

By the Committee on Regulated Industries; and Senator Deutch

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1 A bill to be entitled

2 An act relating to condominium associations; amending s.
3 718.111, F.S.; requiring that hazard insurance be based
4 upon the replacement cost of the property to be insured as
5 determined by an independent insurance appraisal or update
6 of a prior appraisal; requiring that the full insurable
7 value be determined at specified intervals; providing a
8 means by which an association may provide adequate hazard
9 insurance; authorizing an association to consider certain
10 information when determining coverage amounts; providing
11 for coverage by developer-controlled associations;
12 providing that policies may include deductibles as
13 determined by the association's board of directors;
14 providing requirements and guidelines for the
15 establishment of such deductibles; requiring that the
16 amounts of deductibles be set at a meeting of the board;
17 providing requirements for such meeting; requiring that an
18 association controlled by unit owners operating as a
19 residential condominium use its best efforts to obtain and
20 maintain adequate insurance to protect the association and
21 property under its supervision or control; providing that
22 a declaration of condominium may provide that condominium
23 property consisting of freestanding buildings comprised of
24 no more than one building in or on such unit need not be
25 insured by the association if the declaration requires the
26 unit owner to obtain adequate insurance for the
27 condominium property; authorizing an association to obtain
28 and maintain liability insurance for directors and
29 officers, insurance for the benefit of association

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30 employees, and flood insurance for common elements,
31 association property, and units; requiring that every
32 hazard insurance policy issued or renewed on or after a
33 specified date for the purpose of protecting the
34 condominium provide certain coverage; requiring that such
35 policies contain certain provisions; providing that such
36 policies issued to individual unit owners do not provide
37 rights of subrogation against the condominium association;
38 providing for the insurance of improvements or additions
39 benefiting fewer than all unit owners; requiring that an
40 association require each owner to provide evidence of a
41 current policy of hazard and liability insurance upon
42 request; limiting the frequency with which an association
43 may make such a request; authorizing an association to
44 purchase coverage on behalf of an owner under certain
45 circumstances; providing for the collection of the costs
46 of such a policy; providing responsibilities of the unit
47 owner and association with regard to reconstruction work
48 and associated costs after a casualty loss; authorizing a
49 multicondominium association to operate such condominiums
50 as a single condominium for certain purposes by majority
51 vote of the members of all applicable condominiums;
52 providing that such election constitutes an amendment to
53 the declaration of all applicable condominiums; requiring
54 that an association maintain insurance or fidelity bonding
55 for all persons who control or disburse association funds;
56 requiring that such insurance policy or fidelity bond
57 cover the maximum funds in the custody of the association
58 or its management agent at any one time; defining the term

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59 "persons who control or disburse funds of the
60 association"; authorizing an association to amend the
61 declaration of condominium without regard to any
62 requirement for approval by mortgagees of amendments
63 affecting insurance requirements for the purpose of
64 conforming the declaration of condominium to certain
65 coverage requirements; providing that any portion of the
66 condominium property required to be insured by the
67 association against casualty loss which is damaged be
68 reconstructed, repaired, or replaced as necessary by the
69 association as a common expense; providing that all hazard
70 insurance deductibles, uninsured losses, and other damages
71 in excess of hazard insurance coverage under the hazard
72 insurance policies maintained by the association are a
73 common expense of the condominium; providing exceptions;
74 allocating responsibility for certain costs of repair or
75 reconstruction; authorizing an association to opt out of
76 certain requirements related to such allocation of
77 responsibility by majority vote; providing a procedure by
78 which a multicondominium association that has not
79 consolidated its financial operations may opt out of such
80 allocation of responsibility; requiring that a decision to
81 opt out be recorded; providing that such decision takes
82 effect on the date on which it is recorded; authorizing
83 the reversal of such decision; providing a procedure for
84 reversal; providing that an association is not obligated
85 to pay for any reconstruction or repair expenses for
86 improvements made by an owner or the development if an
87 improvement benefits only the unit for which it was

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88 installed; amending s. 718.113, F.S.; revising application
89 of provision relating to the material alteration or
90 substantial additions to the common elements or to real
91 property which is association property to apply to certain
92 associations; creating s. 718.1265, F.S.; authorizing a
93 condominium association board to exercise specified
94 emergency powers during an emergency created by declared
95 disaster; providing a limitation; providing an effective
96 date.

97
98 Be It Enacted by the Legislature of the State of Florida:

99
100 Section 1. Subsection (11) of section 718.111, Florida
101 Statutes, is amended to read:

102 718.111 The association.--

103 (11) INSURANCE.--In order to protect the safety, health,
104 and welfare of the people of the State of Florida and to ensure
105 consistency in the provision of insurance coverage to
106 condominiums and their unit owners, this subsection applies
107 ~~paragraphs (a), (b), and (c) are deemed to apply~~ to every
108 residential condominium in the state, regardless of the date of
109 its declaration of condominium. It is the intent of the
110 Legislature to encourage lower or stable insurance premiums for
111 associations described in this subsection ~~section~~.

112 (a) Adequate hazard insurance, regardless of any
113 requirement in the declaration of condominium for coverage by the
114 association for full insurable value, replacement cost, or
115 similar coverage, shall be based upon the replacement cost of the
116 property to be insured as determined by an independent insurance

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117 appraisal or update of a prior appraisal. The full insurable
118 value shall be determined at least once every 36 months.

119 1. An association or group of associations may provide
120 adequate hazard insurance through a self-insurance fund that
121 complies with the requirements of ss. 624.460-624.488.

122 2. The association may also provide adequate hazard
123 insurance coverage individually or for a group of no fewer than
124 three communities created and operating under this chapter,
125 chapter 719, chapter 720, or chapter 721 by obtaining and
126 maintaining for such communities insurance coverage sufficient to
127 cover an amount equal to the probable maximum loss for the
128 communities for a 250-year windstorm event. Such probable maximum
129 loss must be determined through the use of a competent model that
130 has been accepted by the Florida Commission on Hurricane Loss
131 Projection Methodology. No policy or program providing such
132 coverage shall be issued or renewed after July 1, 2008, unless it
133 has been reviewed and approved by the Office of Insurance
134 Regulation. The review and approval shall include approval of the
135 policy and related forms pursuant to ss. 627.410 and 627.411,
136 approval of the rates pursuant to s. 627.062, a determination
137 that the loss model approved by the Commission was accurately and
138 appropriately applied to the insured structures to determine the
139 250-year probable maximum loss, and a determination that complete
140 and accurate disclosure of all material provisions is provided
141 to condominium unit owners prior to execution of the agreement by
142 a condominium association.

143 3. When determining the adequate amount of hazard insurance
144 coverage, the association may consider deductibles as determined
145 by this subsection.

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146 (b) If an association is a developer-controlled
147 association, the association shall exercise its best efforts to
148 obtain and maintain insurance as described in paragraph (a).
149 Failure to obtain and maintain adequate hazard insurance during
150 any period of developer control constitutes a breach of fiduciary
151 responsibility by the developer-appointed members of the board of
152 directors of the association, unless the members can show that
153 despite such failure, they have made their best efforts to
154 maintain the required coverage.

155 (c) Policies may include deductibles as determined by the
156 board.

157 1. The deductibles shall be consistent with industry
158 standards and prevailing practice for communities of similar size
159 and age, and having similar construction and facilities in the
160 locale where the condominium property is situated.

161 2. The deductibles may be based upon available funds,
162 including reserve accounts, or predetermined assessment authority
163 at the time the insurance is obtained.

164 3. The board shall establish the amount of deductibles
165 based upon the level of available funds and predetermined
166 assessment authority at a meeting of the board. Such meeting
167 shall be open to all unit owners in the manner set forth in s.
168 718.112(2)(e). The notice of such meeting must state the proposed
169 deductible and the available funds and the assessment authority
170 relied upon by the board and estimate any potential assessment
171 amount against each unit, if any. The meeting described in this
172 paragraph may be held in conjunction with a meeting to consider
173 the proposed budget or an amendment thereto.

174 (d) An association controlled by unit owners operating as a

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175 residential condominium shall use its best efforts to obtain and
176 maintain adequate insurance to protect the association, the
177 association property, the common elements, and the condominium
178 property that is required to be insured by the association
179 pursuant to this subsection.

180 (e) The declaration of condominium as originally recorded,
181 or as amended pursuant to procedures provided therein, may
182 provide that condominium property consisting of freestanding
183 buildings comprised of no more than one building in or on such
184 unit need not be insured by the association if the declaration
185 requires the unit owner to obtain adequate insurance for the
186 condominium property. An association may also obtain and maintain
187 liability insurance for directors and officers, insurance for the
188 benefit of association employees, and flood insurance for common
189 elements, association property, and units.

190 (f) Every hazard insurance policy issued or renewed on or
191 after January 1, 2009, for the purpose of protecting the
192 condominium shall provide primary coverage for:

193 1. All portions of the condominium property as originally
194 installed or replacement of like kind and quality, in accordance
195 with the original plans and specifications.

196 2. All alterations or additions made to the condominium
197 property or association property pursuant to s. 718.113(2).

198 3. The coverage shall exclude all personal property within
199 the unit or limited common elements, and floor, wall, and ceiling
200 coverings, electrical fixtures, appliances, water heaters, water
201 filters, built-in cabinets and countertops, and window
202 treatments, including curtains, drapes, blinds, hardware, and
203 similar window treatment components, or replacements of any of

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204 the foregoing.

205 (g) Every hazard insurance policy issued or renewed on or
206 after January 1, 2009, to an individual unit owner must contain a
207 provision stating that the coverage afforded by such policy is
208 excess coverage over the amount recoverable under any other
209 policy covering the same property. Such policies must include
210 special assessment coverage of no less than \$2,000 per
211 occurrence. An insurance policy issued to an individual unit
212 owner providing such coverage does not provide rights of
213 subrogation against the condominium association operating the
214 condominium in which such individual's unit is located.

215 1. All improvements or additions to the condominium
216 property that benefit fewer than all unit owners shall be insured
217 by the unit owner or owners having the use thereof, or may be
218 insured by the association at the cost and expense of the unit
219 owners having the use thereof.

220 2. The association shall require each owner to provide
221 evidence of a currently effective policy of hazard and liability
222 insurance upon request, but not more than once per year. Upon the
223 failure of an owner to provide a certificate of insurance issued
224 by an insurer approved to write such insurance in this state
225 within 30 days after the date on which a written request is
226 delivered, the association may purchase a policy of insurance on
227 behalf of an owner. The cost of such a policy, together with
228 reconstruction costs undertaken by the association but which are
229 the responsibility of the unit owner, may be collected in the
230 manner provided for the collection of assessments in s. 718.116.

231 3. All reconstruction work after a casualty loss shall be
232 undertaken by the association except as otherwise authorized in

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233 this section. A unit owner may undertake reconstruction work on
234 portions of the unit with the prior written consent of the board
235 of administration. However, such work may be conditioned upon the
236 approval of the repair methods, the qualifications of the
237 proposed contractor, or the contract that is used for that
238 purpose. A unit owner shall obtain all required governmental
239 permits and approvals prior to commencing reconstruction.

240 4. Unit owners are responsible for the cost of
241 reconstruction of any portions of the condominium property for
242 which the unit owner is required to carry casualty insurance, and
243 any such reconstruction work undertaken by the association shall
244 be chargeable to the unit owner and enforceable as an assessment
245 pursuant to s. 718.116. The association must be an additional
246 named insured and loss payee on all casualty insurance policies
247 issued to unit owners in the condominium operated by the
248 association.

249 5. A multicondominium association may elect, by a majority
250 vote of the collective members of the condominiums operated by
251 the association, to operate such condominiums as a single
252 condominium for purposes of insurance matters, including, but not
253 limited to, the purchase of the hazard insurance required by this
254 section and the apportionment of deductibles and damages in
255 excess of coverage. The election to aggregate the treatment of
256 insurance premiums, deductibles, and excess damages constitutes
257 an amendment to the declaration of all condominiums operated by
258 the association, and the costs of insurance shall be stated in
259 the association budget. The amendments shall be recorded as
260 required by s. 718.110.

261 (h) The association shall maintain insurance or fidelity

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262 bonding of all persons who control or disburse funds of the
263 association. The insurance policy or fidelity bond must cover the
264 maximum funds that will be in the custody of the association or
265 its management agent at any one time. As used in this paragraph,
266 the term "persons who control or disburse funds of the
267 association" includes, but is not limited to, those individuals
268 authorized to sign checks on behalf of the association, and the
269 president, secretary, and treasurer of the association. The
270 association shall bear the cost of any such bonding.

271 (i) The association may amend the declaration of
272 condominium without regard to any requirement for approval by
273 mortgagees of amendments affecting insurance requirements for the
274 purpose of conforming the declaration of condominium to the
275 coverage requirements of this subsection.

276 (j) Any portion of the condominium property required to be
277 insured by the association against casualty loss pursuant to
278 paragraph (f) which is damaged by casualty shall be
279 reconstructed, repaired, or replaced as necessary by the
280 association as a common expense. All hazard insurance
281 deductibles, uninsured losses, and other damages in excess of
282 hazard insurance coverage under the hazard insurance policies
283 maintained by the association are a common expense of the
284 condominium, except that:

285 1. A unit owner is responsible for the costs of repair or
286 replacement of any portion of the condominium property not paid
287 by insurance proceeds, if such damage is caused by intentional
288 conduct, negligence, or failure to comply with the terms of the
289 declaration or the rules of the association by a unit owner, the
290 members of his or her family, unit occupants, tenants, guests, or

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291 invitees, without compromise of the subrogation rights of any
292 insurer as set forth in paragraph (g).

293 2. The provisions of subparagraph 1. regarding the
294 financial responsibility of a unit owner for the costs of
295 repairing or replacing other portions of the condominium property
296 also applies to the costs of repair or replacement of personal
297 property of other unit owners or the association, as well as
298 other property, whether real or personal, which the unit owners
299 are required to insure under paragraph (g).

300 3. To the extent the cost of repair or reconstruction for
301 which the unit owner is responsible under this paragraph is
302 reimbursed to the association by insurance proceeds, and, to the
303 extent the association has collected the cost of such repair or
304 reconstruction from the unit owner, the association shall
305 reimburse the unit owner without the waiver of any rights of
306 subrogation.

307 4. The association is not obligated to pay for repair or
308 reconstruction or repairs of casualty losses as a common expense
309 if the casualty losses were known or should have been known to a
310 unit owner and were not reported to the association until after
311 the insurance claim of the association for that casualty was
312 settled or resolved with finality, or denied on the basis that it
313 was untimely filed.

314 (k) An association may, upon the approval of a majority of
315 the total voting interests in the association, opt out of the
316 provisions of paragraph (j) for the allocation of repair or
317 reconstruction expenses and allocate repair or reconstruction
318 expenses in the manner provided in the declaration as originally
319 recorded or as amended. Such vote may be approved by the voting

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320 interests of the association without regard to any mortgagee
321 consent requirements.

322 (l) In a multicondominium association that has not
323 consolidated its financial operations under s. 718.111(6), any
324 condominium operated by the association may opt out of the
325 provisions of paragraph (j) with the approval of a majority of
326 the total voting interests in that condominium. Such vote may be
327 approved by the voting interests without regard to any mortgagee
328 consent requirements.

329 (m) Any association or condominium voting to opt out of the
330 guidelines for repair or reconstruction expenses as described in
331 paragraph (j) must record a notice setting forth the date of the
332 opt-out vote and the page of the official records book on which
333 the declaration is recorded. The decision to opt out is effective
334 upon the date of recording of the notice in the public records by
335 the association. An association that has voted to opt out of
336 paragraph (j) may reverse that decision by the same vote required
337 in paragraphs (k) and (l), and notice thereof shall be recorded
338 in the official records.

339 (n) The association is not obligated to pay for any
340 reconstruction or repair expenses due to casualty loss to any
341 improvements installed by a current or former owner of the unit
342 or by the developer if the improvement benefits only the unit for
343 which it was installed and is not part of the standard
344 improvements installed by the developer on all units as part of
345 original construction, whether or not such improvement is located
346 within the unit. This paragraph does not relieve any party of its
347 obligations regarding recovery due under any insurance
348 implemented specifically for any such improvements.

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349 (o) The provisions of this subsection shall not apply to
350 timeshare condominium associations. Insurance for timeshare
351 condominium associations shall be maintained pursuant to s.
352 721.165. Therefore, the Legislature requires a report to be
353 prepared by the Office of Insurance Regulation of the Department
354 of Financial Services for publication 18 months from the
355 effective date of this act, evaluating premium increases or
356 decreases for associations, unit owner premium increases or
357 decreases, recommended changes to better define common areas, or
358 any other information the Office of Insurance Regulation deems
359 appropriate.

360 ~~(a) A unit-owner controlled association operating a~~
361 ~~residential condominium shall use its best efforts to obtain and~~
362 ~~maintain adequate insurance to protect the association, the~~
363 ~~association property, the common elements, and the condominium~~
364 ~~property required to be insured by the association pursuant to~~
365 ~~paragraph (b). If the association is developer controlled, the~~
366 ~~association shall exercise due diligence to obtain and maintain~~
367 ~~such insurance. Failure to obtain and maintain adequate insurance~~
368 ~~during any period of developer control shall constitute a breach~~
369 ~~of fiduciary responsibility by the developer-appointed members of~~
370 ~~the board of directors of the association, unless said members~~
371 ~~can show that despite such failure, they have exercised due~~
372 ~~diligence. The declaration of condominium as originally recorded,~~
373 ~~or amended pursuant to procedures provided therein, may require~~
374 ~~that condominium property consisting of freestanding buildings~~
375 ~~where there is no more than one building in or on such unit need~~
376 ~~not be insured by the association if the declaration requires the~~
377 ~~unit owner to obtain adequate insurance for the condominium~~

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378 ~~property. An association may also obtain and maintain liability~~
379 ~~insurance for directors and officers, insurance for the benefit~~
380 ~~of association employees, and flood insurance for common~~
381 ~~elements, association property, and units. Adequate insurance,~~
382 ~~regardless of any requirement in the declaration of condominium~~
383 ~~for coverage by the association for "full insurable value,"~~
384 ~~"replacement cost," or the like, may include reasonable~~
385 ~~deductibles as determined by the board based upon available funds~~
386 ~~or predetermined assessment authority at the time that the~~
387 ~~insurance is obtained.~~

388 ~~1. Windstorm insurance coverage for a group of no fewer~~
389 ~~than three communities created and operating under this chapter,~~
390 ~~chapter 719, chapter 720, or chapter 721 may be obtained and~~
391 ~~maintained for the communities if the insurance coverage is~~
392 ~~sufficient to cover an amount equal to the probable maximum loss~~
393 ~~for the communities for a 250-year windstorm event. Such probable~~
394 ~~maximum loss must be determined through the use of a competent~~
395 ~~model that has been accepted by the Florida Commission on~~
396 ~~Hurricane Loss Projection Methodology. Such insurance coverage is~~
397 ~~deemed adequate windstorm insurance for the purposes of this~~
398 ~~section.~~

399 ~~2. An association or group of associations may self-insure~~
400 ~~against claims against the association, the association property,~~
401 ~~and the condominium property required to be insured by an~~
402 ~~association, upon compliance with the applicable provisions of~~
403 ~~ss. 624.460-624.488, which shall be considered adequate insurance~~
404 ~~for the purposes of this section. A copy of each policy of~~
405 ~~insurance in effect shall be made available for inspection by~~
406 ~~unit owners at reasonable times.~~

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407 ~~(b) Every hazard insurance policy issued or renewed on or~~
408 ~~after January 1, 2004, to protect the condominium shall provide~~
409 ~~primary coverage for:~~

410 ~~1. All portions of the condominium property located outside~~
411 ~~the units;~~

412 ~~2. The condominium property located inside the units as~~
413 ~~such property was initially installed, or replacements thereof of~~
414 ~~like kind and quality and in accordance with the original plans~~
415 ~~and specifications or, if the original plans and specifications~~
416 ~~are not available, as they existed at the time the unit was~~
417 ~~initially conveyed; and~~

418 ~~3. All portions of the condominium property for which the~~
419 ~~declaration of condominium requires coverage by the association.~~

420
421 ~~Anything to the contrary notwithstanding, the terms "condominium~~
422 ~~property," "building," "improvements," "insurable improvements,"~~
423 ~~"common elements," "association property," or any other term~~
424 ~~found in the declaration of condominium which defines the scope~~
425 ~~of property or casualty insurance that a condominium association~~
426 ~~must obtain shall exclude all floor, wall, and ceiling coverings,~~
427 ~~electrical fixtures, appliances, air conditioner or heating~~
428 ~~equipment, water heaters, water filters, built-in cabinets and~~
429 ~~countertops, and window treatments, including curtains, drapes,~~
430 ~~blinds, hardware, and similar window treatment components, or~~
431 ~~replacements of any of the foregoing which are located within the~~
432 ~~boundaries of a unit and serve only one unit and all air~~
433 ~~conditioning compressors that service only an individual unit,~~
434 ~~whether or not located within the unit boundaries. The foregoing~~
435 ~~is intended to establish the property or casualty insuring~~

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436 ~~responsibilities of the association and those of the individual~~
437 ~~unit owner and do not serve to broaden or extend the perils of~~
438 ~~coverage afforded by any insurance contract provided to the~~
439 ~~individual unit owner. Beginning January 1, 2004, the association~~
440 ~~shall have the authority to amend the declaration of condominium,~~
441 ~~without regard to any requirement for mortgagee approval of~~
442 ~~amendments affecting insurance requirements, to conform the~~
443 ~~declaration of condominium to the coverage requirements of this~~
444 ~~section.~~

445 ~~(c) Every hazard insurance policy issued or renewed on or~~
446 ~~after January 1, 2004, to an individual unit owner shall provide~~
447 ~~that the coverage afforded by such policy is excess over the~~
448 ~~amount recoverable under any other policy covering the same~~
449 ~~property. Each insurance policy issued to an individual unit~~
450 ~~owner providing such coverage shall be without rights of~~
451 ~~subrogation against the condominium association that operates the~~
452 ~~condominium in which such unit owner's unit is located. All real~~
453 ~~or personal property located within the boundaries of the unit~~
454 ~~owner's unit which is excluded from the coverage to be provided~~
455 ~~by the association as set forth in paragraph (b) shall be insured~~
456 ~~by the individual unit owner.~~

457 ~~(d) The association shall obtain and maintain adequate~~
458 ~~insurance or fidelity bonding of all persons who control or~~
459 ~~disburse funds of the association. The insurance policy or~~
460 ~~fidelity bond must cover the maximum funds that will be in the~~
461 ~~custody of the association or its management agent at any one~~
462 ~~time. As used in this paragraph, the term "persons who control or~~
463 ~~disburse funds of the association" includes, but is not limited~~
464 ~~to, those individuals authorized to sign checks and the~~

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465 ~~president, secretary, and treasurer of the association. The~~
466 ~~association shall bear the cost of bonding.~~

467 Section 2. Paragraph (a) of subsection (2) of section
468 718.113, Florida Statutes, is amended to read:

469 718.113 Maintenance; limitation upon improvement; display
470 of flag; hurricane shutters.--

471 (2) (a) Except as otherwise provided in this section, there
472 shall be no material alteration or substantial additions to the
473 common elements or to real property which is association
474 property, except in a manner provided in the declaration as
475 originally recorded or as amended under the procedures provided
476 therein. If the declaration as originally recorded or as amended
477 under the procedures provided therein does not specify the
478 procedure for approval of material alterations or substantial
479 additions, 75 percent of the total voting interests of the
480 association must approve the alterations or additions. This
481 paragraph is intended to clarify existing law and applies to
482 associations existing on the effective date of this act.

483 Section 3. Section 718.1265, Florida Statutes, is created
484 to read:

485 718.1265 Association emergency powers.--

486 (1) To the extent allowed by law and unless specifically
487 prohibited by the declaration of condominium, the articles, or
488 the bylaws of an association, and consistent with the provisions
489 of s. 617.0830, the board of administration, in response to
490 damage caused by an event for which a state of emergency is
491 declared pursuant to s. 252.36 in the locale in which the
492 condominium is located, may, but is not required to, exercise the
493 following powers:

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494 (a) Conduct board meetings and membership meetings with
495 notice given as is practicable. Such notice may be given in any
496 practicable manner, including publication, radio, United States
497 mail, the Internet, public service announcements, and conspicuous
498 posting on the condominium property or any other means the board
499 deems reasonable under the circumstances. Notice of board
500 decisions may be communicated as provided in this paragraph.

501 (b) Cancel and reschedule any association meeting.

502 (c) Name as assistant officers persons who are not
503 directors, which assistant officers shall have the same authority
504 as the executive officers to whom they are assistants during the
505 state of emergency to accommodate the incapacity or
506 unavailability of any officer of the association.

507 (d) Relocate the association's principal office or
508 designate alternative principal offices.

509 (e) Enter into agreements with local counties and
510 municipalities to assist counties and municipalities with debris
511 removal.

512 (f) Implement a disaster plan before or immediately
513 following the event for which a state of emergency is declared
514 that may include, but is not limited to, shutting down or off
515 elevators; electricity; water, sewer, or security systems; or air
516 conditioners.

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

521 (h) Require the evacuation of the condominium property in
522 the event of a mandatory evacuation order in the locale in which

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523 the condominium is located. Should any unit owner or other
524 occupant of a condominium fail or refuse to evacuate the
525 condominium property where the board has required evacuation, the
526 association shall be immune from liability or injury to persons
527 or property arising from such failure or refusal.

528 (i) Determine whether the condominium property can be
529 safely inhabited or occupied. However, such determination is not
530 conclusive as to any determination of habitability pursuant to
531 the declaration.

532 (j) Mitigate further damage, including taking action to
533 contract for the removal of debris; and prevent or mitigate the
534 spread of fungus, including, but not limited to, mold or mildew,
535 by removing and disposing of wet drywall, insulation, carpet,
536 cabinetry, or other fixtures, on or within the condominium
537 property, even if the unit owner is obligated by the declaration
538 or law to insure or replace those fixtures and to remove personal
539 property from a unit.

540 (k) Contract, on behalf of any unit owner or owners, for
541 items or services for which the owners are otherwise individually
542 responsible for, but which are necessary to prevent further
543 damage to the condominium property. In such event, the unit owner
544 or owners on whose behalf the board has contracted are
545 responsible for reimbursing the association for the actual costs
546 of the items or services, and the association may use its lien
547 authority provided by s. 718.116 to enforce collection of the
548 charges. Without limitation, such items or services may include
549 the drying of units, the boarding of broken windows or doors, and
550 the replacement of damaged air conditioners or air handlers to
551 provide climate control in the units or other portions of the

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552 property.

553 (1) Regardless of any provision to the contrary and even if
554 such authority does not specifically appear in the declaration of
555 condominium, articles, or bylaws of the association, levy special
556 assessments without a vote of the owners.

557 (m) Without unit owner approval, borrow money and pledge
558 association assets as collateral to fund emergency repairs and
559 carry out the duties of the association when operating funds are
560 insufficient. This paragraph does not limit the general authority
561 of the association to borrow money, subject to such restrictions
562 as are contained in the declaration of condominium, articles, or
563 bylaws of the association.

564 (2) The special powers authorized under subsection (1)
565 shall be limited to that time reasonably necessary to protect the
566 health, safety, and welfare of the association, the unit owners,
567 their family members, tenants, guests, agents, or invitees and
568 shall be reasonably necessary to mitigate further damage and make
569 emergency repairs.

570 Section 4. This act shall take effect July 1, 2008.