

By the Committees on Community Affairs; 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.; defining the term "community association
4 management firm"; redefining the term "community
5 association manager" to apply only to natural persons;
6 amending s. 468.4315, F.S.; revising membership criteria
7 for members of the Regulatory Council of Community
8 Association Managers; requiring the board to establish a
9 public education program; providing for board members to
10 serve without compensation but be entitled to receive per
11 diem and travel expenses; providing responsibilities of
12 the board; amending s. 468.432, F.S.; providing for the
13 licensure of community association management firms;
14 providing application, licensure, and fee requirements;
15 providing for the cancellation of the license of a
16 community association management firm under certain
17 circumstances; providing that such firm or similar
18 organization agrees that, by being licensed, it shall
19 employ only licensed persons providing certain services;
20 amending s. 468.433, F.S.; providing for the refusal of an
21 applicant certification under certain circumstances;
22 amending s. 468.436, F.S.; requiring the Department of
23 Business and Professional Regulation to investigate
24 certain complaints and allegations; providing complaint
25 and investigation procedures; providing grounds for which
26 disciplinary action may be taken; amending s. 718.111,
27 F.S.; providing duties of officers, directors, and agents
28 of a condominium association and liability for monetary
29 damages under certain circumstances; providing that a

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30 person who knowingly or intentionally fails to create or
31 maintain, or who defaces or destroys certain records, is
32 subject to civil penalties as prescribed by state law;
33 requiring that a copy of the inspection report be
34 maintained as an official record of the association;
35 requiring official records of the association to be
36 maintained for a specified minimum period and be made
37 available at certain locations and in specified formats;
38 providing that any person who knowingly or intentionally
39 defaces, destroys, or fails to create or maintain
40 accounting records is subject to civil and criminal
41 sanctions; prohibiting accessibility to certain personal
42 identifying information of unit owners by fellow unit
43 owners; requiring that the Division of Florida Land Sales,
44 Condominiums, and Mobile Homes of the Department of
45 Business and Professional Regulation adopt certain rules;
46 requiring certain audits and reports to be paid for by the
47 developer if done before control of the association is
48 turned over; restricting a condominium association from
49 waiving a financial report for more than a specified
50 period; amending s. 718.112, F.S.; prohibiting a voting
51 interest or a consent right allocated to a unit owner from
52 being exercised under certain circumstances; requiring the
53 board to address certain agenda items proposed by a
54 petition of a specified percentage of the unit owners;
55 providing requirements for the location of annual unit
56 owner meetings; revising terms of service for board
57 members; prohibiting certain persons from serving on the
58 board; requiring the association to provide a

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59 certification form to unit owners for specified purposes;
60 authorizing an association consisting of a specified
61 maximum number of units to provide for different voting
62 and election procedures in its bylaws by affirmative vote
63 of a majority of the association's voting interests;
64 revising requirements related to the annual budget;
65 requiring proxy questions relating to reserves to contain
66 a specified statement; providing for the removal of board
67 members under certain circumstances; requiring that
68 directors who are delinquent in certain payments owed in
69 excess of certain periods of time be suspended from office
70 or deemed to have abandoned their offices; requiring that
71 directors charged with certain offenses involving an
72 association's funds or property be suspended from office
73 pending resolution of the charge; providing for the
74 reinstatement of such officers or directors under certain
75 circumstances; amending s. 718.1124, F.S.; providing that
76 any unit owner may give notice of his or her intent to
77 apply to the circuit court for the appointment of a
78 receiver to manage the affairs of the association under
79 certain circumstances; providing a form for such notice;
80 providing for the delivery of such notice; providing
81 procedures for resolving a petition submitted pursuant to
82 such notice; requiring that all unit owners be provided
83 written notice of the appointment of a receiver; amending
84 s. 718.113, F.S.; providing a statement of clarification;
85 authorizing the board to install certain hurricane
86 protection; prohibiting the board from installing
87 hurricane shutters under certain circumstances; requiring

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88 | that the board inspect certain condominium buildings and a
89 | issue a report thereupon; prohibiting the board from
90 | refusing a request for reasonable accommodation for the
91 | attachment to a unit of religious objects meeting certain
92 | size specifications; amending s. 718.117, F.S.; requiring
93 | that all unit owners be provided written notice of the
94 | appointment of a receiver; providing for the delivery of
95 | such notice; amending s. 718.121, F.S.; providing
96 | requirements and restrictions for liens filed by the
97 | association against a condominium unit; providing for
98 | notice and delivery thereof; creating s. 718.1224, F.S.;
99 | prohibiting strategic lawsuits against public
100 | participation; providing legislative findings and intent;
101 | prohibiting a governmental entity, business organization,
102 | or individual from filing certain lawsuits made upon
103 | specified bases against a unit owner; providing rights of
104 | a unit owner who has been served with such a lawsuit;
105 | providing procedures for the resolution of claims that
106 | such suit violates certain provisions of state law;
107 | providing for the award of damages and attorney's fees;
108 | prohibiting associations from expending association funds
109 | in prosecuting such a suit against a unit owner; amending
110 | s. 718.1255, F.S.; revising legislative intent concerning
111 | alternative dispute resolution; creating s. 718.1265,
112 | F.S.; authorizing an association to exercise certain
113 | powers in instances involving damage caused by an event
114 | for which a state of emergency has been declared; limiting
115 | the applicability of such powers; creating s. 718.127,
116 | F.S.; requiring that all unit owners be provided written

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117 notice of the appointment of a receiver; providing for the
118 delivery of such notice; amending s. 718.301, F.S.;

119 providing circumstances under which unit owners other than
120 a developer may elect not fewer than a majority of the
121 members of the board of administration of an association;
122 requiring that a developer deliver certain property of the
123 unit owners and the association within a specified period
124 after such election and upon relinquishing control of the
125 association; requiring a turnover inspection report;
126 requiring that the report contain certain information;
127 amending s. 718.3025, F.S.; requiring that maintenance and
128 management services contracts disclose certain
129 information; amending s. 718.3026, F.S.; removing a
130 provision authorizing certain associations to opt out of
131 provisions relating to contracts for products and
132 services; removing provisions relating to competitive bid
133 requirements for contracts executed before a specified
134 date; providing requirements for any contract or
135 transaction between an association and one or more of its
136 directors or any other entity in which one or more of its
137 directors are directors or officers or have a financial
138 interest; amending s. 718.303, F.S.; providing that
139 hearings regarding noncompliance with a declaration be
140 held before certain persons; amending s. 718.501, F.S.;

141 providing authority and responsibilities of the division;
142 providing for enforcement actions brought by the division
143 in its own name; providing for the imposition of penalties
144 by the division; requiring that the division issue a
145 subpoena requiring production of certain requested records

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146 under certain circumstances; providing for the issuance of
147 notice of a declaratory statement with respect to
148 documents governing a condominium community; requiring
149 that the division provide training and education for
150 condominium association board members and unit owners;
151 authorizing the division to include certain training
152 components and review or approve training programs offered
153 by providers; requiring that certain individuals cooperate
154 with the division in any investigation conducted by the
155 division; amending s. 718.50151, F.S.; redesignating the
156 Advisory Council on Condominiums as the "Community
157 Association Living Study Council"; providing for the
158 creation of the council; providing functions of the
159 council; amending s. 718.503, F.S.; providing for
160 disclosure of certain information upon the sale of a unit
161 by a nondeveloper; requiring the provisions of a
162 governance form by the seller to the prospective buyer;
163 requiring that such form contain certain information and a
164 specified statement; providing an effective date.

165
166 Be It Enacted by the Legislature of the State of Florida:

167
168 Section 1. Section 468.431, Florida Statutes, is amended to
169 read:

170 468.431 Definitions.--As used in this part:

171 (1) "Community association" means a residential homeowners'
172 association in which membership is a condition of ownership of a
173 unit in a planned unit development, or of a lot for a home or a
174 mobile home, or of a townhouse, villa, condominium, cooperative,

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175 or other residential unit which is part of a residential
176 development scheme and which is authorized to impose a fee which
177 may become a lien on the parcel.

178 (2) "Community association management" means any of the
179 following practices requiring substantial specialized knowledge,
180 judgment, and managerial skill when done for remuneration and
181 when the association or associations served contain more than 10
182 ~~50~~ units or have an annual budget or budgets in excess of
183 \$100,000: controlling or disbursing funds of a community
184 association, preparing budgets or other financial documents for a
185 community association, assisting in the noticing or conduct of
186 community association meetings, and coordinating maintenance for
187 the residential development and other day-to-day services
188 involved with the operation of a community association. A person
189 who performs clerical or ministerial functions under the direct
190 supervision and control of a licensed manager or who is charged
191 only with performing the maintenance of a community association
192 and who does not assist in any of the management services
193 described in this subsection is not required to be licensed under
194 this part.

195 (3) "Community association management firm" means a
196 corporation, limited liability company, partnership, trust,
197 association, sole proprietorship, or other similar organization
198 engaging in the business of community association management for
199 the purpose of providing any of the services described in
200 subsection (2).

201 (4) ~~(3)~~ "Community association manager" means a natural
202 person who is licensed pursuant to this part to perform community
203 association management services.

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204 (5)~~(4)~~ "Council" means the Regulatory Council of Community
205 Association Managers.

206 (6)~~(5)~~ "Department" means the Department of Business and
207 Professional Regulation.

208 Section 2. Section 468.4315, Florida Statutes, is amended
209 to read:

210 468.4315 Regulatory Council of Community Association
211 Managers.--

212 (1) The Regulatory Council of Community Association
213 Managers is created within the department and shall consist of
214 seven members appointed by the Governor and confirmed by the
215 Senate.

216 (a) Five members of the council shall be licensed community
217 association managers, one of whom may ~~shall~~ be a community
218 association manager employed by a timeshare managing entity as
219 described in ss. 468.438 and 721.13, who have held an active
220 license for at least 5 years. The remaining two council members
221 shall be residents of this state, ~~and~~ must not be or ever have
222 been connected with the business of community association
223 management, and may not be prohibited from serving because the
224 member is or has been a resident or board member of a community
225 association.

226 (b) The Governor shall appoint members for terms of 4
227 years. Such members shall serve until their successors are
228 appointed. Members' service on the council shall begin upon
229 appointment and shall continue until their successors are
230 appointed.

231 (2) The council may adopt rules relating to the licensure
232 examination, continuing education requirements, continuing

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233 education providers, fees, and professional practice standards to
234 assist the department in carrying out the duties and authorities
235 conferred upon the department by this part.

236 (3) To the extent the council is authorized to exercise
237 functions otherwise exercised by a board pursuant to chapter 455,
238 the provisions of chapter 455 and s. 20.165 relating to
239 regulatory boards shall apply, including, but not limited to,
240 provisions relating to board rules and the accountability and
241 liability of board members. All proceedings and actions of the
242 council are subject to the provisions of chapter 120. In
243 addition, the provisions of chapter 455 and s. 20.165 shall apply
244 to the department in carrying out the duties and authorities
245 conferred upon the department by this part.

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

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

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

254 (a) Receiving input regarding issues of concern with
255 respect to community association management and recommendations
256 for changes in applicable laws.

257 (b) Reviewing, evaluating, and advising the division
258 concerning revisions and adoption of rules affecting community
259 association management.

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

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262 Section 3. Section 468.432, Florida Statutes, is amended to
263 read:

264 468.432 Licensure of community association managers and
265 community association management firms; exceptions.--

266 (1) A person may ~~shall~~ not manage or hold herself or
267 himself out to the public as being able to manage a community
268 association in this state unless she or he is licensed by the
269 department in accordance with the provisions of this part.
270 However, ~~nothing in this part~~ does not prohibit ~~prohibits~~ any
271 person licensed in this state under any other law or court rule
272 from engaging in the profession for which she or he is licensed.

273 (2) As of January 1, 2009, a community association
274 management firm or other similar organization responsible for the
275 management of more than 10 units or a budget of \$100,000 or
276 greater may not engage or hold itself out to the public as being
277 able to engage in the business of community association
278 management in this state unless it is licensed by the department
279 as a community association management firm in accordance with the
280 provisions of this part.

281 (a) A community association management firm or other
282 similar organization desiring to be licensed as a community
283 association management firm shall apply to the department on a
284 form approved by the department and submit the application
285 together with licensure fees required by s. 468.435(1)(a) and
286 (c). Each community association management firm applying for
287 licensure under this subsection must be actively registered and
288 authorized to do business in this state.

289 (b) Each applicant shall designate on its application a
290 licensed community association manager who shall respond to all

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291 inquires from and investigations by the department or division.

292 (c) Each licensed community association management firm
293 shall notify the department within 30 days following any change
294 of information contained in the application upon which licensure
295 is based.

296 (d) Community association management firm licenses shall
297 expire on September 30 of odd-numbered years and must be renewed
298 every 2 years. An application for renewal must be accompanied by
299 the renewal fee as required by s. 468.435(1)(d).

300 (e) The department shall license each applicant whom the
301 department certifies as meeting the requirements of this
302 subsection.

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

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

311 ~~(2) Nothing in this part prohibits a corporation,~~
312 ~~partnership, trust, association, or other like organization from~~
313 ~~engaging in the business of community association management~~
314 ~~without being licensed if it employs licensed natural persons in~~
315 ~~the direct provision of community association management~~
316 ~~services. Such corporation, partnership, trust, association, or~~
317 ~~other organization shall also file with the department a~~
318 ~~statement on a form approved by the department that it submits~~
319 ~~itself to the rules of the council and the department and the~~

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320 ~~provisions of this part which the department deems applicable.~~

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

323 468.433 Licensure by examination.--

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

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

331 (b) The department may refuse to certify an applicant ~~only~~
332 if:

333 1. There is a substantial connection between the lack of
334 good moral character of the applicant and the professional
335 responsibilities of a community association manager; ~~and~~

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

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

340 (c) When an applicant is found to be unqualified for a
341 license because of a lack of good moral character, the department
342 shall furnish the applicant a statement containing its findings,
343 a complete record of the evidence upon which the determination
344 was based, and a notice of the rights of the applicant to a
345 rehearing and appeal.

346 (d) The council shall establish by rule the required amount
347 of prelicensure education, which shall consist of not more than
348 24 hours of in-person instruction by a department-approved

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349 provider and which shall cover all areas of the examination
350 specified in subsection (3). Such instruction shall be completed
351 within 12 months prior to the date of the examination.
352 Prelicensure education providers shall be considered continuing
353 education providers for purposes of establishing provider
354 approval fees. A licensee shall not be required to comply with
355 the continuing education requirements of s. 468.4337 prior to the
356 first license renewal. The department shall, by rule, set
357 standards for exceptions to the requirement of in-person
358 instruction in cases of hardship or disability.

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

363 Section 5. Section 468.436, Florida Statutes, is amended to
364 read:

365 468.436 Disciplinary proceedings.--

366 (1) The department shall investigate complaints and
367 allegations of a violation of this part or chapter 455, or any
368 rule adopted thereunder, which is filed against a community
369 association manager or firm or forwarded from other divisions
370 under the Department of Business and Professional Regulation.
371 After a complaint is received, the department shall conduct an
372 inquiry with due regard to the interests of the affected parties.
373 Within 30 days after the date on which a complaint is received,
374 the department shall acknowledge the complaint in writing and
375 notify the complainant whether or not the complaint is within the
376 jurisdiction of the department and whether or not additional
377 information is needed by the department from the complainant. The

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378 department shall conduct an investigation and shall, within 90
379 days after the date on which the original complaint is received
380 or within 90 days after a timely request for additional
381 information, take action upon the complaint. However, the failure
382 to complete the investigation within 90 days does not prevent the
383 department from continuing the investigation, accepting or
384 considering evidence obtained or received after 90 days, or
385 taking administrative action if reasonable cause exists to
386 believe that a violation of this part, chapter 455, or a rule of
387 the department has occurred. If an investigation is not completed
388 within the time limits established in this subsection, the
389 department shall, on a monthly basis, notify the complainant in
390 writing of the status of the investigation. When reporting its
391 action to the complainant, the department shall inform the
392 complainant of any right to a hearing pursuant to ss. 120.569 and
393 120.57.

394 (2)~~(1)~~ The following acts constitute grounds for which the
395 disciplinary actions in subsection (4) ~~(3)~~ may be taken:

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

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

398 2. Violation of any lawful order or rule rendered or
399 adopted by the department or the council.

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

402 4. Obtaining a license or certification or any other order,
403 ruling, or authorization by means of fraud, misrepresentation, or
404 concealment of material facts.

405 5. Committing acts of gross misconduct or gross negligence
406 in connection with the profession.

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

410 (3)~~(2)~~ The council shall specify by rule the acts or
411 omissions that constitute a violation of subsection (2) ~~(1)~~.

412 (4)~~(3)~~ When the department finds any community association
413 manager or firm guilty of any of the grounds set forth in
414 subsection (2) ~~(1)~~, it may enter an order imposing one or more of
415 the following penalties:

416 (a) Denial of an application for licensure.

417 (b) Revocation or suspension of a license.

418 (c) Imposition of an administrative fine not to exceed
419 \$5,000 for each count or separate offense.

420 (d) Issuance of a reprimand.

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

424 (f) Restriction of the authorized scope of practice by the
425 community association manager.

426 (5)~~(4)~~ The department may ~~shall~~ reissue the license of a
427 disciplined community association manager or firm upon
428 certification by the department that the disciplined person or
429 firm has complied with all of the terms and conditions set forth
430 in the final order.

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

434 718.111 The association.--

435 (1) CORPORATE ENTITY.--

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436 (d) As required by s. 617.0830, an officer, director, or
437 agent shall discharge his or her duties in good faith, with the
438 care an ordinarily prudent person in a like position would
439 exercise under similar circumstances, and in a manner he or she
440 reasonably believes to be in the interests of the association.
441 Regardless of any indemnification provision in the documents or
442 contract, an officer, director, or agent is liable for monetary
443 damages as provided in s. 617.0834 if such officer, director, or
444 agent breached or failed to perform his or her duties and the
445 breach of, or failure to perform, his or her duties constitutes a
446 violation of state law as provided in s. 617.0834, a transaction
447 from which the officer or director derived an improper personal
448 benefit, either directly or indirectly, or recklessness or an act
449 or omission performed or omitted in bad faith, with malicious
450 purpose, or in a manner exhibiting wanton and willful disregard
451 of human rights, safety, or property.

452 (12) OFFICIAL RECORDS.--

453 (a) From the inception of the association, the association
454 shall maintain each of the following items, when applicable,
455 which shall constitute the official records of the association:

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

458 2. A photocopy of the recorded declaration of condominium
459 of each condominium operated by the association and of each
460 amendment to each declaration.

461 3. A photocopy of the recorded bylaws of the association
462 and of each amendment to the bylaws.

463 4. A certified copy of the articles of incorporation of the
464 association, or other documents creating the association, and of

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465 each amendment thereto.

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

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

471 7. A current roster of all unit owners and their mailing
472 addresses, unit identifications, voting certifications, and, if
473 known, telephone numbers. The association shall also maintain the
474 electronic mailing addresses and the numbers designated by unit
475 owners for receiving notice sent by electronic transmission of
476 those unit owners consenting to receive notice by electronic
477 transmission. The electronic mailing addresses and numbers
478 provided by unit owners to receive notice by electronic
479 transmission shall be removed from association records when
480 consent to receive notice by electronic transmission is revoked.
481 However, the association is not liable for an erroneous
482 disclosure of the electronic mail address or the number for
483 receiving electronic transmission of notices.

484 8. All current insurance policies of the association and
485 condominiums operated by the association.

486 9. A current copy of any management agreement, lease, or
487 other contract to which the association is a party or under which
488 the association or the unit owners have an obligation or
489 responsibility.

490 10. Bills of sale or transfer for all property owned by the
491 association.

492 11. Accounting records for the association and separate
493 accounting records for each condominium which the association

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494 operates. All accounting records shall be maintained for a period
495 of not less than 7 years. Any person who knowingly or
496 intentionally defaces or destroys accounting records required to
497 be maintained by this chapter, or who knowingly or intentionally
498 fails to create or maintain accounting records required to be
499 created or maintained by this chapter, is personally subject to a
500 civil penalty pursuant to s. 718.501(1)(d). The accounting
501 records shall include, but are not limited to:

502 a. Accurate, itemized, and detailed records of all receipts
503 and expenditures.

504 b. A current account and a monthly, bimonthly, or quarterly
505 statement of the account for each unit designating the name of
506 the unit owner, the due date and amount of each assessment, the
507 amount paid upon the account, and the balance due.

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

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

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

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

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

522 15. All other records of the association not specifically

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523 included in the foregoing which are related to the operation of
524 the association.

525 16. A copy of the inspection report as described in s.
526 718.301(4)(p).

527 (b) The official records of the association shall be
528 maintained within the state for at least 7 years. The records of
529 the association shall be made available to a unit owner within 45
530 miles of the condominium property within 5 working days after
531 receipt of written request by the board or its designee. However,
532 such distance requirement does not apply to an association
533 governing a timeshare condominium. This paragraph may be complied
534 with by having a copy of the official records of the association
535 available for inspection or copying on the condominium property
536 or association property. The association may offer the option of
537 making the records of the association available to a unit owner
538 electronically via the Internet or by allowing the records to be
539 viewed in electronic format on a computer screen and printed upon
540 request.

541 (c) The official records of the association are open to
542 inspection by any association member or the authorized
543 representative of such member at all reasonable times. The right
544 to inspect the records includes the right to make or obtain
545 copies, at the reasonable expense, if any, of the association
546 member. The association may adopt reasonable rules regarding the
547 frequency, time, location, notice, and manner of record
548 inspections and copying. The failure of an association to provide
549 the records within 10 working days after receipt of a written
550 request shall create a rebuttable presumption that the
551 association willfully failed to comply with this paragraph. A

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552 unit owner who is denied access to official records is entitled
553 to the actual damages or minimum damages for the association's
554 willful failure to comply with this paragraph. The minimum
555 damages shall be \$50 per calendar day up to 10 days, the
556 calculation to begin on the 11th working day after receipt of the
557 written request. The failure to permit inspection of the
558 association records as provided herein entitles any person
559 prevailing in an enforcement action to recover reasonable
560 attorney's fees from the person in control of the records who,
561 directly or indirectly, knowingly denied access to the records
562 for inspection. Any person who knowingly or intentionally defaces
563 or destroys accounting records that are required by this chapter,
564 or knowingly or intentionally fails to create or maintain
565 accounting records that are required by this chapter, is
566 personally subject to a civil penalty pursuant to s.
567 718.501(1)(d). The association shall maintain an adequate number
568 of copies of the declaration, articles of incorporation, bylaws,
569 and rules, and all amendments to each of the foregoing, as well
570 as the question and answer sheet provided for in s. 718.504 and
571 year-end financial information required in this section on the
572 condominium property to ensure their availability to unit owners
573 and prospective purchasers, and may charge its actual costs for
574 preparing and furnishing these documents to those requesting the
575 same. Notwithstanding the provisions of this paragraph, the
576 following records shall not be accessible to unit owners:
577 1. Any record protected by the lawyer-client privilege as
578 described in s. 90.502; and any record protected by the work-
579 product privilege, including any record prepared by an
580 association attorney or prepared at the attorney's express

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581 | direction; which reflects a mental impression, conclusion,
582 | litigation strategy, or legal theory of the attorney or the
583 | association, and which was prepared exclusively for civil or
584 | criminal litigation or for adversarial administrative
585 | proceedings, or which was prepared in anticipation of imminent
586 | civil or criminal litigation or imminent adversarial
587 | administrative proceedings until the conclusion of the litigation
588 | or adversarial administrative proceedings.

589 | 2. Information obtained by an association in connection
590 | with the approval of the lease, sale, or other transfer of a
591 | unit.

592 | 3. Medical records of unit owners.

593 | 4. Social security numbers, driver's license numbers,
594 | credit card numbers, and other personal identifying information
595 | of any person.

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

598 | (e)1. The association or its authorized agent is not
599 | required to provide a prospective purchaser or lienholder with
600 | information about the condominium or the association other than
601 | information or documents required by this chapter to be made
602 | available or disclosed. The association or its authorized agent
603 | may charge a reasonable fee to the prospective purchaser,
604 | lienholder, or the current unit owner for providing good faith
605 | responses to requests for information by or on behalf of a
606 | prospective purchaser or lienholder, other than that required by
607 | law, if the fee does not exceed \$150 plus the reasonable cost of
608 | photocopying and any attorney's fees incurred by the association
609 | in connection with the response.

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610 2. An association and its authorized agent are not liable
611 for providing such information in good faith pursuant to a
612 written request if the person providing the information includes
613 a written statement in substantially the following form: "The
614 responses herein are made in good faith and to the best of my
615 ability as to their accuracy."

616 (13) FINANCIAL REPORTING.--Within 90 days after the end of
617 the fiscal year, or annually on a date provided in the bylaws,
618 the association shall prepare and complete, or contract for the
619 preparation and completion of, a financial report for the
620 preceding fiscal year. Within 21 days after the final financial
621 report is completed by the association or received from the third
622 party, but not later than 120 days after the end of the fiscal
623 year or other date as provided in the bylaws, the association
624 shall mail to each unit owner at the address last furnished to
625 the association by the unit owner, or hand deliver to each unit
626 owner, a copy of the financial report or a notice that a copy of
627 the financial report will be mailed or hand delivered to the unit
628 owner, without charge, upon receipt of a written request from the
629 unit owner. The division shall adopt rules setting forth uniform
630 accounting principles and standards to be used by all
631 associations and shall adopt rules addressing financial reporting
632 requirements for multicondominium associations. The rules shall
633 include, but need not be limited to, uniform accounting
634 principles and standards for stating the disclosure of at least a
635 summary of the reserves, including information as to whether such
636 reserves are being funded at a level sufficient to prevent the
637 need for a special assessment and, if not, the amount of
638 assessments necessary to bring the reserves up to the level

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639 necessary to avoid a special assessment. The person preparing the
640 financial reports is entitled to rely on an inspection report
641 prepared for or provided to the association to meet the fiscal
642 and fiduciary standards of this chapter. In adopting such rules,
643 the division shall consider the number of members and annual
644 revenues of an association. Financial reports shall be prepared
645 as follows:

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

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

654 2. An association with total annual revenues of at least
655 \$200,000, but less than \$400,000, shall prepare reviewed
656 financial statements.

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

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

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

666 3. A report of cash receipts and disbursements must
667 disclose the amount of receipts by accounts and receipt

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668 | classifications and the amount of expenses by accounts and
669 | expense classifications, including, but not limited to, the
670 | following, as applicable: costs for security, professional and
671 | management fees and expenses, taxes, costs for recreation
672 | facilities, expenses for refuse collection and utility services,
673 | expenses for lawn care, costs for building maintenance and
674 | repair, insurance costs, administration and salary expenses, and
675 | reserves accumulated and expended for capital expenditures,
676 | deferred maintenance, and any other category for which the
677 | association maintains reserves.

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

680 | 1. Compiled, reviewed, or audited financial statements, if
681 | the association is required to prepare a report of cash receipts
682 | and expenditures;

683 | 2. Reviewed or audited financial statements, if the
684 | association is required to prepare compiled financial statements;
685 | or

686 | 3. Audited financial statements if the association is
687 | required to prepare reviewed financial statements.

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

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

693 | 2. A report of cash receipts and expenditures or a compiled
694 | financial statement in lieu of a reviewed or audited financial
695 | statement; or

696 | 3. A report of cash receipts and expenditures, a compiled

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697 financial statement, or a reviewed financial statement in lieu of
698 an audited financial statement.

699

700 Such meeting and approval must occur prior to the end of the
701 fiscal year and is effective only for the fiscal year in which
702 the vote is taken. With respect to an association to which the
703 developer has not turned over control of the association, all
704 unit owners, including the developer, may vote on issues related
705 to the preparation of financial reports for the first 2 fiscal
706 years of the association's operation, beginning with the fiscal
707 year in which the declaration is recorded. Thereafter, all unit
708 owners except the developer may vote on such issues until control
709 is turned over to the association by the developer. Any audit or
710 review prepared under this section shall be paid for by the
711 developer if done before control of the association is turned
712 over. An association may not waive the financial reporting
713 requirements of this section for more than 2 consecutive years.

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

716 718.112 Bylaws.--

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

720 (a) Administration.--

721 1. The form of administration of the association shall be
722 described indicating the title of the officers and board of
723 administration and specifying the powers, duties, manner of
724 selection and removal, and compensation, if any, of officers and
725 boards. In the absence of such a provision, the board of

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726 administration shall be composed of five members, except in the
727 case of a condominium which has five or fewer units, in which
728 case in a not-for-profit corporation the board shall consist of
729 not fewer than three members. In the absence of provisions to the
730 contrary in the bylaws, the board of administration shall have a
731 president, a secretary, and a treasurer, who shall perform the
732 duties of such officers customarily performed by officers of
733 corporations. Unless prohibited in the bylaws, the board of
734 administration may appoint other officers and grant them the
735 duties it deems appropriate. Unless otherwise provided in the
736 bylaws, the officers shall serve without compensation and at the
737 pleasure of the board of administration. Unless otherwise
738 provided in the bylaws, the members of the board shall serve
739 without compensation.

740 2. When a unit owner files a written inquiry by certified
741 mail with the board of administration, the board shall respond in
742 writing to the unit owner within 30 days of receipt of the
743 inquiry. The board's response shall either give a substantive
744 response to the inquirer, notify the inquirer that a legal
745 opinion has been requested, or notify the inquirer that advice
746 has been requested from the division. If the board requests
747 advice from the division, the board shall, within 10 days of its
748 receipt of the advice, provide in writing a substantive response
749 to the inquirer. If a legal opinion is requested, the board
750 shall, within 60 days after the receipt of the inquiry, provide
751 in writing a substantive response to the inquiry. The failure to
752 provide a substantive response to the inquiry as provided herein
753 precludes the board from recovering attorney's fees and costs in
754 any subsequent litigation, administrative proceeding, or

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755 arbitration arising out of the inquiry. The association may
756 through its board of administration adopt reasonable rules and
757 regulations regarding the frequency and manner of responding to
758 unit owner inquiries, one of which may be that the association is
759 only obligated to respond to one written inquiry per unit in any
760 given 30-day period. In such a case, any additional inquiry or
761 inquiries must be responded to in the subsequent 30-day period,
762 or periods, as applicable.

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

764 1. Unless a lower number is provided in the bylaws, the
765 percentage of voting interests required to constitute a quorum at
766 a meeting of the members shall be a majority of the voting
767 interests. Unless otherwise provided in this chapter or in the
768 declaration, articles of incorporation, or bylaws, and except as
769 provided in subparagraph (d)3., decisions shall be made by owners
770 of a majority of the voting interests represented at a meeting at
771 which a quorum is present.

772 2. Except as specifically otherwise provided herein, after
773 January 1, 1992, unit owners may not vote by general proxy, but
774 may vote by limited proxies substantially conforming to a limited
775 proxy form adopted by the division. A voting interest or consent
776 right allocated to a unit owned by the association may not be
777 exercised or considered for any purpose, whether for a quorum, an
778 election, or otherwise. Limited proxies and general proxies may
779 be used to establish a quorum. Limited proxies shall be used for
780 votes taken to waive or reduce reserves in accordance with
781 subparagraph (f)2.; for votes taken to waive the financial
782 reporting requirements of s. 718.111(13); for votes taken to
783 amend the declaration pursuant to s. 718.110; for votes taken to

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784 amend the articles of incorporation or bylaws pursuant to this
785 section; and for any other matter for which this chapter requires
786 or permits a vote of the unit owners. Except as provided in
787 paragraph (d), after January 1, 1992, no proxy, limited or
788 general, shall be used in the election of board members. General
789 proxies may be used for other matters for which limited proxies
790 are not required, and may also be used in voting for
791 nonsubstantive changes to items for which a limited proxy is
792 required and given. Notwithstanding the provisions of this
793 subparagraph, unit owners may vote in person at unit owner
794 meetings. Nothing contained herein shall limit the use of general
795 proxies or require the use of limited proxies for any agenda item
796 or election at any meeting of a timeshare condominium
797 association.

798 3. Any proxy given shall be effective only for the specific
799 meeting for which originally given and any lawfully adjourned
800 meetings thereof. In no event shall any proxy be valid for a
801 period longer than 90 days after the date of the first meeting
802 for which it was given. Every proxy is revocable at any time at
803 the pleasure of the unit owner executing it.

804 4. A member of the board of administration or a committee
805 may submit in writing his or her agreement or disagreement with
806 any action taken at a meeting that the member did not attend.
807 This agreement or disagreement may not be used as a vote for or
808 against the action taken and may not be used for the purposes of
809 creating a quorum.

810 5. When any of the board or committee members meet by
811 telephone conference, those board or committee members attending
812 by telephone conference may be counted toward obtaining a quorum

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813 and may vote by telephone. A telephone speaker must be used so
814 that the conversation of those board or committee members
815 attending by telephone may be heard by the board or committee
816 members attending in person as well as by any unit owners present
817 at a meeting.

818 (c) Board of administration meetings.--Meetings of the
819 board of administration at which a quorum of the members is
820 present shall be open to all unit owners. Any unit owner may tape
821 record or videotape meetings of the board of administration. The
822 right to attend such meetings includes the right to speak at such
823 meetings with reference to all designated agenda items. The
824 division shall adopt reasonable rules governing the tape
825 recording and videotaping of the meeting. The association may
826 adopt written reasonable rules governing the frequency, duration,
827 and manner of unit owner statements. Adequate notice of all
828 meetings, which notice shall specifically incorporate an
829 identification of agenda items, shall be posted conspicuously on
830 the condominium property at least 48 continuous hours preceding
831 the meeting except in an emergency. If 20 percent of the voting
832 interests petition the board to address an item of business, the
833 board shall at its next regular board meeting or at a special
834 meeting of the board, but not later than 60 days after the
835 receipt of the petition, place the item on the agenda. Any item
836 not included on the notice may be taken up on an emergency basis
837 by at least a majority plus one of the members of the board. Such
838 emergency action shall be noticed and ratified at the next
839 regular meeting of the board. However, written notice of any
840 meeting at which nonemergency special assessments, or at which
841 amendment to rules regarding unit use, will be considered shall

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842 be mailed, delivered, or electronically transmitted to the unit
843 owners and posted conspicuously on the condominium property not
844 less than 14 days prior to the meeting. Evidence of compliance
845 with this 14-day notice shall be made by an affidavit executed by
846 the person providing the notice and filed among the official
847 records of the association. Upon notice to the unit owners, the
848 board shall by duly adopted rule designate a specific location on
849 the condominium property or association property upon which all
850 notices of board meetings shall be posted. If there is no
851 condominium property or association property upon which notices
852 can be posted, notices of board meetings shall be mailed,
853 delivered, or electronically transmitted at least 14 days before
854 the meeting to the owner of each unit. In lieu of or in addition
855 to the physical posting of notice of any meeting of the board of
856 administration on the condominium property, the association may,
857 by reasonable rule, adopt a procedure for conspicuously posting
858 and repeatedly broadcasting the notice and the agenda on a
859 closed-circuit cable television system serving the condominium
860 association. However, if broadcast notice is used in lieu of a
861 notice posted physically on the condominium property, the notice
862 and agenda must be broadcast at least four times every broadcast
863 hour of each day that a posted notice is otherwise required under
864 this section. When broadcast notice is provided, the notice and
865 agenda must be broadcast in a manner and for a sufficient
866 continuous length of time so as to allow an average reader to
867 observe the notice and read and comprehend the entire content of
868 the notice and the agenda. Notice of any meeting in which regular
869 or special assessments against unit owners are to be considered
870 for any reason shall specifically state ~~contain a statement~~ that

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871 assessments will be considered and the nature, estimated cost,
872 and description of the purposes for ~~any~~ such assessments.

873 Meetings of a committee to take final action on behalf of the
874 board or make recommendations to the board regarding the
875 association budget are subject to the provisions of this
876 paragraph. Meetings of a committee that does not take final
877 action on behalf of the board or make recommendations to the
878 board regarding the association budget are subject to the
879 provisions of this section, unless those meetings are exempted
880 from this section by the bylaws of the association.

881 Notwithstanding any other law, the requirement that board
882 meetings and committee meetings be open to the unit owners is
883 inapplicable to meetings between the board or a committee and the
884 association's attorney, with respect to proposed or pending
885 litigation, when the meeting is held for the purpose of seeking
886 or rendering legal advice.

887 (d) Unit owner meetings.--

888 1. There shall be an annual meeting of the unit owners held
889 at the location provided in the association bylaws and, if the
890 bylaws are silent as to the location, the meeting shall be held
891 within 45 miles of the condominium property. However, such
892 distance requirement does not apply to an association governing a
893 timeshare condominium. Unless the bylaws provide otherwise, a
894 vacancy on the board caused by the expiration of a director's
895 term shall be filled by electing a new board member, and the
896 election shall be by secret ballot; however, if the number of
897 vacancies equals or exceeds the number of candidates, no election
898 is required. ~~If there is no provision in the bylaws for terms of~~
899 ~~the members of the board,~~ The terms of all members of the board

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900 shall expire ~~upon the election of their successors~~ at the annual
901 meeting and such board members may stand for reelection. However,
902 if no person is interested in or demonstrates an intention to run
903 for the position of a board member whose term has expired
904 according to the provisions of this subparagraph, such board
905 member shall be automatically reappointed to the board of
906 administration and need not stand for reelection. In a
907 condominium association of more than 10 units, coowners of a unit
908 may not serve as members of the board of directors at the same
909 time. Any unit owner desiring to be a candidate for board
910 membership shall comply with subparagraph 3. A person who has
911 been suspended or removed by the division under this chapter, or
912 who is delinquent in the payment of any fee or assessment as
913 provided in paragraph (n), is not eligible for membership on the
914 board. A person who has been convicted of any felony in this
915 state or by any court of record in a the United States District
916 or Territorial Court, or who has been convicted of any offense in
917 another jurisdiction which would be considered a felony if
918 committed in this state, and who has not had his or her right to
919 vote restored pursuant to law in the jurisdiction of his or her
920 residence is not eligible for board membership unless such
921 felon's civil rights have been restored for a period of not less
922 than 5 years as of the date on which such person seeks election
923 to the board. The validity of an action by the board is not
924 affected if it is later determined that a member of the board is
925 ineligible for board membership due to having been convicted of a
926 felony.

927 2. The bylaws shall provide the method of calling meetings
928 of unit owners, including annual meetings. Written notice, which

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929 | notice must include an agenda, shall be mailed, hand delivered,
930 | or electronically transmitted to each unit owner at least 14 days
931 | prior to the annual meeting and shall be posted in a conspicuous
932 | place on the condominium property at least 14 continuous days
933 | preceding the annual meeting. Upon notice to the unit owners, the
934 | board shall by duly adopted rule designate a specific location on
935 | the condominium property or association property upon which all
936 | notices of unit owner meetings shall be posted; however, if there
937 | is no condominium property or association property upon which
938 | notices can be posted, this requirement does not apply. In lieu
939 | of or in addition to the physical posting of notice of any
940 | meeting of the unit owners on the condominium property, the
941 | association may, by reasonable rule, adopt a procedure for
942 | conspicuously posting and repeatedly broadcasting the notice and
943 | the agenda on a closed-circuit cable television system serving
944 | the condominium association. However, if broadcast notice is used
945 | in lieu of a notice posted physically on the condominium
946 | property, the notice and agenda must be broadcast at least four
947 | times every broadcast hour of each day that a posted notice is
948 | otherwise required under this section. When broadcast notice is
949 | provided, the notice and agenda must be broadcast in a manner and
950 | for a sufficient continuous length of time so as to allow an
951 | average reader to observe the notice and read and comprehend the
952 | entire content of the notice and the agenda. Unless a unit owner
953 | waives in writing the right to receive notice of the annual
954 | meeting, such notice shall be hand delivered, mailed, or
955 | electronically transmitted to each unit owner. Notice for
956 | meetings and notice for all other purposes shall be mailed to
957 | each unit owner at the address last furnished to the association

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958 | by the unit owner, or hand delivered to each unit owner. However,
959 | if a unit is owned by more than one person, the association shall
960 | provide notice, for meetings and all other purposes, to that one
961 | address which the developer initially identifies for that purpose
962 | and thereafter as one or more of the owners of the unit shall so
963 | advise the association in writing, or if no address is given or
964 | the owners of the unit do not agree, to the address provided on
965 | the deed of record. An officer of the association, or the manager
966 | or other person providing notice of the association meeting,
967 | shall provide an affidavit or United States Postal Service
968 | certificate of mailing, to be included in the official records of
969 | the association affirming that the notice was mailed or hand
970 | delivered, in accordance with this provision.

971 | 3. The members of the board shall be elected by written
972 | ballot or voting machine. Proxies shall in no event be used in
973 | electing the board, either in general elections or elections to
974 | fill vacancies caused by recall, resignation, or otherwise,
975 | unless otherwise provided in this chapter. Not less than 60 days
976 | before a scheduled election, the association shall mail, deliver,
977 | or electronically transmit, whether by separate association
978 | mailing or included in another association mailing, delivery, or
979 | transmission, including regularly published newsletters, to each
980 | unit owner entitled to a vote, a first notice of the date of the
981 | election along with a certification form provided by the division
982 | attesting that he or she has read and understands, to the best of
983 | his or her ability, the governing documents of the association
984 | and the provisions of this chapter and any applicable rules. Any
985 | unit owner or other eligible person desiring to be a candidate
986 | for the board must give written notice to the association not

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987 | less than 40 days before a scheduled election. Together with the
988 | written notice and agenda as set forth in subparagraph 2., the
989 | association shall mail, deliver, or electronically transmit a
990 | second notice of the election to all unit owners entitled to vote
991 | therein, together with a ballot which shall list all candidates.
992 | Upon request of a candidate, the association shall include an
993 | information sheet, no larger than 8 1/2 inches by 11 inches, which
994 | must be furnished by the candidate not less than 35 days before
995 | the election, along with the signed certification form provided
996 | for in this subparagraph, to be included with the mailing,
997 | delivery, or transmission of the ballot, with the costs of
998 | mailing, delivery, or electronic transmission and copying to be
999 | borne by the association. The association is not liable for the
1000 | contents of the information sheets prepared by the candidates. In
1001 | order to reduce costs, the association may print or duplicate the
1002 | information sheets on both sides of the paper. The division shall
1003 | by rule establish voting procedures consistent with the
1004 | provisions contained herein, including rules establishing
1005 | procedures for giving notice by electronic transmission and rules
1006 | providing for the secrecy of ballots. Elections shall be decided
1007 | by a plurality of those ballots cast. There shall be no quorum
1008 | requirement; however, at least 20 percent of the eligible voters
1009 | must cast a ballot in order to have a valid election of members
1010 | of the board. No unit owner shall permit any other person to vote
1011 | his or her ballot, and any such ballots improperly cast shall be
1012 | deemed invalid, provided any unit owner who violates this
1013 | provision may be fined by the association in accordance with s.
1014 | 718.303. A unit owner who needs assistance in casting the ballot
1015 | for the reasons stated in s. 101.051 may obtain assistance in

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1016 casting the ballot. The regular election shall occur on the date
1017 of the annual meeting. The provisions of this subparagraph shall
1018 not apply to timeshare condominium associations. Notwithstanding
1019 the provisions of this subparagraph, an election is not required
1020 unless more candidates file notices of intent to run or are
1021 nominated than board vacancies exist.

1022 4. Any approval by unit owners called for by this chapter
1023 or the applicable declaration or bylaws, including, but not
1024 limited to, the approval requirement in s. 718.111(8), shall be
1025 made at a duly noticed meeting of unit owners and shall be
1026 subject to all requirements of this chapter or the applicable
1027 condominium documents relating to unit owner decisionmaking,
1028 except that unit owners may take action by written agreement,
1029 without meetings, on matters for which action by written
1030 agreement without meetings is expressly allowed by the applicable
1031 bylaws or declaration or any statute that provides for such
1032 action.

1033 5. Unit owners may waive notice of specific meetings if
1034 allowed by the applicable bylaws or declaration or any statute.
1035 If authorized by the bylaws, notice of meetings of the board of
1036 administration, unit owner meetings, except unit owner meetings
1037 called to recall board members under paragraph (j), and committee
1038 meetings may be given by electronic transmission to unit owners
1039 who consent to receive notice by electronic transmission.

1040 6. Unit owners shall have the right to participate in
1041 meetings of unit owners with reference to all designated agenda
1042 items. However, the association may adopt reasonable rules
1043 governing the frequency, duration, and manner of unit owner
1044 participation.

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1045 7. Any unit owner may tape record or videotape a meeting of
1046 the unit owners subject to reasonable rules adopted by the
1047 division.

1048 8. Unless otherwise provided in the bylaws, any vacancy
1049 occurring on the board before the expiration of a term may be
1050 filled by the affirmative vote of the majority of the remaining
1051 directors, even if the remaining directors constitute less than a
1052 quorum, or by the sole remaining director. In the alternative, a
1053 board may hold an election to fill the vacancy, in which case the
1054 election procedures must conform to the requirements of
1055 subparagraph 3. unless the association governs 10 units or fewer
1056 and has opted out of the statutory election process, in which
1057 case the bylaws of the association control. Unless otherwise
1058 provided in the bylaws, a board member appointed or elected under
1059 this section shall fill the vacancy for the unexpired term of the
1060 seat being filled. Filling vacancies created by recall is
1061 governed by paragraph (j) and rules adopted by the division.

1062
1063 Notwithstanding subparagraphs (b)2. and (d)3., an association of
1064 10 or fewer units may, by the affirmative vote of a majority of
1065 the total voting interests, provide for different voting and
1066 election procedures in its bylaws, which vote may be by a proxy
1067 specifically delineating the different voting and election
1068 procedures. The different voting and election procedures may
1069 provide for elections to be conducted by limited or general
1070 proxy.

1071 (e) Budget meeting.--

1072 1. Any meeting at which a proposed annual budget of an
1073 association will be considered by the board or unit owners shall

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1074 | be open to all unit owners. At least 14 days prior to such a
1075 | meeting, the board shall hand deliver to each unit owner, mail to
1076 | each unit owner at the address last furnished to the association
1077 | by the unit owner, or electronically transmit to the location
1078 | furnished by the unit owner for that purpose a notice of such
1079 | meeting and a copy of the proposed annual budget. An officer or
1080 | manager of the association, or other person providing notice of
1081 | such meeting, shall execute an affidavit evidencing compliance
1082 | with such notice requirement, and such affidavit shall be filed
1083 | among the official records of the association.

1084 | 2.a. If a board adopts in any fiscal year an annual budget
1085 | which requires assessments against unit owners which exceed 115
1086 | percent of assessments for the preceding fiscal year, the board
1087 | shall conduct a special meeting of the unit owners to consider a
1088 | substitute budget if the board receives, within 21 days after
1089 | adoption of the annual budget, a written request for a special
1090 | meeting from at least 10 percent of all voting interests. The
1091 | special meeting shall be conducted within 60 days after adoption
1092 | of the annual budget. At least 14 days prior to such special
1093 | meeting, the board shall hand deliver to each unit owner, or mail
1094 | to each unit owner at the address last furnished to the
1095 | association, a notice of the meeting. An officer or manager of
1096 | the association, or other person providing notice of such meeting
1097 | shall execute an affidavit evidencing compliance with this notice
1098 | requirement, and such affidavit shall be filed among the official
1099 | records of the association. Unit owners may consider and adopt a
1100 | substitute budget at the special meeting. A substitute budget is
1101 | adopted if approved by a majority of all voting interests unless
1102 | the bylaws require adoption by a greater percentage of voting

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1103 interests. If there is not a quorum at the special meeting or a
1104 substitute budget is not adopted, the annual budget previously
1105 adopted by the board shall take effect as scheduled.

1106 b. Any determination of whether assessments exceed 115
1107 percent of assessments for the prior fiscal year shall exclude
1108 any authorized provision for reasonable reserves for repair or
1109 replacement of the condominium property, anticipated expenses of
1110 the association which the board does not expect to be incurred on
1111 a regular or annual basis, or assessments for betterments to the
1112 condominium property.

1113 c. If the developer controls the board, assessments shall
1114 not exceed 115 percent of assessments for the prior fiscal year
1115 unless approved by a majority of all voting interests.

1116 (f) Annual budget.--

1117 1. The proposed annual budget of estimated revenues and
1118 ~~common~~ expenses shall be detailed and shall show the amounts
1119 budgeted by accounts and expense classifications, including, if
1120 applicable, but not limited to, those expenses listed in s.
1121 718.504(21). A multicondominium association shall adopt a
1122 separate budget of common expenses for each condominium the
1123 association operates and shall adopt a separate budget of common
1124 expenses for the association. In addition, if the association
1125 maintains limited common elements with the cost to be shared only
1126 by those entitled to use the limited common elements as provided
1127 for in s. 718.113(1), the budget or a schedule attached thereto
1128 shall show amounts budgeted therefor. If, after turnover of
1129 control of the association to the unit owners, any of the
1130 expenses listed in s. 718.504(21) are not applicable, they need
1131 not be listed.

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1132 2. In addition to annual operating expenses, the budget
1133 shall include reserve accounts for capital expenditures and
1134 deferred maintenance. These accounts shall include, but are not
1135 limited to, roof replacement, building painting, and pavement
1136 resurfacing, regardless of the amount of deferred maintenance
1137 expense or replacement cost, and for any other item for which the
1138 deferred maintenance expense or replacement cost exceeds \$10,000.
1139 The amount to be reserved shall be computed by means of a formula
1140 which is based upon estimated remaining useful life and estimated
1141 replacement cost or deferred maintenance expense of each reserve
1142 item. The association may adjust replacement reserve assessments
1143 annually to take into account any changes in estimates or
1144 extension of the useful life of a reserve item caused by deferred
1145 maintenance. This subsection does not apply to an adopted budget
1146 in which the members of an association have determined, by a
1147 majority vote at a duly called meeting of the association, to
1148 provide no reserves or less reserves than required by this
1149 subsection. However, prior to turnover of control of an
1150 association by a developer to unit owners other than a developer
1151 pursuant to s. 718.301, the developer may vote to waive the
1152 reserves or reduce the funding of reserves for the first 2 fiscal
1153 years of the association's operation, beginning with the fiscal
1154 year in which the initial declaration is recorded, after which
1155 time reserves may be waived or reduced only upon the vote of a
1156 majority of all nondeveloper voting interests voting in person or
1157 by limited proxy at a duly called meeting of the association. If
1158 a meeting of the unit owners has been called to determine whether
1159 to waive or reduce the funding of reserves, and no such result is
1160 achieved or a quorum is not attained, the reserves as included in

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1161 the budget shall go into effect. After the turnover, the
1162 developer may vote its voting interest to waive or reduce the
1163 funding of reserves.

1164 3. Reserve funds and any interest accruing thereon shall
1165 remain in the reserve account or accounts, and shall be used only
1166 for authorized reserve expenditures unless their use for other
1167 purposes is approved in advance by a majority vote at a duly
1168 called meeting of the association. Prior to turnover of control
1169 of an association by a developer to unit owners other than the
1170 developer pursuant to s. 718.301, the developer-controlled
1171 association shall not vote to use reserves for purposes other
1172 than that for which they were intended without the approval of a
1173 majority of all nondeveloper voting interests, voting in person
1174 or by limited proxy at a duly called meeting of the association.

1175 4. The only voting interests which are eligible to vote on
1176 questions that involve waiving or reducing the funding of
1177 reserves, or using existing reserve funds for purposes other than
1178 purposes for which the reserves were intended, are the voting
1179 interests of the units subject to assessment to fund the reserves
1180 in question. Proxy questions relating to waiving or reducing the
1181 funding of reserves or using existing reserve funds for purposes
1182 other than purposes for which the reserves were intended must
1183 contain the following statement in capitalized, bold letters in a
1184 font size larger than any other used on the face of the proxy
1185 ballot: WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING
1186 ALTERNATIVE USES OF EXISTING RESERVES MAY RESULT IN UNIT OWNER
1187 LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS
1188 REGARDING THOSE ITEMS.

1189 (g) Assessments.--The manner of collecting from the unit

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1190 owners their shares of the common expenses shall be stated in the
1191 bylaws. Assessments shall be made against units not less
1192 frequently than quarterly in an amount which is not less than
1193 that required to provide funds in advance for payment of all of
1194 the anticipated current operating expenses and for all of the
1195 unpaid operating expenses previously incurred. Nothing in this
1196 paragraph shall preclude the right of an association to
1197 accelerate assessments of an owner delinquent in payment of
1198 common expenses. Accelerated assessments shall be due and payable
1199 on the date the claim of lien is filed. Such accelerated
1200 assessments shall include the amounts due for the remainder of
1201 the budget year in which the claim of lien was filed.

1202 (h) Amendment of bylaws.--

1203 1. The method by which the bylaws may be amended consistent
1204 with the provisions of this chapter shall be stated. If the
1205 bylaws fail to provide a method of amendment, the bylaws may be
1206 amended if the amendment is approved by the owners of not less
1207 than two-thirds of the voting interests.

1208 2. No bylaw shall be revised or amended by reference to its
1209 title or number only. Proposals to amend existing bylaws shall
1210 contain the full text of the bylaws to be amended; new words
1211 shall be inserted in the text underlined, and words to be deleted
1212 shall be lined through with hyphens. However, if the proposed
1213 change is so extensive that this procedure would hinder, rather
1214 than assist, the understanding of the proposed amendment, it is
1215 not necessary to use underlining and hyphens as indicators of
1216 words added or deleted, but, instead, a notation must be inserted
1217 immediately preceding the proposed amendment in substantially the
1218 following language: "Substantial rewording of bylaw. See bylaw

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1219 _____ for present text."

1220 3. Nonmaterial errors or omissions in the bylaw process
1221 will not invalidate an otherwise properly promulgated amendment.

1222 (i) Transfer fees.--No charge shall be made by the
1223 association or any body thereof in connection with the sale,
1224 mortgage, lease, sublease, or other transfer of a unit unless the
1225 association is required to approve such transfer and a fee for
1226 such approval is provided for in the declaration, articles, or
1227 bylaws. Any such fee may be preset, but in no event may such fee
1228 exceed \$100 per applicant other than husband/wife or
1229 parent/dependent child, which are considered one applicant.
1230 However, if the lease or sublease is a renewal of a lease or
1231 sublease with the same lessee or sublessee, no charge shall be
1232 made. The foregoing notwithstanding, an association may, if the
1233 authority to do so appears in the declaration or bylaws, require
1234 that a prospective lessee place a security deposit, in an amount
1235 not to exceed the equivalent of 1 month's rent, into an escrow
1236 account maintained by the association. The security deposit shall
1237 protect against damages to the common elements or association
1238 property. Payment of interest, claims against the deposit,
1239 refunds, and disputes under this paragraph shall be handled in
1240 the same fashion as provided in part II of chapter 83.

1241 (j) Recall of board members.--Subject to the provisions of
1242 s. 718.301, any member of the board of administration may be
1243 recalled and removed from office with or without cause by the
1244 vote or agreement in writing by a majority of all the voting
1245 interests. A special meeting of the unit owners to recall a
1246 member or members of the board of administration may be called by
1247 10 percent of the voting interests giving notice of the meeting

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1248 as required for a meeting of unit owners, and the notice shall
1249 state the purpose of the meeting. Electronic transmission may not
1250 be used as a method of giving notice of a meeting called in whole
1251 or in part for this purpose.

1252 1. If the recall is approved by a majority of all voting
1253 interests by a vote at a meeting, the recall will be effective as
1254 provided herein. The board shall duly notice and hold a board
1255 meeting within 5 full business days of the adjournment of the
1256 unit owner meeting to recall one or more board members. At the
1257 meeting, the board shall either certify the recall, in which case
1258 such member or members shall be recalled effective immediately
1259 and shall turn over to the board within 5 full business days any
1260 and all records and property of the association in their
1261 possession, or shall proceed as set forth in subparagraph 3.

1262 2. If the proposed recall is by an agreement in writing by
1263 a majority of all voting interests, the agreement in writing or a
1264 copy thereof shall be served on the association by certified mail
1265 or by personal service in the manner authorized by chapter 48 and
1266 the Florida Rules of Civil Procedure. The board of administration
1267 shall duly notice and hold a meeting of the board within 5 full
1268 business days after receipt of the agreement in writing. At the
1269 meeting, the board shall either certify the written agreement to
1270 recall a member or members of the board, in which case such
1271 member or members shall be recalled effective immediately and
1272 shall turn over to the board within 5 full business days any and
1273 all records and property of the association in their possession,
1274 or proceed as described in subparagraph 3.

1275 3. If the board determines not to certify the written
1276 agreement to recall a member or members of the board, or does not

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1277 certify the recall by a vote at a meeting, the board shall,
1278 within 5 full business days after the meeting, file with the
1279 division a petition for arbitration pursuant to the procedures in
1280 s. 718.1255. For the purposes of this section, the unit owners
1281 who voted at the meeting or who executed the agreement in writing
1282 shall constitute one party under the petition for arbitration. If
1283 the arbitrator certifies the recall as to any member or members
1284 of the board, the recall will be effective upon mailing of the
1285 final order of arbitration to the association. If the association
1286 fails to comply with the order of the arbitrator, the division
1287 may take action pursuant to s. 718.501. Any member or members so
1288 recalled shall deliver to the board any and all records of the
1289 association in their possession within 5 full business days of
1290 the effective date of the recall.

1291 4. If the board fails to duly notice and hold a board
1292 meeting within 5 full business days of service of an agreement in
1293 writing or within 5 full business days of the adjournment of the
1294 unit owner recall meeting, the recall shall be deemed effective
1295 and the board members so recalled shall immediately turn over to
1296 the board any and all records and property of the association.

1297 5. If a vacancy occurs on the board as a result of a recall
1298 or removal and less than a majority of the board members are
1299 removed, the vacancy may be filled by the affirmative vote of a
1300 majority of the remaining directors, notwithstanding any
1301 provision to the contrary contained in this subsection. If
1302 vacancies occur on the board as a result of a recall and a
1303 majority or more of the board members are removed, the vacancies
1304 shall be filled in accordance with procedural rules to be adopted
1305 by the division, which rules need not be consistent with this

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1306 subsection. The rules must provide procedures governing the
1307 conduct of the recall election as well as the operation of the
1308 association during the period after a recall but prior to the
1309 recall election.

1310 (k) Arbitration.--There shall be a provision for mandatory
1311 nonbinding arbitration as provided for in s. 718.1255.

1312 (l) Certificate of compliance.--There shall be a provision
1313 that a certificate of compliance from a licensed electrical
1314 contractor or electrician may be accepted by the association's
1315 board as evidence of compliance of the condominium units with the
1316 applicable fire and life safety code. Notwithstanding the
1317 provisions of chapter 633 or of any other code, statute,
1318 ordinance, administrative rule, or regulation, or any
1319 interpretation of the foregoing, an association, condominium, or
1320 unit owner is not obligated to retrofit the common elements or
1321 units of a residential condominium with a fire sprinkler system
1322 or other engineered lifesafety system in a building that has been
1323 certified for occupancy by the applicable governmental entity, if
1324 the unit owners have voted to forego such retrofitting and
1325 engineered lifesafety system by the affirmative vote of two-
1326 thirds of all voting interests in the affected condominium.
1327 However, a condominium association may not vote to forego the
1328 retrofitting with a fire sprinkler system of common areas in a
1329 high-rise building. For purposes of this subsection, the term
1330 "high-rise building" means a building that is greater than 75
1331 feet in height where the building height is measured from the
1332 lowest level of fire department access to the floor of the
1333 highest occupiable story. For purposes of this subsection, the
1334 term "common areas" means any enclosed hallway, corridor, lobby,

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1335 stairwell, or entryway. In no event shall the local authority
1336 having jurisdiction require completion of retrofitting of common
1337 areas with a sprinkler system before the end of 2014.

1338 1. A vote to forego retrofitting may be obtained by limited
1339 proxy or by a ballot personally cast at a duly called membership
1340 meeting, or by execution of a written consent by the member, and
1341 shall be effective upon the recording of a certificate attesting
1342 to such vote in the public records of the county where the
1343 condominium is located. The association shall mail, hand deliver,
1344 or electronically transmit to each unit owner written notice at
1345 least 14 days prior to such membership meeting in which the vote
1346 to forego retrofitting of the required fire sprinkler system is
1347 to take place. Within 30 days after the association's opt-out
1348 vote, notice of the results of the opt-out vote shall be mailed,
1349 hand delivered, or electronically transmitted to all unit owners.
1350 Evidence of compliance with this 30-day notice shall be made by
1351 an affidavit executed by the person providing the notice and
1352 filed among the official records of the association. After such
1353 notice is provided to each owner, a copy of such notice shall be
1354 provided by the current owner to a new owner prior to closing and
1355 shall be provided by a unit owner to a renter prior to signing a
1356 lease.

1357 2. As part of the information collected annually from
1358 condominiums, the division shall require condominium associations
1359 to report the membership vote and recording of a certificate
1360 under this subsection and, if retrofitting has been undertaken,
1361 the per-unit cost of such work. The division shall annually
1362 report to the Division of State Fire Marshal of the Department of
1363 Financial Services the number of condominiums that have elected

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1364 to forego retrofitting.

1365 (m) Common elements; limited power to convey.--

1366 1. With respect to condominiums created on or after October
1367 1, 1994, the bylaws shall include a provision granting the
1368 association a limited power to convey a portion of the common
1369 elements to a condemning authority for the purpose of providing
1370 utility easements, right-of-way expansion, or other public
1371 purposes, whether negotiated or as a result of eminent domain
1372 proceedings.

1373 2. In any case where the bylaws are silent as to the
1374 association's power to convey common elements as described in
1375 subparagraph 1., the bylaws shall be deemed to include the
1376 provision described in subparagraph 1.

1377 (n) Director or officer delinquencies.--A director or
1378 officer who is more than 90 days delinquent in the payment of
1379 regular assessments shall be deemed to have abandoned the office,
1380 creating a vacancy in the office to be filled according to law.

1381 (o) Director and officer offenses.--A director or officer
1382 who is charged with a felony theft or embezzlement offense
1383 involving the association's funds or property shall be removed
1384 from office, creating a vacancy in the office to be filled
1385 according to applicable law. While a criminal charge is pending,
1386 a person may not be appointed or elected to a position as a
1387 director or officer. However, if the charges are resolved without
1388 a finding of guilt, the director of officer shall be reinstated
1389 for the remainder of his or her term of office, if any.

1390 Section 8. Section 718.1124, Florida Statutes, is amended
1391 to read:

1392 718.1124 Failure to fill vacancies on board of

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1393 administration sufficient to constitute a quorum; appointment of
1394 receiver upon petition of unit owner.--

1395 (1) If an association fails to fill vacancies on the board
1396 of administration sufficient to constitute a quorum in accordance
1397 with the bylaws, any unit owner may give notice of his or her
1398 intent to apply to the circuit court within whose jurisdiction
1399 the condominium lies for the appointment of a receiver to manage
1400 the affairs of the association. The form of the notice shall be
1401 as follows:

1402
1403 NOTICE OF INTENT TO APPLY FOR RECEIVERSHIP

1404
1405 YOU ARE HEREBY NOTIFIED that the undersigned owner of a
1406 condominium unit in (name of condominium) intends to
1407 file a petition in the circuit court for appointment of
1408 a receiver to manage the affairs of the association on
1409 the grounds that the association has failed to fill
1410 vacancies on the board of administration sufficient to
1411 constitute a quorum. This petition will not be filed if
1412 the vacancies are filled within 30 days after the date
1413 on which this notice was sent or posted, whichever is
1414 later. If a receiver is appointed, the receiver shall
1415 have all of the powers of the board and shall be
1416 entitled to receive a salary and reimbursement of all
1417 costs and attorney's fees payable from association
1418 funds.

1419
1420 (name and address of petitioning unit owner)
1421

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1422 (2) The notice required by subsection (1) must be provided
1423 by At least 30 days prior to applying to the circuit court, the
1424 unit owner ~~shall mail~~ to the association by certified mail or
1425 personal delivery, must be posted and post in a conspicuous place
1426 on the condominium property, and must be provided to every unit
1427 owner of the association by certified mail or personal delivery.
1428 The a notice must be posted and mailed or delivered at least 30
1429 days before the filing of a petition seeking receivership. Notice
1430 by mail to a unit owner shall be sent to the address used by the
1431 county property appraiser for notice to the unit owner describing
1432 the intended action, giving the association the opportunity to
1433 fill the vacancies.

1434 (3) If during such time the association fails to fill the
1435 vacancies within 30 days after the notice required by subsection
1436 (1) is posted and mailed or delivered, the unit owner may proceed
1437 with the petition.

1438 (4) If a receiver is appointed, all unit owners shall be
1439 given written notice of such appointment as provided in s.
1440 718.127.

1441 (5) The association shall be responsible for the salary of
1442 the receiver, court costs, and attorney's fees. The receiver
1443 shall have all powers and duties of a duly constituted board of
1444 administration and shall serve until the association fills
1445 vacancies on the board sufficient to constitute a quorum and the
1446 court relieves the receiver of the appointment.

1447 Section 9. Section 718.113, Florida Statutes, is amended to
1448 read:

1449 718.113 Maintenance; limitation upon improvement; display
1450 of flag; hurricane shutters; display of religious decorations.--

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1451 (1) Maintenance of the common elements is the
1452 responsibility of the association. The declaration may provide
1453 that certain limited common elements shall be maintained by those
1454 entitled to use the limited common elements or that the
1455 association shall provide the maintenance, either as a common
1456 expense or with the cost shared only by those entitled to use the
1457 limited common elements. If the maintenance is to be by the
1458 association at the expense of only those entitled to use the
1459 limited common elements, the declaration shall describe in detail
1460 the method of apportioning such costs among those entitled to use
1461 the limited common elements, and the association may use the
1462 provisions of s. 718.116 to enforce payment of the shares of such
1463 costs by the unit owners entitled to use the limited common
1464 elements.

1465 (2) (a) Except as otherwise provided in this section, there
1466 shall be no material alteration or substantial additions to the
1467 common elements or to real property which is association
1468 property, except in a manner provided in the declaration as
1469 originally recorded or as amended under the procedures provided
1470 therein. If the declaration as originally recorded or as amended
1471 under the procedures provided therein does not specify the
1472 procedure for approval of material alterations or substantial
1473 additions, 75 percent of the total voting interests of the
1474 association must approve the alterations or additions. This
1475 paragraph is intended to clarify existing law and applies to
1476 associations existing on October 1, 2008.

1477 (b) There shall not be any material alteration of, or
1478 substantial addition to, the common elements of any condominium
1479 operated by a multicondominium association unless approved in the

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1480 manner provided in the declaration of the affected condominium or
1481 condominiums as originally recorded or as amended under the
1482 procedures provided therein. If a declaration as originally
1483 recorded or as amended under the procedures provided therein does
1484 not specify a procedure for approving such an alteration or
1485 addition, the approval of 75 percent of the total voting
1486 interests of each affected condominium is required. This
1487 subsection does not prohibit a provision in any declaration,
1488 articles of incorporation, or bylaws as originally recorded or as
1489 amended under the procedures provided therein requiring the
1490 approval of unit owners in any condominium operated by the same
1491 association or requiring board approval before a material
1492 alteration or substantial addition to the common elements is
1493 permitted. This paragraph is intended to clarify existing law and
1494 applies to associations existing on the effective date of this
1495 act.

1496 (c) There shall not be any material alteration or
1497 substantial addition made to association real property operated
1498 by a multicondominium association, except as provided in the
1499 declaration, articles of incorporation, or bylaws as originally
1500 recorded or as amended under the procedures provided therein. If
1501 the declaration, articles of incorporation, or bylaws as
1502 originally recorded or as amended under the procedures provided
1503 therein do not specify the procedure for approving an alteration
1504 or addition to association real property, the approval of 75
1505 percent of the total voting interests of the association is
1506 required. This paragraph is intended to clarify existing law and
1507 applies to associations existing on the effective date of this
1508 act.

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1509 (3) A unit owner shall not do anything within his or her
1510 unit or on the common elements which would adversely affect the
1511 safety or soundness of the common elements or any portion of the
1512 association property or condominium property which is to be
1513 maintained by the association.

1514 (4) Any unit owner may display one portable, removable
1515 United States flag in a respectful way and, on Armed Forces Day,
1516 Memorial Day, Flag Day, Independence Day, and Veterans Day, may
1517 display in a respectful way portable, removable official flags,
1518 not larger than 4 1/2 feet by 6 feet, that represent the United
1519 States Army, Navy, Air Force, Marine Corps, or Coast Guard,
1520 regardless of any declaration rules or requirements dealing with
1521 flags or decorations.

1522 (5) Each board of administration shall adopt hurricane
1523 shutter specifications for each building within each condominium
1524 operated by the association which shall include color, style, and
1525 other factors deemed relevant by the board. All specifications
1526 adopted by the board shall comply with the applicable building
1527 code. Notwithstanding any provision to the contrary in the
1528 condominium documents, if approval is required by the documents,
1529 a board shall not refuse to approve the installation or
1530 replacement of hurricane shutters conforming to the
1531 specifications adopted by the board. The board may, subject to
1532 the provisions of s. 718.3026, and the approval of a majority of
1533 voting interests of the condominium, install hurricane shutters
1534 or hurricane protection complying with or exceeding the
1535 applicable building code, or both, and may maintain, repair, or
1536 replace such approved hurricane shutters, whether on or within
1537 common elements, limited common elements, units, or association

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1538 property. However, where hurricane protection that complies with
1539 or exceeds the applicable building code or laminated glass or
1540 window film architecturally designed to function as hurricane
1541 protection which complies with the applicable building code has
1542 been installed, the board may not install hurricane shutters. The
1543 board may operate shutters installed pursuant to this subsection
1544 without permission of the unit owners only where such operation
1545 is necessary to preserve and protect the condominium property and
1546 association property. The installation, replacement, operation,
1547 repair, and maintenance of such shutters in accordance with the
1548 procedures set forth herein shall not be deemed a material
1549 alteration to the common elements or association property within
1550 the meaning of this section.

1551 (6) As to any condominium building greater than three
1552 stories in height, at least every 5 years, and within 5 years if
1553 not available for inspection on October 1, 2008, the board shall
1554 have the condominium building inspected to provide a report under
1555 seal of an architect or engineer authorized to practice in this
1556 state attesting to required maintenance, useful life, and
1557 replacement costs of the elements.

1558 (7) An association may not refuse the request of a unit
1559 owner for a reasonable accommodation for the attachment on the
1560 mantle or frame of the door of the unit owner a religious object
1561 not to exceed 3 inches wide, 6 inches high, and 1.5 inches deep.

1562 Section 10. Paragraph (a) of subsection (7) of section
1563 718.117, Florida Statutes, is amended to read:

1564 718.117 Termination of condominium.--

1565 (7) NATURAL DISASTERS.--

1566 (a) If, after a natural disaster, the identity of the

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1567 directors or their right to hold office is in doubt, if they are
1568 deceased or unable to act, if they fail or refuse to act, or if
1569 they cannot be located, any interested person may petition the
1570 circuit court to determine the identity of the directors or, if
1571 found to be in the best interests of the unit owners, to appoint
1572 a receiver to conclude the affairs of the association after a
1573 hearing following notice to such persons as the court directs.
1574 Lienholders shall be given notice of the petition and have the
1575 right to propose persons for the consideration by the court as
1576 receiver. If a receiver is appointed, the court shall direct the
1577 receiver to provide to all unit owners written notice of his or
1578 her appointment as receiver. Such notice shall be mailed or
1579 delivered within 10 days after the appointment. Notice by mail to
1580 a unit owner shall be sent to the address used by the county
1581 property appraiser for notice to the unit owner.

1582 Section 11. Subsection (4) is added to section 718.121,
1583 Florida Statutes, to read:

1584 718.121 Liens.--

1585 (4) Except as otherwise provided in this chapter, a lien
1586 may not be filed by the association against a condominium unit
1587 until 30 days after the date on which a notice of intent to file
1588 a lien has been delivered to the owner by certified mail, return
1589 receipt requested, and by first-class United States mail to the
1590 owner at his or her last known address as reflected in the
1591 records of the association. However, if the address reflected in
1592 the records is outside the United States, the notice must be sent
1593 by first-class United States mail to the unit and to the last
1594 known address by regular mail with international postage, which
1595 shall be deemed sufficient. Delivery of the notice shall be

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1596 deemed completed upon mailing as required by this subsection.
1597 Alternatively, notice shall be complete if served on the unit
1598 owner in the manner authorized by chapter 48 and the Florida
1599 Rules of Civil Procedure.

1600 Section 12. Section 718.1224, Florida Statutes, is created
1601 to read:

1602 718.1224 Prohibition against SLAPP suits.--

1603 (1) It is the intent of the Legislature to protect the
1604 right of condominium unit owners to exercise their rights to
1605 instruct their representatives and petition for redress of
1606 grievances before the various governmental entities of this state
1607 as protected by the First Amendment to the United States
1608 Constitution and s. 5, Art. I of the State Constitution. The
1609 Legislature recognizes that strategic lawsuits against public
1610 participation, or "SLAPP suits," have occurred when association
1611 members are sued by individuals, business entities, or
1612 governmental entities arising out of a condominium unit owner's
1613 appearance and presentation before a governmental entity on
1614 matters related to the condominium association. However, it is
1615 the public policy of this state that governmental entities,
1616 business organizations, and individuals not engage in SLAPP
1617 suits, because such actions are inconsistent with the right of
1618 condominium unit owners to participate in the state's
1619 institutions of government. Therefore, the Legislature finds and
1620 declares that prohibiting such lawsuits by governmental entities,
1621 business entities, and individuals against condominium unit
1622 owners who address matters concerning their condominium
1623 association will preserve this fundamental state policy, preserve
1624 the constitutional rights of condominium unit owners, and ensure

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1625 the continuation of representative government in this state. It
1626 is the intent of the Legislature that such lawsuits be
1627 expeditiously disposed of by the courts. As used in this
1628 subsection, the term "governmental entity" means the state,
1629 including the executive, legislative, and judicial branches of
1630 government, the independent establishments of the state,
1631 counties, municipalities, districts, authorities, boards, or
1632 commissions, or any government agencies that are subject to
1633 chapter 286.

1634 (2) A governmental entity, business organization, or
1635 individual in this state may not file or cause to be filed
1636 through its employees or agents any lawsuit, cause of action,
1637 claim, cross-claim, or counterclaim against a condominium unit
1638 owner without merit and solely because such condominium unit
1639 owner has exercised the right to instruct his or her
1640 representatives or the right to petition for redress of
1641 grievances before the various governmental entities of this
1642 state, as protected by the First Amendment to the United States
1643 Constitution and s. 5, Art. I of the State Constitution.

1644 (3) A condominium unit owner sued by a governmental entity,
1645 business organization, or individual in violation of this section
1646 has a right to an expeditious resolution of a claim that the suit
1647 is in violation of this section. A condominium unit owner may
1648 petition the court for an order dismissing the action or granting
1649 final judgment in favor of that condominium unit owner. The
1650 petitioner may file a motion for summary judgment, together with
1651 supplemental affidavits, seeking a determination that the
1652 governmental entity's, business organization's, or individual's
1653 lawsuit has been brought in violation of this section. The

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1654 governmental entity, business organization, or individual shall
1655 thereafter file its response and any supplemental affidavits. As
1656 soon as practicable, the court shall set a hearing on the
1657 petitioner's motion, which shall be held at the earliest possible
1658 time after the filing of the governmental entity's, business
1659 organization's, or individual's response. The court may award the
1660 condominium unit owner sued by the governmental entity, business
1661 organization, or individual actual damages arising from the
1662 governmental entity's, individual's, or business organization's
1663 violation of this section. A court may treble the damages awarded
1664 to a prevailing condominium unit owner and shall state the basis
1665 for the trebled damages award in its judgment. The court shall
1666 award the prevailing party reasonable attorney's fees and costs
1667 incurred in connection with a claim that an action was filed in
1668 violation of this section.

1669 (4) Condominium associations may not expend association
1670 funds in prosecuting a SLAPP suit against a condominium unit
1671 owner.

1672 Section 13. Paragraph (b) of subsection (3) of section
1673 718.1255, Florida Statutes, is amended to read:

1674 718.1255 Alternative dispute resolution; voluntary
1675 mediation; mandatory nonbinding arbitration; legislative
1676 findings.--

1677 (3) LEGISLATIVE FINDINGS.--

1678 (b) The Legislature finds that ~~the courts are becoming~~
1679 ~~overcrowded with condominium and other disputes, and further~~
1680 ~~finds that~~ alternative dispute resolution has been making
1681 progress in reducing court dockets and trials and in offering a
1682 more efficient, cost-effective option to court litigation.

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1683 However, the Legislature also finds that alternative dispute
1684 resolution should not be used as a mechanism to encourage the
1685 filing of frivolous or nuisance suits.

1686 Section 14. Section 718.1265, Florida Statutes, is created
1687 to read:

1688 718.1265 Association emergency powers.--

1689 (1) To the extent allowed by law and unless specifically
1690 prohibited by the declaration of condominium, the articles, or
1691 the bylaws of an association, and consistent with the provisions
1692 of s. 617.0830, the board of administration, in response to
1693 damage caused by an event for which a state of emergency is
1694 declared pursuant to s. 252.36 in the locale in which the
1695 condominium is located, may, but is not required to, exercise the
1696 following powers:

1697 (a) Conduct board meetings and membership meetings with
1698 notice given as is practicable. Such notice may be given in any
1699 practicable manner, including publication, radio, United States
1700 mail, the Internet, public service announcements, and conspicuous
1701 posting on the condominium property or any other means the board
1702 deems reasonable under the circumstances. Notice of board
1703 decisions may be communicated as provided in this paragraph.

1704 (b) Cancel and reschedule any association meeting.

1705 (c) Name as assistant officers persons who are not
1706 directors, which assistant officers shall have the same authority
1707 as the executive officers to whom they are assistants during the
1708 state of emergency to accommodate the incapacity or
1709 unavailability of any officer of the association.

1710 (d) Relocate the association's principal office or
1711 designate alternative principal offices.

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1712 (e) Enter into agreements with local counties and
1713 municipalities to assist counties and municipalities with debris
1714 removal.

1715 (f) Implement a disaster plan before or immediately
1716 following the event for which a state of emergency is declared
1717 which may include, but need not be limited to, shutting down or
1718 off elevators, electricity, water, sewer, or security systems, or
1719 air conditioners.

1720 (g) Declare any portion of the condominium property
1721 unavailable for entry or occupancy by unit owners, family
1722 members, tenants, guests, agents, or invitees to protect the
1723 health, safety, or welfare of such persons.

1724 (h) Require the evacuation of the condominium property in
1725 the event of a mandatory evacuation order in the locale in which
1726 the condominium is located. If any unit owner or other occupant
1727 of a condominium fails or refuses to evacuate the condominium
1728 property where the board has required evacuation, the association
1729 is immune from liability or injury to persons or property arising
1730 from such failure or refusal.

1731 (i) Determine whether the condominium property may be
1732 safely inhabited or occupied. However, such determination is not
1733 conclusive as to any determination of habitability pursuant to
1734 the declaration.

1735 (j) Mitigate further damage, including taking action to
1736 contract for the removal of debris, and prevent or mitigate the
1737 spread of fungus, including, but not limited to, mold or mildew,
1738 by removing and disposing of wet drywall, insulation, carpet,
1739 cabinetry, or other fixtures on or within the condominium
1740 property, even if the unit owner is obligated by the declaration

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1741 or law to insure or replace those fixtures and to remove personal
1742 property from a unit.

1743 (k) Contract, on behalf of any unit owner or owners, for
1744 items or services for which the owners are otherwise individually
1745 responsible for, but which are necessary to prevent further
1746 damage to the condominium property. In such event, the unit owner
1747 or owners on whose behalf the board has contracted are
1748 responsible for reimbursing the association for the actual costs
1749 of the items or services, and the association may use its lien
1750 authority provided by s. 718.116 to enforce collection of the
1751 charges. Without limitation, such items or services may include
1752 the drying of units, the boarding of broken windows or doors, and
1753 the replacement of damaged air conditioners or air handlers to
1754 provide climate control in the units or other portions of the
1755 property.

1756 (l) Regardless of any provision to the contrary and even if
1757 such authority does not specifically appear in the declaration of
1758 condominium, articles, or bylaws of the association, levy special
1759 assessments without a vote of the owners.

1760 (m) Without approval of unit owners, borrow money and
1761 pledge association assets as collateral to fund emergency repairs
1762 and carry out the duties of the association when operating funds
1763 are insufficient. This paragraph does not limit the general
1764 authority of the association to borrow money, subject to such
1765 restrictions that are contained in the declaration of
1766 condominium, articles, or bylaws of the association.

1767 (2) The special powers authorized under subsection (1) are
1768 limited to that time reasonably necessary to protect the health,
1769 safety, and welfare of the association, the unit owners, their

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1770 family members, tenants, guests, agents, or invitees and as
1771 reasonably necessary to mitigate further damage and make
1772 emergency repairs.

1773 Section 15. Section 718.127, Florida Statutes, is created
1774 to read:

1775 718.127 Receivership notification.--Upon the appointment of
1776 a receiver by a court for any reason relating to a condominium
1777 association, the court shall direct the receiver to provide to
1778 all unit owners written notice of his or her appointment as
1779 receiver. Such notice shall be mailed or delivered within 10 days
1780 after the appointment. Notice by mail to a unit owner shall be
1781 sent to the address used by the county property appraiser for
1782 notice to the unit owner.

1783 Section 16. Subsection (1) of section 718.301, Florida
1784 Statutes, is amended, and paragraph (p) is added to subsection
1785 (4) of that section, to read:

1786 718.301 Transfer of association control; claims of defect
1787 by association.--

1788 (1) When unit owners other than the developer own 15
1789 percent or more of the units in a condominium that will be
1790 operated ultimately by an association, the unit owners other than
1791 the developer shall be entitled to elect no less than one-third
1792 of the members of the board of administration of the association.
1793 Unit owners other than the developer are entitled to elect not
1794 less than a majority of the members of the board of
1795 administration of an association:

1796 (a) Three years after 50 percent of the units that will be
1797 operated ultimately by the association have been conveyed to
1798 purchasers;

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1799 (b) Three months after 90 percent of the units that will be
1800 operated ultimately by the association have been conveyed to
1801 purchasers;

1802 (c) When all the units that will be operated ultimately by
1803 the association have been completed, some of them have been
1804 conveyed to purchasers, and none of the others are being offered
1805 for sale by the developer in the ordinary course of business;

1806 (d) When some of the units have been conveyed to purchasers
1807 and none of the others are being constructed or offered for sale
1808 by the developer in the ordinary course of business; ~~or~~

1809 (e) When the developer files a petition seeking protection
1810 in bankruptcy;

1811 (f) When a receiver for the developer is appointed by a
1812 circuit court; or

1813 (g) ~~(e)~~ Seven years after recordation of the declaration of
1814 condominium; or, in the case of an association which may
1815 ultimately operate more than one condominium, 7 years after
1816 recordation of the declaration for the first condominium it
1817 operates; or, in the case of an association operating a phase
1818 condominium created pursuant to s. 718.403, 7 years after
1819 recordation of the declaration creating the initial phase,
1820
1821 whichever occurs first. The developer is entitled to elect at
1822 least one member of the board of administration of an association
1823 as long as the developer holds for sale in the ordinary course of
1824 business at least 5 percent, in condominiums with fewer than 500
1825 units, and 2 percent, in condominiums with more than 500 units,
1826 of the units in a condominium operated by the association.
1827 Following the time the developer relinquishes control of the

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1828 association, the developer may exercise the right to vote any
1829 developer-owned units in the same manner as any other unit owner
1830 except for purposes of reacquiring control of the association or
1831 selecting the majority members of the board of administration.

1832 (4) At the time that unit owners other than the developer
1833 elect a majority of the members of the board of administration of
1834 an association, the developer shall relinquish control of the
1835 association, and the unit owners shall accept control.

1836 Simultaneously, or for the purposes of paragraph (c) not more
1837 than 90 days thereafter, the developer shall deliver to the
1838 association, at the developer's expense, all property of the unit
1839 owners and of the association which is held or controlled by the
1840 developer, including, but not limited to, the following items, if
1841 applicable, as to each condominium operated by the association:

1842 (p) A report included in the official records, under seal
1843 of an architect or engineer authorized to practice in this state,
1844 attesting to required maintenance, useful life, and replacement
1845 costs of the following applicable common elements comprising a
1846 turnover inspection report:

- 1847 1. Roof.
- 1848 2. Structure.
- 1849 3. Fireproofing and fire-protection systems.
- 1850 4. Elevators.
- 1851 5. Heating and cooling systems.
- 1852 6. Plumbing.
- 1853 7. Electrical systems.
- 1854 8. Swimming pool or spa and equipment.
- 1855 9. Seawalls.
- 1856 10. Pavement and parking areas.

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1857 11. Drainage systems.

1858 12. Painting.

1859 13. Irrigation systems.

1860 Section 17. Paragraph (f) is added to subsection (1) of
1861 section 718.3025, Florida Statutes, to read:

1862 718.3025 Agreements for operation, maintenance, or
1863 management of condominiums; specific requirements.--

1864 (1) No written contract between a party contracting to
1865 provide maintenance or management services and an association
1866 which contract provides for operation, maintenance, or management
1867 of a condominium association or property serving the unit owners
1868 of a condominium shall be valid or enforceable unless the
1869 contract:

1870 (f) Discloses any financial or ownership interest a board
1871 member or any party providing maintenance or management services
1872 to the association holds with the contracting party.

1873 Section 18. Section 718.3026, Florida Statutes, is amended
1874 to read:

1875 718.3026 Contracts for products and services; in writing;
1876 bids; exceptions.-- Associations having 10 or fewer ~~with less~~
1877 ~~than 100~~ units may opt out of the provisions of this section if
1878 two-thirds of the unit owners vote to do so, which opt-out may be
1879 accomplished by a proxy specifically setting forth the exception
1880 from this section.

1881 (1) All contracts as further described herein or any
1882 contract that is not to be fully performed within 1 year after
1883 the making thereof, for the purchase, lease, or renting of
1884 materials or equipment to be used by the association in
1885 accomplishing its purposes under this chapter, and all contracts

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1886 for the provision of services, shall be in writing. If a contract
1887 for the purchase, lease, or renting of materials or equipment, or
1888 for the provision of services, requires payment by the
1889 association on behalf of any condominium operated by the
1890 association in the aggregate that exceeds 5 percent of the total
1891 annual budget of the association, including reserves, the
1892 association shall obtain competitive bids for the materials,
1893 equipment, or services. Nothing contained herein shall be
1894 construed to require the association to accept the lowest bid.

1895 (2) (a) ~~1.~~ Notwithstanding the foregoing, contracts with
1896 employees of the association, and contracts for attorney,
1897 accountant, architect, community association manager, timeshare
1898 management firm, engineering, and landscape architect services
1899 are not subject to the provisions of this section.

1900 ~~2. A contract executed before January 1, 1992, and any~~
1901 ~~renewal thereof, is not subject to the competitive bid~~
1902 ~~requirements of this section. If a contract was awarded under the~~
1903 ~~competitive bid procedures of this section, any renewal of that~~
1904 ~~contract is not subject to such competitive bid requirements if~~
1905 ~~the contract contains a provision that allows the board to cancel~~
1906 ~~the contract on 30 days' notice. Materials, equipment, or~~
1907 ~~services provided to a condominium under a local government~~
1908 ~~franchise agreement by a franchise holder are not subject to the~~
1909 ~~competitive bid requirements of this section. A contract with a~~
1910 ~~manager, if made by a competitive bid, may be made for up to 3~~
1911 ~~years. A condominium whose declaration or bylaws provides for~~
1912 ~~competitive bidding for services may operate under the provisions~~
1913 ~~of that declaration or bylaws in lieu of this section if those~~
1914 ~~provisions are not less stringent than the requirements of this~~

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1915 | ~~section.~~

1916 | (b) Nothing contained herein is intended to limit the
1917 | ability of an association to obtain needed products and services
1918 | in an emergency.

1919 | (c) This section shall not apply if the business entity
1920 | with which the association desires to enter into a contract is
1921 | the only source of supply within the county serving the
1922 | association.

1923 | (d) Nothing contained herein shall excuse a party
1924 | contracting to provide maintenance or management services from
1925 | compliance with s. 718.3025.

1926 | (3) As to any contract or other transaction between an
1927 | association and one or more of its directors or any other
1928 | corporation, firm, association, or entity in which one or more of
1929 | its directors are directors or officers or are financially
1930 | interested:

1931 | (a) The association shall comply with the requirements of
1932 | s. 617.0832.

1933 | (b) The disclosures required by s. 617.0832 shall be
1934 | entered into the written minutes of the meeting.

1935 | (c) Approval of the contract or other transaction shall
1936 | require an affirmative vote of two-thirds of the directors
1937 | present.

1938 | (d) At the next regular or special meeting of the members,
1939 | the existence of the contract or other transaction must be
1940 | disclosed to the members. Upon the motion of any member, the
1941 | contract or transaction shall be brought up for a vote and may be
1942 | cancelled by a majority vote of the members present. If the
1943 | members cancel the contract, the association is liable only for

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1944 the reasonable value of goods and services provided up to the
1945 time of cancellation and is not liable for any termination fee,
1946 liquidated damages, or other form of penalty for such
1947 cancellation.

1948 Section 19. Subsection (3) of section 718.303, Florida
1949 Statutes, is amended to read:

1950 718.303 Obligations of owners; waiver; levy of fine against
1951 unit by association.--

1952 (3) If the declaration or bylaws so provide, the
1953 association may levy reasonable fines against a unit for the
1954 failure of the owner of the unit, or its occupant, licensee, or
1955 invitee, to comply with any provision of the declaration, the
1956 association bylaws, or reasonable rules of the association. No
1957 fine will become a lien against a unit. No fine may exceed \$100
1958 per violation. However, a fine may be levied on the basis of each
1959 day of a continuing violation, with a single notice and
1960 opportunity for hearing, provided that no such fine shall in the
1961 aggregate exceed \$1,000. No fine may be levied except after
1962 giving reasonable notice and opportunity for a hearing to the
1963 unit owner and, if applicable, its licensee or invitee. The
1964 hearing must be held before a committee of other unit owners who
1965 are not board members or persons who reside in a board member's
1966 household. If the committee does not agree with the fine, the
1967 fine may not be levied. The provisions of this subsection do not
1968 apply to unoccupied units.

1969 Section 20. Section 718.501, Florida Statutes, is amended
1970 to read:

1971 718.501 Authority, responsibility, ~~Powers~~ and duties of
1972 Division of Florida Land Sales, Condominiums, and Mobile Homes.--

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1973 (1) The Division of Florida Land Sales, Condominiums, and
1974 Mobile Homes of the Department of Business and Professional
1975 Regulation, referred to as the "division" in this part, in
1976 addition to other powers and duties prescribed by chapter 498,
1977 has the power to enforce and ensure compliance with the
1978 provisions of this chapter and rules promulgated pursuant hereto
1979 relating to the development, construction, sale, lease,
1980 ownership, operation, and management of residential condominium
1981 units. In performing its duties, the division has complete
1982 jurisdiction to investigate complaints and enforce compliance
1983 with the provisions of this chapter with respect to associations
1984 that are still under developer control and complaints against
1985 developers involving improper turnover or failure to turn over
1986 pursuant to s. 718.301. However, after turnover has occurred, the
1987 division shall have jurisdiction to investigate only complaints
1988 related to financial issues, elections, and unit owner access to
1989 association records pursuant to s. 718.111(12). ~~the following~~
1990 ~~powers and duties:~~

1991 (a) The division may make necessary public or private
1992 investigations within or outside this state to determine whether
1993 any person has violated this chapter or any rule or order
1994 hereunder, to aid in the enforcement of this chapter, or to aid
1995 in the adoption of rules or forms hereunder.

1996 (b) The division may require or permit any person to file a
1997 statement in writing, under oath or otherwise, as the division
1998 determines, as to the facts and circumstances concerning a matter
1999 to be investigated.

2000 (c) For the purpose of any investigation under this
2001 chapter, the division director or any officer or employee

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2002 designated by the division director may administer oaths or
2003 affirmations, subpoena witnesses and compel their attendance,
2004 take evidence, and require the production of any matter which is
2005 relevant to the investigation, including the existence,
2006 description, nature, custody, condition, and location of any
2007 books, documents, or other tangible things and the identity and
2008 location of persons having knowledge of relevant facts or any
2009 other matter reasonably calculated to lead to the discovery of
2010 material evidence. Upon the failure by a person to obey a
2011 subpoena or to answer questions propounded by the investigating
2012 officer and upon reasonable notice to all persons affected
2013 thereby, the division may apply to the circuit court for an order
2014 compelling compliance.

2015 (d) Notwithstanding any remedies available to unit owners
2016 and associations, if the division has reasonable cause to believe
2017 that a violation of any provision of this chapter or rule
2018 promulgated pursuant hereto has occurred, the division may
2019 institute enforcement proceedings in its own name against any
2020 developer, association, officer, or member of the board of
2021 administration, or its assignees or agents, as follows:

2022 1. The division may permit a person whose conduct or
2023 actions may be under investigation to waive formal proceedings
2024 and enter into a consent proceeding whereby orders, rules, or
2025 letters of censure or warning, whether formal or informal, may be
2026 entered against the person.

2027 2. The division may issue an order requiring the developer,
2028 association, developer-designated officer, or developer-
2029 designated member of the board of administration, ~~or~~ developer-
2030 designated ~~its~~ assignees or agents, community association

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2031 manager, or community association management firm to cease and
2032 desist from the unlawful practice and take such affirmative
2033 action as in the judgment of the division will carry out the
2034 purposes of this chapter. Such affirmative action may include,
2035 but is not limited to, an order requiring a developer to pay
2036 moneys determined to be owed to a condominium association.

2037 3. If a developer fails to pay any restitution determined
2038 by the division to be owed, plus any accrued interest at the
2039 highest rate permitted by law, within 30 days after expiration of
2040 any appellate time period of a final order requiring payment of
2041 restitution or the conclusion of any appeal thereof, whichever is
2042 later, the division shall bring an action in circuit or county
2043 court on behalf of any association, class of unit owners,
2044 lessees, or purchasers for restitution, declaratory relief,
2045 injunctive relief, or any other available remedy. The division
2046 may also temporarily revoke its acceptance of the filing for the
2047 developer to which the restitution relates until payment of
2048 restitution is made. The division may bring an action in circuit
2049 court on behalf of a class of unit owners, lessees, or purchasers
2050 for declaratory relief, injunctive relief, or restitution.

2051 4. The division may impose a civil penalty against a
2052 developer or association, or its assignee or agent, for any
2053 violation of this chapter or a rule promulgated pursuant hereto.
2054 The division may impose a civil penalty individually against any
2055 officer or board member who willfully and knowingly violates a
2056 provision of this chapter, a rule adopted pursuant hereto, or a
2057 final order of the division; may order the removal of such
2058 individual as an officer or from the board of administration or
2059 as an officer of the association; and may prohibit such

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2060 individual from serving as an officer or on the board of a
2061 community association for a period of time. The term "willfully
2062 and knowingly" means that the division informed the officer or
2063 board member that his or her action or intended action violates
2064 this chapter, a rule adopted under this chapter, or a final order
2065 of the division and that the officer or board member refused to
2066 comply with the requirements of this chapter, a rule adopted
2067 under this chapter, or a final order of the division. The
2068 division, prior to initiating formal agency action under chapter
2069 120, shall afford the officer or board member an opportunity to
2070 voluntarily comply with this chapter, a rule adopted under this
2071 chapter, or a final order of the division. An officer or board
2072 member who complies within 10 days is not subject to a civil
2073 penalty. A penalty may be imposed on the basis of each day of
2074 continuing violation, but in no event shall the penalty for any
2075 offense exceed \$5,000. By January 1, 1998, the division shall
2076 adopt, by rule, penalty guidelines applicable to possible
2077 violations or to categories of violations of this chapter or
2078 rules adopted by the division. The guidelines must specify a
2079 meaningful range of civil penalties for each such violation of
2080 the statute and rules and must be based upon the harm caused by
2081 the violation, the repetition of the violation, and upon such
2082 other factors deemed relevant by the division. For example, the
2083 division may consider whether the violations were committed by a
2084 developer or owner-controlled association, the size of the
2085 association, and other factors. The guidelines must designate the
2086 possible mitigating or aggravating circumstances that justify a
2087 departure from the range of penalties provided by the rules. It
2088 is the legislative intent that minor violations be distinguished

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2089 | from those which endanger the health, safety, or welfare of the
2090 | condominium residents or other persons and that such guidelines
2091 | provide reasonable and meaningful notice to the public of likely
2092 | penalties that may be imposed for proscribed conduct. This
2093 | subsection does not limit the ability of the division to
2094 | informally dispose of administrative actions or complaints by
2095 | stipulation, agreed settlement, or consent order. All amounts
2096 | collected shall be deposited with the Chief Financial Officer to
2097 | the credit of the Division of Florida Land Sales, Condominiums,
2098 | and Mobile Homes Trust Fund. If a developer fails to pay the
2099 | civil penalty and the amount deemed to be owed to the
2100 | association, the division shall thereupon issue an order
2101 | directing that such developer cease and desist from further
2102 | operation until such time as the civil penalty is paid or may
2103 | pursue enforcement of the penalty in a court of competent
2104 | jurisdiction. If an association fails to pay the civil penalty,
2105 | the division shall thereupon pursue enforcement in a court of
2106 | competent jurisdiction, and the order imposing the civil penalty
2107 | or the cease and desist order will not become effective until 20
2108 | days after the date of such order. Any action commenced by the
2109 | division shall be brought in the county in which the division has
2110 | its executive offices or in the county where the violation
2111 | occurred.

2112 | 5. If a unit owner presents the division with proof that
2113 | the unit owner has requested access to official records in
2114 | writing by certified mail, that after 10 days the unit owner
2115 | again made the same request for access to official records in
2116 | writing by certified mail, and that more than 10 days has elapsed
2117 | since the second request and the association has still failed or

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2118 refused to provide access to official records as required by this
2119 chapter, the division shall issue a subpoena requiring production
2120 of the requested records where the records are kept pursuant to
2121 s. 718.112.

2122 (e) The division is authorized to prepare and disseminate a
2123 prospectus and other information to assist prospective owners,
2124 purchasers, lessees, and developers of residential condominiums
2125 in assessing the rights, privileges, and duties pertaining
2126 thereto.

2127 (f) The division has authority to adopt rules pursuant to
2128 ss. 120.536(1) and 120.54 to implement and enforce the provisions
2129 of this chapter.

2130 (g) The division shall establish procedures for providing
2131 notice to an association and the developer during the period
2132 where the developer controls the association when the division is
2133 considering the issuance of a declaratory statement with respect
2134 to the declaration of condominium or any related document
2135 governing in such condominium community.

2136 (h) The division shall furnish each association which pays
2137 the fees required by paragraph (2) (a) a copy of this act,
2138 subsequent changes to this act on an annual basis, an amended
2139 version of this act as it becomes available from the Secretary of
2140 State's office on a biennial basis, and the rules promulgated
2141 pursuant thereto on an annual basis.

2142 (i) The division shall annually provide each association
2143 with a summary of declaratory statements and formal legal
2144 opinions relating to the operations of condominiums which were
2145 rendered by the division during the previous year.

2146 (j) The division shall provide training and educational

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2147 | programs for condominium association board members and unit
2148 | owners. The training may include web-based, electronic-media-
2149 | based, and live training and seminars in various locations
2150 | throughout the state. The division may review and approve
2151 | education and training programs for board members and unit owners
2152 | offered by providers and shall maintain a current list of
2153 | approved programs and providers and make such list available to
2154 | board members and unit owners in a reasonable and cost-effective
2155 | manner.

2156 | (k) The division shall maintain a toll-free telephone
2157 | number accessible to condominium unit owners.

2158 | (l) The division shall develop a program to certify both
2159 | volunteer and paid mediators to provide mediation of condominium
2160 | disputes. The division shall provide, upon request, a list of
2161 | such mediators to any association, unit owner, or other
2162 | participant in arbitration proceedings under s. 718.1255
2163 | requesting a copy of the list. The division shall include on the
2164 | list of volunteer mediators only the names of persons who have
2165 | received at least 20 hours of training in mediation techniques or
2166 | who have mediated at least 20 disputes. In order to become
2167 | initially certified by the division, paid mediators must be
2168 | certified by the Supreme Court to mediate court cases in either
2169 | county or circuit courts. However, the division may adopt, by
2170 | rule, additional factors for the certification of paid mediators,
2171 | which factors must be related to experience, education, or
2172 | background. Any person initially certified as a paid mediator by
2173 | the division must, in order to continue to be certified, comply
2174 | with the factors or requirements imposed by rules adopted by the
2175 | division.

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2176 (m) When a complaint is made, the division shall conduct
2177 its inquiry with due regard to the interests of the affected
2178 parties. Within 30 days after receipt of a complaint, the
2179 division shall acknowledge the complaint in writing and notify
2180 the complainant whether the complaint is within the jurisdiction
2181 of the division and whether additional information is needed by
2182 the division from the complainant. The division shall conduct its
2183 investigation and shall, within 90 days after receipt of the
2184 original complaint or of timely requested additional information,
2185 take action upon the complaint. However, the failure to complete
2186 the investigation within 90 days does not prevent the division
2187 from continuing the investigation, accepting or considering
2188 evidence obtained or received after 90 days, or taking
2189 administrative action if reasonable cause exists to believe that
2190 a violation of this chapter or a rule of the division has
2191 occurred. If an investigation is not completed within the time
2192 limits established in this paragraph, the division shall, on a
2193 monthly basis, notify the complainant in writing of the status of
2194 the investigation. When reporting its action to the complainant,
2195 the division shall inform the complainant of any right to a
2196 hearing pursuant to ss. 120.569 and 120.57.

2197 (n) Condominium association directors, officers, and
2198 employees, condominium developers, community association
2199 managers, and community association management firms must at all
2200 times reasonably cooperate with the division in any investigation
2201 pursuant to this section. The division shall refer to local law
2202 enforcement authorities any person whom the division believes has
2203 altered, destroyed, concealed, or removed any record, document,
2204 or thing required to be kept or maintained by this chapter with

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2205 the purpose to impair its verity or availability in the
2206 department's investigation.

2207 (2) (a) ~~Effective January 1, 1992,~~ Each condominium
2208 association which operates more than two units shall pay to the
2209 division an annual fee in the amount of \$4 for each residential
2210 unit in condominiums operated by the association. If the fee is
2211 not paid by March 1, then the association shall be assessed a
2212 penalty of 10 percent of the amount due, and the association will
2213 not have standing to maintain or defend any action in the courts
2214 of this state until the amount due, plus any penalty, is paid.

2215 (b) All fees shall be deposited in the Division of Florida
2216 Land Sales, Condominiums, and Mobile Homes Trust Fund as provided
2217 by law.

2218 Section 21. Section 718.50151, Florida Statutes, is amended
2219 to read:

2220 718.50151 Community Association Living Study ~~Advisory~~
2221 Council; membership functions.--

2222 (1) There is created the Community Association Living Study
2223 Advisory Council on Condominiums. The council shall consist of
2224 seven appointed members. Two members shall be appointed by the
2225 President of the Senate, two members shall be appointed by the
2226 Speaker of the House of Representatives, and three members shall
2227 be appointed by the Governor. ~~At least~~ One member that is
2228 appointed by the Governor may ~~shall~~ represent timeshare
2229 condominiums. The council shall be created as of July 1 every 5
2230 years, commencing July 1, 2008, and shall exist for a 6-month
2231 term. ~~Members shall be appointed to 2-year terms; however, one of~~
2232 ~~the persons initially appointed by the Governor, by the President~~
2233 ~~of the Senate, and by the Speaker of the House of Representatives~~

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2234 ~~shall be appointed to a 1-year term.~~ The director of the division
2235 shall appoint ~~serve as~~ an ex officio nonvoting member. The
2236 Legislature intends that the persons appointed represent a cross-
2237 section of persons interested in condominium issues. The council
2238 shall be located within the division for administrative purposes.
2239 Members of the council shall serve without compensation but are
2240 entitled to receive per diem and travel expenses pursuant to s.
2241 112.061 while on official business.

2242 (2) The functions of the ~~advisory~~ council shall be to:

2243 (a) Receive, from the public, input regarding issues of
2244 concern with respect to community association living, including
2245 living in condominiums, cooperatives, and homeowners'
2246 associations. The council shall make ~~and~~ recommendations for
2247 changes in the ~~condominium~~ law related to community association
2248 living. The issues that the council shall consider include, but
2249 are not limited to, the rights and responsibilities of the unit
2250 owners in relation to the rights and responsibilities of the
2251 association.

2252 (b) Review, evaluate, and advise the division concerning
2253 revisions and adoption of rules affecting condominiums and
2254 cooperatives.

2255 (c) Recommend improvements, if needed, in the education
2256 programs offered by the division.

2257 (d) Review, evaluate, and advise the Legislature concerning
2258 revisions and improvements to the laws relating to condominiums,
2259 cooperatives, and homeowners' associations.

2260 (3) The council may elect a chair and vice chair and such
2261 other officers as it may deem advisable. The council shall meet
2262 at the call of its chair, at the request of a majority of its

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2263 membership, at the request of the division, or at such times as
2264 it may prescribe. A majority of the members of the council shall
2265 constitute a quorum. Council action may be taken by vote of a
2266 majority of the voting members who are present at a meeting where
2267 there is a quorum.

2268 Section 22. Paragraph (a) of subsection (2) of section
2269 718.503, Florida Statutes, is amended to read:

2270 718.503 Developer disclosure prior to sale; nondeveloper
2271 unit owner disclosure prior to sale; voidability.--

2272 (2) NONDEVELOPER DISCLOSURE.--

2273 (a) Each unit owner who is not a developer as defined by
2274 this chapter shall comply with the provisions of this subsection
2275 prior to the sale of his or her unit. Each prospective purchaser
2276 who has entered into a contract for the purchase of a condominium
2277 unit is entitled, at the seller's expense, to a current copy of
2278 the declaration of condominium, articles of incorporation of the
2279 association, bylaws and rules of the association, financial
2280 information required by s. 718.111, and the document entitled
2281 "Frequently Asked Questions and Answers" required by s. 718.504.
2282 On and after January 1, 2009, the prospective purchaser shall
2283 also receive from the seller a copy of a governance form. Such
2284 form shall be provided by the division summarizing governance of
2285 condominium associations. In addition to such other information
2286 as the division considers helpful to a prospective purchaser in
2287 understanding association governance, the governance form shall
2288 address the following subjects:

2289 1. The role of the board in conducting the day-to-day
2290 affairs of the association on behalf of, and in the best
2291 interests of, the owners.

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2292 2. The board's responsibility to provide advance notice of
2293 board and membership meetings.

2294 3. The rights of owners to attend and speak at board and
2295 membership meetings.

2296 4. The responsibility of the board and of owners with
2297 respect to maintenance of the condominium property.

2298 5. The responsibility of the board and owners to abide by
2299 the condominium documents, this chapter, rules adopted by the
2300 division, and reasonable rules adopted by the board.

2301 6. Owners' rights to inspect and copy association records
2302 and the limitations on such rights.

2303 7. Remedies available to owners with respect to actions by
2304 the board which may be abusive or beyond the board's power and
2305 authority.

2306 8. The right of the board to hire a property management
2307 firm, subject to its own primary responsibility for such
2308 management.

2309 9. The responsibility of owners with regard to payment of
2310 regular or special assessments necessary for the operation of the
2311 property and the potential consequences of failure to pay such
2312 assessments.

2313 10. The voting rights of owners.

2314 11. Rights and obligations of the board in enforcement of
2315 rules in the condominium documents and rules adopted by the
2316 board.

2317
2318 The governance form shall also include the following statement in
2319 conspicuous type: "This publication is intended as an informal
2320 educational overview of condominium governance. In the event of a

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2321 conflict, the provisions of chapter 718, Florida Statutes, rules
2322 adopted by the Division of Florida Land Sales, Condominiums, and
2323 Mobile Homes of the Department of Business and Professional
2324 Regulation, the provisions of the condominium documents, and
2325 reasonable rules adopted by the condominium association's board
2326 of administration prevail over the contents of this publication."
2327 Section 23. This act shall take effect October 1, 2008.