
1343 turnover of control of the association may, in case of a
1344 catastrophic event, use reserve funds for nonscheduled purposes
1345 to mitigate damages or to make the condominium accessible for
1346 repairs.

1347 (g) Assessments.--The manner of collecting from the unit
1348 owners their shares of the common expenses shall be stated in the
1349 bylaws. Assessments shall be made against units not less
1350 frequently than quarterly in an amount which is not less than
1351 that required to provide funds in advance for payment of all of
1352 the anticipated current operating expenses and for all of the
1353 unpaid operating expenses previously incurred. Nothing in this
1354 paragraph shall preclude the right of an association to
1355 accelerate assessments of an owner delinquent in payment of
1356 common expenses. Accelerated assessments shall be due and payable
1357 on the date the claim of lien is filed. Such accelerated
1358 assessments shall include the amounts due for the remainder of
1359 the budget year in which the claim of lien was filed.

1360 (h) Amendment of bylaws.--

1361 1. The method by which the bylaws may be amended consistent
1362 with the provisions of this chapter shall be stated. If the
1363 bylaws fail to provide a method of amendment, the bylaws may be

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1364 amended if the amendment is approved by the owners of not less
1365 than a majority of the voting interests present in person or by
1366 proxy at a duly called meeting ~~two-thirds of the voting~~
1367 ~~interests.~~ If the bylaws provide a method of amendment requiring
1368 approval by a majority of the voting interests, or less than a
1369 majority of the voting interests, the bylaws shall prevail.

1370 2. No bylaw shall be revised or amended by reference to its
1371 title or number only. Proposals to amend existing bylaws shall
1372 contain the full text of the bylaws to be amended; new words
1373 shall be inserted in the text underlined, and words to be deleted
1374 shall be lined through with hyphens. However, if the proposed
1375 change is so extensive that this procedure would hinder, rather
1376 than assist, the understanding of the proposed amendment, it is
1377 not necessary to use underlining and hyphens as indicators of
1378 words added or deleted, but, instead, a notation must be inserted
1379 immediately preceding the proposed amendment in substantially the
1380 following language: "Substantial rewording of bylaw. See bylaw
1381 _____ for present text."

1382 3. Nonmaterial errors or omissions in the bylaw process
1383 will not invalidate an otherwise properly promulgated amendment.

1384 (i) Transfer fees.--No charge shall be made by the
1385 association or any body thereof in connection with the sale,
1386 mortgage, lease, sublease, or other transfer of a unit unless the
1387 association is required to approve such transfer and a fee for
1388 such approval is provided for in the declaration, articles, or
1389 bylaws. Any such fee may be preset, but in no event may such fee
1390 exceed \$100 per applicant other than husband/wife or
1391 parent/dependent child, which are considered one applicant.
1392 However, if the lease or sublease is a renewal of a lease or

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1393 sublease with the same lessee or sublessee, no charge shall be
1394 made. The foregoing notwithstanding, an association may, if the
1395 authority to do so appears in the declaration or bylaws, require
1396 that a prospective lessee place a security deposit, in an amount
1397 not to exceed the equivalent of 1 month's rent, into an escrow
1398 account maintained by the association. The security deposit shall
1399 protect against damages to the common elements or association
1400 property. Payment of interest, claims against the deposit,
1401 refunds, and disputes under this paragraph shall be handled in
1402 the same fashion as provided in part II of chapter 83.

1403 (j) Recall of board members.--Subject to the provisions of
1404 s. 718.301, any member of the board of administration may be
1405 recalled and removed from office with or without cause by the
1406 vote or agreement in writing by a majority of all the voting
1407 interests. If provided in the bylaws, a board member may also be
1408 removed from the board for cause in the manner provided in the
1409 bylaws. A special meeting of the unit owners to recall a member
1410 or members of the board of administration may be called by 10
1411 percent of the voting interests giving notice of the meeting as
1412 required for a meeting of unit owners, and the notice shall state
1413 the purpose of the meeting. Electronic transmission may not be
1414 used as a method of giving notice of a meeting called in whole or
1415 in part for this purpose.

1416 1. If the recall is approved by a majority of all voting
1417 interests by a vote at a meeting, the recall will be effective as
1418 provided herein. The board shall duly notice and hold a board
1419 meeting within 5 full business days of the adjournment of the
1420 unit owner meeting to recall one or more board members. At the
1421 meeting, the board shall either certify the recall, in which case

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1422 such member or members shall be recalled effective immediately
1423 and shall turn over to the board within 5 full business days any
1424 and all records and property of the association in their
1425 possession, or shall proceed as set forth in subparagraph 3.

1426 2. If the proposed recall is by an agreement in writing by
1427 a majority of all voting interests, the agreement in writing or a
1428 copy thereof shall be served on the association by certified mail
1429 or by personal service in the manner authorized by chapter 48 and
1430 the Florida Rules of Civil Procedure. The board of administration
1431 shall duly notice and hold a meeting of the board within 5 full
1432 business days after receipt of the agreement in writing. At the
1433 meeting, the board shall either certify the written agreement to
1434 recall a member or members of the board, in which case such
1435 member or members shall be recalled effective immediately and
1436 shall turn over to the board within 5 full business days any and
1437 all records and property of the association in their possession,
1438 or proceed as described in subparagraph 3.

1439 3. If the board determines not to certify the written
1440 agreement to recall a member or members of the board, or does not
1441 certify the recall by a vote at a meeting, the board shall,
1442 within 5 full business days after the meeting, file with the
1443 division a petition for arbitration pursuant to the procedures in
1444 s. 718.1255. For the purposes of this section, the unit owners
1445 who voted at the meeting or who executed the agreement in writing
1446 shall constitute one party under the petition for arbitration. If
1447 the arbitrator certifies the recall as to any member or members
1448 of the board, the recall will be effective upon mailing of the
1449 final order of arbitration to the association. If the association
1450 fails to comply with the order of the arbitrator, the division

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1451 | may take action pursuant to s. 718.501. Any member or members so
1452 | recalled shall deliver to the board any and all records of the
1453 | association in their possession within 5 full business days of
1454 | the effective date of the recall.

1455 | 4. If the board fails to duly notice and hold a board
1456 | meeting within 5 full business days of service of an agreement in
1457 | writing or within 5 full business days of the adjournment of the
1458 | unit owner recall meeting, the recall shall be deemed effective
1459 | and the board members so recalled shall immediately turn over to
1460 | the board any and all records and property of the association.

1461 | 5. If a vacancy occurs on the board as a result of a recall
1462 | or removal and less than a majority of the board members are
1463 | removed, the vacancy may be filled by the affirmative vote of a
1464 | majority of the remaining directors, notwithstanding any
1465 | provision to the contrary contained in this subsection. If
1466 | vacancies occur on the board as a result of a recall and a
1467 | majority or more of the board members are removed, the vacancies
1468 | shall be filled in accordance with procedural rules to be adopted
1469 | by the division, which rules need not be consistent with this
1470 | subsection. The rules must provide procedures governing the
1471 | conduct of the recall election as well as the operation of the
1472 | association during the period after a recall but prior to the
1473 | recall election.

1474 | (k) Arbitration.--There shall be a provision for mandatory
1475 | nonbinding arbitration as provided for in s. 718.1255.

1476 | (l) Certificate of compliance.--There shall be a provision
1477 | that a certificate of compliance from a licensed electrical
1478 | contractor or electrician may be accepted by the association's
1479 | board as evidence of compliance of the condominium units with the

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1480 applicable fire and life safety code. Notwithstanding the
1481 provisions of chapter 633 or of any other code, statute,
1482 ordinance, administrative rule, or regulation, or any
1483 interpretation of the foregoing, an association, condominium, or
1484 unit owner is not obligated to retrofit the common elements or
1485 units of a residential condominium with a fire sprinkler system
1486 or other engineered lifesafety system in a building that has been
1487 certified for occupancy by the applicable governmental entity, if
1488 the unit owners have voted to forego such retrofitting and
1489 engineered lifesafety system by the affirmative vote of two-
1490 thirds of all voting interests in the affected condominium.
1491 However, a condominium association may not vote to forego the
1492 retrofitting with a fire sprinkler system of common areas in a
1493 high-rise building. For purposes of this subsection, the term
1494 "high-rise building" means a building that is greater than 75
1495 feet in height where the building height is measured from the
1496 lowest level of fire department access to the floor of the
1497 highest occupiable story. For purposes of this subsection, the
1498 term "common areas" means any enclosed hallway, corridor, lobby,
1499 stairwell, or entryway. In no event shall the local authority
1500 having jurisdiction require completion of retrofitting of common
1501 areas with a sprinkler system before the end of 2014.

1502 1. A vote to forego retrofitting may be obtained by limited
1503 proxy or by a ballot personally cast at a duly called membership
1504 meeting, or by execution of a written consent by the member, and
1505 shall be effective upon the recording of a certificate attesting
1506 to such vote in the public records of the county where the
1507 condominium is located. The association shall mail, hand deliver,
1508 or electronically transmit to each unit owner written notice at

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1509 | least 14 days prior to such membership meeting in which the vote
1510 | to forego retrofitting of the required fire sprinkler system is
1511 | to take place. Within 30 days after the association's opt-out
1512 | vote, notice of the results of the opt-out vote shall be mailed,
1513 | hand delivered, or electronically transmitted to all unit owners.
1514 | Evidence of compliance with this 30-day notice shall be made by
1515 | an affidavit executed by the person providing the notice and
1516 | filed among the official records of the association. After such
1517 | notice is provided to each owner, a copy of such notice shall be
1518 | provided by the current owner to a new owner prior to closing and
1519 | shall be provided by a unit owner to a renter prior to signing a
1520 | lease.

1521 | 2. As part of the information collected annually from
1522 | condominiums, the division shall require condominium associations
1523 | to report the membership vote and recording of a certificate
1524 | under this subsection and, if retrofitting has been undertaken,
1525 | the per-unit cost of such work. The division shall annually
1526 | report to the Division of State Fire Marshal of the Department of
1527 | Financial Services the number of condominiums that have elected
1528 | to forego retrofitting.

1529 | (m) Common elements; limited power to convey.--

1530 | 1. With respect to condominiums created on or after October
1531 | 1, 1994, the bylaws shall include a provision granting the
1532 | association a limited power to convey a portion of the common
1533 | elements to a condemning authority for the purpose of providing
1534 | utility easements, right-of-way expansion, or other public
1535 | purposes, whether negotiated or as a result of eminent domain
1536 | proceedings.

1537 | 2. In any case where the bylaws are silent as to the

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1538 association's power to convey common elements as described in
1539 subparagraph 1., the bylaws shall be deemed to include the
1540 provision described in subparagraph 1.

1541 (n) Director delinquencies.--A director more than 90 days
1542 delinquent in the payment of any fee or assessment shall be
1543 deemed to have abandoned the office, creating a vacancy in the
1544 office to be filled according to state law.

1545 (o) Director offenses.--A director charged with a felony
1546 theft or embezzlement offense involving the association's funds
1547 or property shall be suspended from office pending the resolution
1548 of the charge. At the next board meeting, the board shall appoint
1549 an interim board member, who shall serve in place of the
1550 suspended member until such charges are resolved or the suspended
1551 member resigns.

1552 Section 12. Section 718.113, Florida Statutes, is amended
1553 to read:

1554 718.113 Maintenance; limitation upon improvement; display
1555 of flag; hurricane shutters; display of religious decorations.--

1556 (1) Maintenance of the common elements is the
1557 responsibility of the association. The declaration may provide
1558 that certain limited common elements shall be maintained by those
1559 entitled to use the limited common elements or that the
1560 association shall provide the maintenance, either as a common
1561 expense or with the cost shared only by those entitled to use the
1562 limited common elements. If the maintenance is to be by the
1563 association at the expense of only those entitled to use the
1564 limited common elements, the declaration shall describe in detail
1565 the method of apportioning such costs among those entitled to use
1566 the limited common elements, and the association may use the

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1567 provisions of s. 718.116 to enforce payment of the shares of such
1568 costs by the unit owners entitled to use the limited common
1569 elements.

1570 (2) (a) Except as otherwise provided in this section, there
1571 shall be no material alteration or substantial additions to the
1572 common elements or to real property which is association
1573 property, except in a manner provided in the declaration as
1574 originally recorded or as amended under the procedures provided
1575 therein. If the declaration as originally recorded or as amended
1576 under the procedures provided therein does not specify the
1577 procedure for approval of material alterations or substantial
1578 additions, 75 percent of the total voting interests of the
1579 association must approve the alterations or additions.

1580 (b) There shall not be any material alteration of, or
1581 substantial addition to, the common elements of any condominium
1582 operated by a multicondominium association unless approved in the
1583 manner provided in the declaration of the affected condominium or
1584 condominiums as originally recorded or as amended under the
1585 procedures provided therein. If a declaration as originally
1586 recorded or as amended under the procedures provided therein does
1587 not specify a procedure for approving such an alteration or
1588 addition, the approval of 75 percent of the total voting
1589 interests of each affected condominium is required. This
1590 subsection does not prohibit a provision in any declaration,
1591 articles of incorporation, or bylaws as originally recorded or as
1592 amended under the procedures provided therein requiring the
1593 approval of unit owners in any condominium operated by the same
1594 association or requiring board approval before a material
1595 alteration or substantial addition to the common elements is

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1596 permitted. This paragraph is intended to clarify existing law and
1597 applies to associations existing on the effective date of this
1598 act.

1599 (c) There shall not be any material alteration or
1600 substantial addition made to association real property operated
1601 by a multicondominium association, except as provided in the
1602 declaration, articles of incorporation, or bylaws as originally
1603 recorded or as amended under the procedures provided therein. If
1604 the declaration, articles of incorporation, or bylaws as
1605 originally recorded or as amended under the procedures provided
1606 therein do not specify the procedure for approving an alteration
1607 or addition to association real property, the approval of 75
1608 percent of the total voting interests of the association is
1609 required. This paragraph is intended to clarify existing law and
1610 applies to associations existing on the effective date of this
1611 act.

1612 (3) A unit owner shall not do anything within his or her
1613 unit or on the common elements which would adversely affect the
1614 safety or soundness of the common elements or any portion of the
1615 association property or condominium property which is to be
1616 maintained by the association.

1617 (4) Any unit owner may display one portable, removable
1618 United States flag in a respectful way and, on Armed Forces Day,
1619 Memorial Day, Flag Day, Independence Day, and Veterans Day, may
1620 display in a respectful way portable, removable official flags,
1621 not larger than 4 1/2 feet by 6 feet, that represent the United
1622 States Army, Navy, Air Force, Marine Corps, or Coast Guard,
1623 regardless of any declaration rules or requirements dealing with
1624 flags or decorations.

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1625 (5) Each board of administration shall adopt hurricane
1626 shutter specifications for each building within each condominium
1627 operated by the association which shall include color, style, and
1628 other factors deemed relevant by the board. All specifications
1629 adopted by the board shall comply with the applicable building
1630 code. Notwithstanding any provision to the contrary in the
1631 condominium documents, if approval is required by the documents,
1632 a board shall not refuse to approve the installation or
1633 replacement of hurricane shutters conforming to the
1634 specifications adopted by the board. The board may, subject to
1635 the provisions of s. 718.3026, and the approval of a majority of
1636 voting interests of the condominium, install hurricane shutters
1637 or hurricane protection that complies with or exceeds the
1638 applicable building code and may maintain, repair, or replace
1639 such approved hurricane shutters, whether on or within common
1640 elements, limited common elements, units, or association
1641 property. However, where hurricane protection that complies with
1642 or exceeds the applicable building code or laminated glass or
1643 window film architecturally designed to function as hurricane
1644 protection which complies with the applicable building code has
1645 been installed, the board may not install hurricane shutters. The
1646 board may operate shutters installed pursuant to this subsection
1647 without permission of the unit owners ~~when only where~~ such
1648 operation is necessary to preserve and protect the condominium
1649 property and association property. ~~This subsection does not~~
1650 create an obligation on behalf of the board or association to
1651 close or cause to be closed any shutters when such protection may
1652 be required. Restriction may not be placed on the closing of
1653 hurricane shutters unless the board and association assume the

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1654 responsibility of closing the hurricane shutters when
1655 appropriate. The installation, replacement, operation, repair,
1656 and maintenance of such shutters in accordance with the
1657 procedures set forth herein shall not be deemed a material
1658 alteration to the common elements or association property within
1659 the meaning of this section.

1660 (6) At least every 5 years, and within 5 years if not
1661 available for inspection on July 1, 2008, the board shall have
1662 the condominium buildings inspected to provide an update to the
1663 turnover inspection report under seal of an architect or engineer
1664 authorized to practice in this state attesting to required
1665 maintenance, useful life, and replacement costs of the elements
1666 provided in s. 718.301(4)(p).

1667 (7) The board may not adopt any rule or regulation
1668 impairing any rights guaranteed by the First Amendment to the
1669 Constitution of the United States or s. 3, Art. I of the State
1670 Constitution, including, but not limited to, the free exercise of
1671 religion, or any rules or regulations that conflict with the
1672 provisions of this chapter or the condominium instruments. A rule
1673 or regulation may not prohibit any reasonable accommodation for
1674 religious practices, including the attachment of religiously
1675 mandated objects to the front-door area of a condominium unit.

1676 Section 13. Section 718.1224, Florida Statutes, is created
1677 to read:

1678 718.1224 Prohibition against SLAPP suits.--

1679 (1) It is the intent of the Legislature to protect the
1680 right of condominium unit owners to exercise their rights to
1681 instruct their representatives and petition for redress of
1682 grievances before the various governmental entities of this state

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1683 as protected by the First Amendment to the United States
1684 Constitution and s. 5, Art. I of the State Constitution. The
1685 Legislature recognizes that strategic lawsuits against public
1686 participation, or "SLAPP suits" as they are typically referred
1687 to, have occurred when association members are sued by
1688 individuals, business entities, or governmental entities arising
1689 out of a condominium unit owner's appearance and presentation
1690 before a governmental entity on matters related to the
1691 condominium association. However, it is the public policy of this
1692 state that governmental entities, business organizations, and
1693 individuals not engage in SLAPP suits because such actions are
1694 inconsistent with the right of condominium unit owners to
1695 participate in the state's institutions of government. Therefore,
1696 the Legislature finds and declares that prohibiting such lawsuits
1697 by governmental entities, business entities, and individuals
1698 against condominium unit owners who address matters concerning
1699 their condominium association will preserve this fundamental
1700 state policy, preserve the constitutional rights of condominium
1701 unit owners, and ensure the continuation of representative
1702 government in this state. It is the intent of the Legislature
1703 that such lawsuits be expeditiously disposed of by the courts. As
1704 used in this subsection, the term "governmental entity" means the
1705 state, including the executive, legislative, and judicial
1706 branches of government; the independent establishments of the
1707 state, counties, municipalities, districts, authorities, boards,
1708 or commissions; or any agencies of these branches that are
1709 subject to chapter 286.

1710 (2) A governmental entity, business organization, or
1711 individual in this state may not file or cause to be filed

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1712 through its employees or agents any lawsuit, cause of action,
1713 claim, cross-claim, or counterclaim against a condominium unit
1714 owner without merit and solely because such condominium unit
1715 owner has exercised the right to instruct his or her
1716 representatives or the right to petition for redress of
1717 grievances before the various governmental entities of this
1718 state, as protected by the First Amendment to the United States
1719 Constitution and s. 5, Art. I of the State Constitution.

1720 (3) A condominium unit owner sued by a governmental entity,
1721 business organization, or individual in violation of this section
1722 has a right to an expeditious resolution of a claim that the suit
1723 is in violation of this section. A condominium unit owner may
1724 petition the court for an order dismissing the action or granting
1725 final judgment in favor of that condominium unit owner. The
1726 petitioner may file a motion for summary judgment, together with
1727 supplemental affidavits, seeking a determination that the
1728 governmental entity's, business organization's, or individual's
1729 lawsuit has been brought in violation of this section. The
1730 governmental entity, business organization, or individual shall
1731 thereafter file its response and any supplemental affidavits. As
1732 soon as practicable, the court shall set a hearing on the
1733 petitioner's motion, which shall be held at the earliest possible
1734 time after the filing of the governmental entity's, business
1735 organization's, or individual's response. The court may award the
1736 condominium unit owner sued by the governmental entity, business
1737 organization, or individual actual damages arising from the
1738 governmental entity's, individual's, or business organization's
1739 violation of this section. A court may treble the damages awarded
1740 to a prevailing condominium unit owner and shall state the basis

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1741 for the treble damages award in its judgment. The court shall
1742 award the prevailing party reasonable attorney's fees and costs
1743 incurred in connection with a claim that an action was filed in
1744 violation of this section.

1745 (4) Condominium associations may not expend association
1746 funds in prosecuting a SLAPP suit against a condominium unit
1747 owner.

1748 Section 14. Paragraph (b) of subsection (3) of section
1749 718.1255, Florida Statutes, is amended to read:

1750 718.1255 Alternative dispute resolution; voluntary
1751 mediation; mandatory nonbinding arbitration; legislative
1752 findings.--

1753 (3) LEGISLATIVE FINDINGS.--

1754 (b) The Legislature finds that ~~the courts are becoming~~
1755 ~~overcrowded with condominium and other disputes, and further~~
1756 ~~finds that~~ alternative dispute resolution has been making
1757 progress in reducing court dockets and trials and in offering a
1758 more efficient, cost-effective option to court litigation.
1759 However, the Legislature also finds that alternative dispute
1760 resolution should not be used as a mechanism to encourage the
1761 filing of frivolous or nuisance suits.

1762 Section 15. Paragraph (p) is added to subsection (4) of
1763 section 718.301, Florida Statutes, to read:

1764 718.301 Transfer of association control; claims of defect
1765 by association.--

1766 (4) At the time that unit owners other than the developer
1767 elect a majority of the members of the board of administration of
1768 an association, the developer shall relinquish control of the
1769 association, and the unit owners shall accept control.

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1770 Simultaneously, or for the purposes of paragraph (c) not more
1771 than 90 days thereafter, the developer shall deliver to the
1772 association, at the developer's expense, all property of the unit
1773 owners and of the association which is held or controlled by the
1774 developer, including, but not limited to, the following items, if
1775 applicable, as to each condominium operated by the association:

1776 (p) A report included in the official records, under seal
1777 of an architect or engineer authorized to practice in this state,
1778 attesting to required maintenance, useful life, and replacement
1779 costs of the following elements comprising a turnover inspection
1780 report:

- 1781 1. Roof.
- 1782 2. Structure.
- 1783 3. Fireproofing and fire-protection systems.
- 1784 4. Elevators.
- 1785 5. Heating and cooling systems.
- 1786 6. Plumbing.
- 1787 7. Electrical systems.
- 1788 8. Swimming pool or spa and equipment.
- 1789 9. Seawalls.
- 1790 10. Pavement and parking areas.
- 1791 11. Drainage systems.
- 1792 12. Painting.
- 1793 13. Irrigation systems.

1794 Section 16. Paragraph (f) is added to subsection (1) of
1795 section 718.3025, Florida Statutes, to read:

1796 718.3025 Agreements for operation, maintenance, or
1797 management of condominiums; specific requirements.--

1798 (1) No written contract between a party contracting to

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1799 provide maintenance or management services and an association
1800 which contract provides for operation, maintenance, or management
1801 of a condominium association or property serving the unit owners
1802 of a condominium shall be valid or enforceable unless the
1803 contract:

1804 (f) Discloses any financial or ownership interest a board
1805 member or any party providing maintenance or management services
1806 to the association holds with the contracting party.

1807 Section 17. Section 718.3026, Florida Statutes, is amended
1808 to read:

1809 718.3026 Contracts for products and services; in writing;
1810 bids; exceptions.-- ~~Associations with less than 100 units may opt~~
1811 ~~out of the provisions of this section if two-thirds of the unit~~
1812 ~~owners vote to do so, which opt-out may be accomplished by a~~
1813 ~~proxy specifically setting forth the exception from this section.~~

1814 (1) All contracts as further described herein or any
1815 contract that is not to be fully performed within 1 year after
1816 the making thereof, for the purchase, lease, or renting of
1817 materials or equipment to be used by the association in
1818 accomplishing its purposes under this chapter, and all contracts
1819 for the provision of services, shall be in writing. If a contract
1820 for the purchase, lease, or renting of materials or equipment, or
1821 for the provision of services, requires payment by the
1822 association on behalf of any condominium operated by the
1823 association in the aggregate that exceeds 5 percent of the total
1824 annual budget of the association, including reserves, the
1825 association shall obtain competitive bids for the materials,
1826 equipment, or services. Nothing contained herein shall be
1827 construed to require the association to accept the lowest bid.

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1828 (2) (a) ~~1.~~ Notwithstanding the foregoing, contracts with
1829 employees of the association, and contracts for attorney,
1830 accountant, architect, community association manager, timeshare
1831 management firm, engineering, and landscape architect services
1832 are not subject to the provisions of this section.

1833 ~~2. A contract executed before January 1, 1992, and any
1834 renewal thereof, is not subject to the competitive bid
1835 requirements of this section. If a contract was awarded under the
1836 competitive bid procedures of this section, any renewal of that
1837 contract is not subject to such competitive bid requirements if
1838 the contract contains a provision that allows the board to cancel
1839 the contract on 30 days' notice. Materials, equipment, or
1840 services provided to a condominium under a local government
1841 franchise agreement by a franchise holder are not subject to the
1842 competitive bid requirements of this section. A contract with a
1843 manager, if made by a competitive bid, may be made for up to 3
1844 years. A condominium whose declaration or bylaws provides for
1845 competitive bidding for services may operate under the provisions
1846 of that declaration or bylaws in lieu of this section if those
1847 provisions are not less stringent than the requirements of this
1848 section.~~

1849 (b) Nothing contained herein is intended to limit the
1850 ability of an association to obtain needed products and services
1851 in an emergency.

1852 (c) This section shall not apply if the business entity
1853 with which the association desires to enter into a contract is
1854 the only source of supply within the county serving the
1855 association.

1856 (d) Nothing contained herein shall excuse a party

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1857 contracting to provide maintenance or management services from
1858 compliance with s. 718.3025.

1859 Section 18. Section 718.501, Florida Statutes, is amended
1860 to read:

1861 718.501 Authority, responsibility, ~~Powers~~ and duties of
1862 Division of Florida Land Sales, Condominiums, and Mobile Homes.--

1863 (1) The Division of Florida Land Sales, Condominiums, and
1864 Mobile Homes of the Department of Business and Professional
1865 Regulation, referred to as the "division" in this part, in
1866 addition to other authority, responsibility, ~~powers~~ and duties
1867 prescribed by chapter 498, has the power to enforce and ensure
1868 compliance with the provisions of this chapter and rules
1869 promulgated pursuant hereto relating to the development,
1870 construction, sale, lease, ownership, operation, and management
1871 of residential condominium units. In performing its duties, the
1872 division has the following authority, responsibility, ~~powers~~ and
1873 duties:

1874 (a) The division may make necessary public or private
1875 investigations within or outside this state to determine whether
1876 any person has violated this chapter or any rule or order
1877 hereunder, to aid in the enforcement of this chapter, or to aid
1878 in the adoption of rules or forms hereunder.

1879 (b) The division may require or permit any person to file a
1880 statement in writing, under oath or otherwise, as the division
1881 determines, as to the facts and circumstances concerning a matter
1882 to be investigated.

1883 (c) For the purpose of any investigation under this
1884 chapter, the division director or any officer or employee
1885 designated by the division director may administer oaths or

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1886 affirmations, subpoena witnesses and compel their attendance,
1887 take evidence, and require the production of any matter which is
1888 relevant to the investigation, including the existence,
1889 description, nature, custody, condition, and location of any
1890 books, documents, or other tangible things and the identity and
1891 location of persons having knowledge of relevant facts or any
1892 other matter reasonably calculated to lead to the discovery of
1893 material evidence. Upon the failure by a person to obey a
1894 subpoena or to answer questions propounded by the investigating
1895 officer and upon reasonable notice to all persons affected
1896 thereby, the division may apply to the circuit court for an order
1897 compelling compliance.

1898 (d) Notwithstanding any remedies available to unit owners
1899 and associations, if the division has reasonable cause to believe
1900 that a violation of any provision of this chapter or rule
1901 promulgated pursuant hereto has occurred, the division may
1902 institute enforcement proceedings in its own name against any
1903 developer, association, officer, or member of the board of
1904 administration, or its assignees or agents, as follows:

1905 1. The division may permit a person whose conduct or
1906 actions may be under investigation to waive formal proceedings
1907 and enter into a consent proceeding whereby orders, rules, or
1908 letters of censure or warning, whether formal or informal, may be
1909 entered against the person.

1910 2. The division may issue an order requiring the developer,
1911 association, officer, or member of the board of administration,
1912 or its assignees or agents, to cease and desist from the unlawful
1913 practice and take such affirmative action as in the judgment of
1914 the division will carry out the purposes of this chapter. Agents

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1915 shall include community association managers or other licensed
1916 professionals acting as agents of the association. Such
1917 affirmative action may include, but is not limited to, an order
1918 requiring a developer to pay moneys determined to be owed to a
1919 condominium association.

1920 3. If a developer fails to promptly pay any restitution
1921 determined by the division to be owed, plus any accrued interest
1922 at the highest rate permitted by law, the division shall bring an
1923 action in circuit or county court on behalf of any association,
1924 class of unit owners, lessees, or purchasers for restitution,
1925 declaratory relief, injunctive relief, or any other available
1926 remedy. The division may also temporarily revoke its acceptance
1927 of any other condominium filing by the same developer until
1928 payment is made. ~~The division may bring an action in circuit~~
1929 ~~court on behalf of a class of unit owners, lessees, or purchasers~~
1930 ~~for declaratory relief, injunctive relief, or restitution.~~

1931 4. The division may impose a civil penalty against a
1932 developer or association, or its assignee or agent, for any
1933 violation of this chapter or a rule promulgated pursuant hereto.
1934 The division may impose a civil penalty individually against any
1935 officer or board member who willfully and knowingly violates a
1936 provision of this chapter, a rule adopted pursuant hereto, or a
1937 final order of the division, order the removal of such individual
1938 from the board of directors, and prohibit such individual from
1939 serving on the board of a community association for a period of
1940 time. The term "willfully and knowingly" means that the division
1941 informed the officer or board member that his or her action or
1942 intended action violates this chapter, a rule adopted under this
1943 chapter, or a final order of the division and that the officer or

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1944 board member refused to comply with the requirements of this
1945 chapter, a rule adopted under this chapter, or a final order of
1946 the division. The division, prior to initiating formal agency
1947 action under chapter 120, shall afford the officer or board
1948 member an opportunity to voluntarily comply with this chapter, a
1949 rule adopted under this chapter, or a final order of the
1950 division. An officer or board member who complies within 10 days
1951 is not subject to a civil penalty. A penalty may be imposed on
1952 the basis of each day of continuing violation, but in no event
1953 shall the penalty for any offense exceed \$5,000. By January 1,
1954 1998, the division shall adopt, by rule, penalty guidelines
1955 applicable to possible violations or to categories of violations
1956 of this chapter or rules adopted by the division. The guidelines
1957 must specify a meaningful range of civil penalties for each such
1958 violation of the statute and rules and must be based upon the
1959 harm caused by the violation, the repetition of the violation,
1960 and upon such other factors deemed relevant by the division. For
1961 example, the division may consider whether the violations were
1962 committed by a developer or owner-controlled association, the
1963 size of the association, and other factors. The guidelines must
1964 designate the possible mitigating or aggravating circumstances
1965 that justify a departure from the range of penalties provided by
1966 the rules. It is the legislative intent that minor violations be
1967 distinguished from those which endanger the health, safety, or
1968 welfare of the condominium residents or other persons and that
1969 such guidelines provide reasonable and meaningful notice to the
1970 public of likely penalties that may be imposed for proscribed
1971 conduct. This subsection does not limit the ability of the
1972 division to informally dispose of administrative actions or

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1973 | complaints by stipulation, agreed settlement, or consent order.
1974 | All amounts collected shall be deposited with the Chief Financial
1975 | Officer to the credit of the Division of Florida Land Sales,
1976 | Condominiums, and Mobile Homes Trust Fund. If a developer fails
1977 | to pay the civil penalty and the amount deemed to be owed to the
1978 | association, the division shall thereupon issue an order
1979 | directing that such developer cease and desist from further
1980 | operation until such time as the civil penalty is paid or may
1981 | pursue enforcement of the penalty in a court of competent
1982 | jurisdiction. If an association fails to pay the civil penalty,
1983 | the division shall thereupon pursue enforcement in a court of
1984 | competent jurisdiction, and the order imposing the civil penalty
1985 | or the cease and desist order will not become effective until 20
1986 | days after the date of such order. Any action commenced by the
1987 | division shall be brought in the county in which the division has
1988 | its executive offices or in the county where the violation
1989 | occurred.

1990 | 5. Upon a finding of failure to provide access to official
1991 | records after two written requests by certified mail by unit
1992 | owners, the division shall issue a subpoena requiring production
1993 | of the requested records.

1994 | (e) The division shall ~~is authorized to~~ prepare and
1995 | disseminate a prospectus and other information to assist
1996 | prospective owners, purchasers, lessees, and developers of
1997 | residential condominiums in assessing the rights, privileges, and
1998 | duties pertaining thereto.

1999 | (f) The division has authority to adopt rules pursuant to
2000 | ss. 120.536(1) and 120.54 to implement and enforce the provisions
2001 | of this chapter.

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2002 (g) The division shall establish procedures for providing
2003 notice to an association when the division is considering the
2004 issuance of a declaratory statement with respect to the
2005 declaration of condominium or any related document governing in
2006 such condominium community.

2007 (h) The division shall furnish each association which pays
2008 the fees required by paragraph (2) (a) a copy of this act,
2009 subsequent changes to this act on an annual basis, an amended
2010 version of this act as it becomes available from the Secretary of
2011 State's office on a biennial basis, and the rules promulgated
2012 pursuant thereto on an annual basis.

2013 (i) The division shall annually provide each association
2014 with a summary of declaratory statements and formal legal
2015 opinions relating to the operations of condominiums which were
2016 rendered by the division during the previous year.

2017 (j) The division shall provide training programs for
2018 condominium association board members and unit owners. The
2019 division shall maintain a current list of programs and program
2020 providers and shall make such list available to board members and
2021 unit owners.

2022 (k) The division shall maintain a toll-free telephone
2023 number accessible to condominium unit owners.

2024 (l) The division shall develop a program to certify both
2025 volunteer and paid mediators to provide mediation of condominium
2026 disputes. The division shall provide, upon request, a list of
2027 such mediators to any association, unit owner, or other
2028 participant in arbitration proceedings under s. 718.1255
2029 requesting a copy of the list. The division shall include on the
2030 list of volunteer mediators only the names of persons who have

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2031 received at least 20 hours of training in mediation techniques or
2032 who have mediated at least 20 disputes. In order to become
2033 initially certified by the division, paid mediators must be
2034 certified by the Supreme Court to mediate court cases in either
2035 county or circuit courts. However, the division may adopt, by
2036 rule, additional factors for the certification of paid mediators,
2037 which factors must be related to experience, education, or
2038 background. Any person initially certified as a paid mediator by
2039 the division must, in order to continue to be certified, comply
2040 with the factors or requirements imposed by rules adopted by the
2041 division.

2042 (m) When a complaint is made, the division shall conduct
2043 its inquiry with due regard to the interests of the affected
2044 parties. Within 30 days after receipt of a complaint, the
2045 division shall acknowledge the complaint in writing and notify
2046 the complainant whether the complaint is within the jurisdiction
2047 of the division and whether additional information is needed by
2048 the division from the complainant. The division shall conduct its
2049 investigation and shall, within 90 days after receipt of the
2050 original complaint or of timely requested additional information,
2051 take action upon the complaint. However, the failure to complete
2052 the investigation within 90 days does not prevent the division
2053 from continuing the investigation, accepting or considering
2054 evidence obtained or received after 90 days, or taking
2055 administrative action if reasonable cause exists to believe that
2056 a violation of this chapter or a rule of the division has
2057 occurred. If an investigation is not completed within the time
2058 limits established in this paragraph, the division shall, on a
2059 monthly basis, notify the complainant in writing of the status of

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2060 the investigation. When reporting its action to the complainant,
2061 the division shall inform the complainant of any right to a
2062 hearing pursuant to ss. 120.569 and 120.57.

2063 (2) (a) ~~Effective January 1, 1992,~~ Each condominium
2064 association which operates more than two units shall pay to the
2065 division an annual fee in the amount of \$4 for each residential
2066 unit in condominiums operated by the association. If the fee is
2067 not paid by March 1, then the association shall be assessed a
2068 penalty of 10 percent of the amount due, and the association will
2069 not have standing to maintain or defend any action in the courts
2070 of this state until the amount due, plus any penalty, is paid.

2071 (b) All fees shall be deposited in the Division of Florida
2072 Land Sales, Condominiums, and Mobile Homes Trust Fund as provided
2073 by law.

2074 Section 19. Subsection (1) of section 718.50151, Florida
2075 Statutes, is amended to read:

2076 718.50151 Advisory council; membership functions.--

2077 (1) There is created the Advisory Council on Condominiums.
2078 The council shall consist of seven appointed members. Two members
2079 shall be appointed by the President of the Senate, two members
2080 shall be appointed by the Speaker of the House of
2081 Representatives, and three members shall be appointed by the
2082 Governor. ~~At least~~ One member that is appointed by the Governor
2083 may shall represent timeshare condominiums. Members shall be
2084 appointed to 2-year terms; however, one of the persons initially
2085 appointed by the Governor, by the President of the Senate, and by
2086 the Speaker of the House of Representatives shall be appointed to
2087 a 1-year term. The director of the division shall appoint ~~serve~~
2088 ~~as~~ an ex officio nonvoting member. The Legislature intends that

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2089 | the persons appointed represent a cross-section of persons
2090 | interested in condominium issues. The council shall be located
2091 | within the division for administrative purposes. Members of the
2092 | council shall serve without compensation but are entitled to
2093 | receive per diem and travel expenses pursuant to s. 112.061 while
2094 | on official business.

2095 | Section 20. This act shall take effect July 1, 2008.