

By Senator Posey

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1                   A bill to be entitled  
2           An act relating to community associations; amending s.  
3           514.011, F.S.; providing a definition; amending s.  
4           514.0115, F.S.; providing specified supervision and  
5           regulation exemptions for homeowners' association swimming  
6           pools; amending s. 515.25, F.S.; conforming a cross-  
7           reference; amending s. 718.111, F.S.; specifying that  
8           requirements relating to acquisition and maintenance of  
9           adequate insurance apply to all residential condominiums;  
10          revising and providing provisions relating to condominium  
11          and condominium owner insurance coverage; authorizing an  
12          association or group of associations to provide adequate  
13          hazard insurance through a self-insurance fund; requiring  
14          associations to exercise best efforts to obtain and  
15          maintain certain kinds of insurance; providing coverage  
16          requirements for policies entered into after a specified  
17          date; requiring owners to provide evidence of a currently  
18          effective policy of hazard and liability insurance upon  
19          request by the association; specifying responsibility for  
20          reconstruction work under specified circumstances;  
21          specifying common expense responsibilities of the  
22          association and owners; providing for unit owner access to  
23          association records; prohibiting unit owners from  
24          accessing certain personal identifying information of  
25          other unit owners and persons residing in units; amending  
26          s. 718.112, F.S.; requiring meetings of the board of  
27          administration to be conducted using generally accepted  
28          parliamentary procedures; requiring the board to hold  
29          special meetings upon a petition of a specified amount of

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30 the total voting interests or to take up the petitioned  
31 items at the next regular meeting; providing members with  
32 the right to speak at such meetings under certain  
33 circumstances; providing location requirements for all  
34 unit owner meetings; revising budget requirements;  
35 amending s. 718.115, F.S.; providing certain expenses to  
36 be included as common expenses; amending s. 718.116, F.S.;  
37 providing requirements for claims of lien filed on or  
38 after a specified date; providing notice requirements;  
39 requiring certain advance notice to pay estimated  
40 nonemergency special assessments; creating s. 718.1265,  
41 F.S.; authorizing a condominium association board to  
42 exercise specified emergency powers when a state of  
43 emergency is declared; providing limitations; amending s.  
44 718.3025, F.S.; deleting a requirement specifying a  
45 minimum number of personnel to be employed by a party  
46 contracting to provide maintenance or management services;  
47 providing requirements for certain contracts between a  
48 party contracting to provide maintenance or management  
49 services and an association; amending s. 718.3026, F.S.;  
50 providing an expiration threshold for certain associations  
51 opting out of requirements relating to contracts for  
52 products and services following a vote by the unit owners;  
53 amending s. 718.303, F.S.; requiring hearings to levy  
54 fines to be held before a committee of unit owners who are  
55 not members of the board or persons residing in a board  
56 member's household; amending s. 718.5012, F.S.; removing a  
57 requirement for the ombudsman to develop certain policies  
58 and procedures; requiring direct assistance; amending s.

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59 | 718.503, F.S.; providing that prospective purchasers are  
60 | entitled to a governance form provided by the seller and  
61 | prepared by the division; requiring the governance form to  
62 | include specified information; amending s. 720.303, F.S.;  
63 | revising provisions relating to homeowners' association  
64 | board meetings, inspection and copying of records, reserve  
65 | accounts of budgets, and financial reporting requirements;  
66 | prohibiting salary or compensation of certain association  
67 | personnel; providing exceptions; amending s. 720.305,  
68 | F.S.; providing for an association to recover certain  
69 | costs and expenses in certain actions; revising a lien  
70 | restriction; amending s. 720.306, F.S.; revising certain  
71 | meeting notice requirements; providing absentee ballot  
72 | voting requirements; requiring newly elected members of a  
73 | board of directors to make certain certifications in  
74 | writing to the association; providing for disqualification  
75 | for failure to make such certifications; requiring an  
76 | association to retain such certifications for a certain  
77 | time; specifying repercussions for certain unexcused  
78 | absences; amending s. 720.307, F.S.; authorizing the board  
79 | of directors of an association to levy assessments on  
80 | unimproved parcels under certain circumstances; amending  
81 | s. 720.3075, F.S.; specifying an additional prohibited  
82 | clause in association documents; amending s. 720.308,  
83 | F.S.; revising certain cash funding requirements; amending  
84 | s. 720.3085, F.S.; revising mailing requirements for a  
85 | written notice or demand for past due assessments;  
86 | providing requirements for certain foreclosure actions;  
87 | amending s. 720.401, F.S.; revising certain prospective

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88 parcel owner disclosure summary requirements; providing an  
89 effective date.

90

91 Be It Enacted by the Legislature of the State of Florida:

92

93 Section 1. Section 514.011, Florida Statutes, is amended to  
94 read:

95 514.011 Definitions.--As used in this chapter:

96 (1) "Department" means the Department of Health.

97 (2) "Homeowners' association" means a homeowners'  
98 association as defined in s. 720.301.

99 (3)~~(5)~~ "Portable pool" means a pool or spa, and related  
100 equipment systems of any kind, which is designed or intended to  
101 be movable from location to location.

102 (4)~~(3)~~ "Private pool" means a facility used only by an  
103 individual, family, or living unit members and their guests which  
104 does not serve any type of cooperative housing or joint tenancy  
105 of five or more living units.

106 (5)~~(4)~~ "Public bathing place" means a body of water,  
107 natural or modified by humans, for swimming, diving, and  
108 recreational bathing, together with adjacent shoreline or land  
109 area, buildings, equipment, and appurtenances pertaining thereto,  
110 used by consent of the owner or owners and held out to the public  
111 by any person or public body, irrespective of whether a fee is  
112 charged for the use thereof. The bathing water areas of public  
113 bathing places include, but are not limited to, lakes, ponds,  
114 rivers, streams, artificial impoundments, and waters along the  
115 coastal and intracoastal beaches and shores of the state.

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116        ~~(6)(2)~~ "Public swimming pool" or "public pool" means a  
117 watertight structure of concrete, masonry, or other approved  
118 materials which is located either indoors or outdoors, used for  
119 bathing or swimming by humans, and filled with a filtered and  
120 disinfected water supply, together with buildings, appurtenances,  
121 and equipment used in connection therewith. A public swimming  
122 pool or public pool shall mean a conventional pool, spa-type  
123 pool, wading pool, special purpose pool, or water recreation  
124 attraction, to which admission may be gained with or without  
125 payment of a fee and includes, but is not limited to, pools  
126 operated by or serving camps, churches, cities, counties, day  
127 care centers, group home facilities for eight or more clients,  
128 health spas, institutions, parks, state agencies, schools,  
129 subdivisions, or the cooperative living-type projects of five or  
130 more living units, such as apartments, boardinghouses, hotels,  
131 mobile home parks, motels, recreational vehicle parks, and  
132 townhouses.

133        Section 2. Subsection (2) of section 514.0115, Florida  
134 Statutes, is amended to read:

135        514.0115 Exemptions from supervision or regulation;  
136 variances.--

137        (2) (a) Pools serving no more than 32 homeowners'  
138 association, condominium, or cooperative units which are not  
139 operated as a public lodging establishment shall be exempt from  
140 supervision under this chapter, except for water quality.

141        (b) Pools serving homeowners', condominium, or cooperative  
142 associations of more than 32 units and whose recorded documents  
143 prohibit the rental or sublease of the units for periods of less  
144 than 60 days are exempt from supervision under this chapter,

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145 | except that the homeowners' association or condominium or  
146 | cooperative owner or association must file applications with the  
147 | department and obtain construction plans approval and receive an  
148 | initial operating permit. The department shall inspect the  
149 | swimming pools at such places annually, at the fee set forth in  
150 | s. 514.033(3), or upon request by a unit owner, to determine  
151 | compliance with department rules relating to water quality and  
152 | lifesaving equipment. The department may not require compliance  
153 | with rules relating to swimming pool lifeguard standards.

154 |       Section 3. Subsection (9) of section 515.25, Florida  
155 | Statutes, is amended to read:

156 |       515.25 Definitions.--As used in this chapter, the term:

157 |       (9) "Public swimming pool" means a swimming pool, as  
158 | defined in s. 514.011(6)~~(2)~~, which is operated, with or without  
159 | charge, for the use of the general public; however, the term does  
160 | not include a swimming pool located on the grounds of a private  
161 | residence.

162 |       Section 4. Subsection (11), paragraphs (b) and (c) of  
163 | subsection (12), and subsection (13) of section 718.111, Florida  
164 | Statutes, are amended to read:

165 |       718.111 The association.--

166 |       (11) INSURANCE.--In order to protect the safety, health,  
167 | and welfare of the people of the State of Florida and to ensure  
168 | consistency in the provision of insurance coverage to  
169 | condominiums and their unit owners, this subsection shall be  
170 | ~~paragraphs (a), (b), and (c) are~~ deemed to apply to every  
171 | residential condominium in the state, regardless of the date of  
172 | its declaration of condominium. It is the intent of the

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173 Legislature to encourage lower or stable insurance premiums for  
174 associations described in this section.

175 (a) Adequate hazard insurance, regardless of any  
176 requirement in the declaration of condominium for coverage by the  
177 association for "full insurable value," "replacement cost," or  
178 the like, shall be based upon the replacement cost of the  
179 property to be insured as determined by an independent insurance  
180 appraisal or update of a prior appraisal. The full insurable  
181 value shall be determined not less frequently than every 36  
182 months.

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

186 2. The association may also provide adequate hazard  
187 insurance coverage, individually, or for a group of no fewer than  
188 three communities created and operating under this chapter,  
189 chapter 719, chapter 720, or chapter 721, by obtaining and  
190 maintaining for the communities insurance coverage sufficient to  
191 cover an amount equal to the probable maximum loss for the  
192 communities for a 250-year windstorm event provided that such  
193 probable maximum loss must be determined through the use of a  
194 competent model that has been accepted by the Florida Commission  
195 on Hurricane Loss Projection Methodology.

196 3. In determining the adequate hazard insurance coverage,  
197 the association may consider deductibles as determined by this  
198 subsection.

199 (b) If the association is developer controlled, the  
200 association shall exercise best efforts to obtain and maintain  
201 such insurance. Failure to obtain and maintain adequate hazard

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202 insurance during any period of developer control shall constitute  
203 a breach of fiduciary responsibility by the developer-appointed  
204 members of the board of directors of the association, unless such  
205 members can show that despite such failure, they have made their  
206 best efforts.

207 (c) Policies may include deductibles as determined by the  
208 board.

209 1. The deductibles shall be consistent with industry  
210 standards and prevailing practices for communities of like size  
211 and age, having similar construction and facilities in the locale  
212 where the condominium property is situated.

213 2. The deductibles may be based upon available funds,  
214 including reserve accounts or predetermined assessment authority  
215 at the time that the insurance is obtained.

216 3. The board shall establish the level of deductibles based  
217 upon the level of available funds and predetermined assessment  
218 authority at a meeting of the board which shall be open to all  
219 unit owners in the manner set forth in s. 718.112(2)(e). The  
220 notice of such meeting shall state the proposed deductible and  
221 the available funds and the assessment authority relied upon by  
222 the board and shall estimate any potential assessment amount  
223 against each unit, if any. The meeting described in this  
224 subparagraph may be held in conjunction with a meeting to  
225 consider the proposed budget or an amendment thereto.

226 (d) A unit-owner-controlled association operating a  
227 residential condominium shall use its best efforts to obtain and  
228 maintain adequate insurance to protect the association, the  
229 association property, the common elements, and the condominium



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230 property required to be insured by the association pursuant to  
231 this subsection.

232 (e) The declaration of condominium as originally recorded,  
233 or amended pursuant to procedures provided therein, may require  
234 that condominium property consisting of freestanding buildings  
235 where there is no more than one building in or on such unit need  
236 not be insured by the association if the declaration requires the  
237 unit owner to obtain adequate insurance for the condominium  
238 property. An association may also obtain and maintain liability  
239 insurance for directors and officers, insurance for the benefit  
240 of association employees, and flood insurance for common  
241 elements, association property, and units.

242 (f) Every hazard insurance policy issued or renewed on or  
243 after January 1, 2009, to protect the condominium shall provide  
244 primary coverage for:

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

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

250 3. The coverage shall exclude all personal property within  
251 the unit or limited common elements, floor, wall, and ceiling  
252 coverings, electrical fixtures, appliances, water heaters, water  
253 filters, built-in cabinets and countertops, and window  
254 treatments, including curtains, drapes, blinds, hardware, and  
255 similar window treatment components or replacements of any of the  
256 foregoing.

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258 This paragraph is intended to establish the property or casualty  
259 insuring responsibilities of the association and those of the  
260 individual unit owner and do not serve to broaden or extend the  
261 perils of coverage afforded by any insurance contract provided to  
262 the individual unit owner.

263 (g) Every hazard insurance policy issued or renewed on or  
264 after January 1, 2009, to an individual unit owner shall provide  
265 that the coverage afforded by such policy is excess over the  
266 amount recoverable under any other policy covering the same  
267 property and shall include special assessment coverage of not  
268 less than \$2,000 per occurrence. Each insurance policy issued to  
269 an individual unit owner providing such coverage shall be without  
270 rights of subrogation against the condominium association that  
271 operates the condominium in which such unit owner's unit is  
272 located.

273 1. All improvements or additions to the condominium  
274 property that benefit less than all unit owners shall be insured  
275 by the unit owner or owners having the use thereof, or may be  
276 insured by the association at the cost and expense of the unit  
277 owners having the use thereof.

278 2. The association shall require each owner to provide  
279 evidence of a currently effective policy of hazard and liability  
280 insurance upon request, but not more frequently than annually.  
281 Upon the failure of an owner to provide a certificate of  
282 insurance issued by an insurer approved to write such insurance  
283 in the state within 30 days of a written request, the association  
284 shall be entitled but shall not be obligated to purchase a policy  
285 of insurance on behalf of an owner, and the cost thereof,  
286 together with reconstruction costs undertaken by the association,

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287 which are the responsibility of the unit owner may be collected  
288 in the manner provided for collection of assessments in s.  
289 718.116.

290 3. All reconstruction work after a casualty loss shall be  
291 undertaken by the association except as otherwise permitted  
292 herein. A unit owner may undertake reconstruction work on  
293 portions of the unit with the prior written consent of the board  
294 of administration, which may be conditioned upon the approval of  
295 the repair methods, the qualifications of the proposed  
296 contractor, and the contract that is used for that purpose. A  
297 unit owner shall obtain all required governmental permits and  
298 approvals prior to commencing reconstruction.

299 4. Unit owners shall be responsible for the cost of  
300 reconstruction of any portions of the condominium property for  
301 which the unit owner is required to carry casualty insurance, and  
302 any such reconstruction work undertaken by the association shall  
303 be chargeable to the unit and enforceable as an assessment  
304 pursuant to s. 718.116. The association is hereby designated as  
305 an additional named insured and loss payee on all casualty  
306 insurance policies issued to unit owners in the condominium  
307 operated by the association.

308 5. A multicondominium association may elect, by a majority  
309 vote of the collective members of the condominiums operated by  
310 the association, to operate such condominiums as a single  
311 condominium for purposes of insurance matters, including, but not  
312 limited to, the purchase of the hazard insurance required by this  
313 section and the apportionment of deductibles and damages in  
314 excess of coverage. The election to aggregate the treatment of  
315 insurance premiums, deductibles, and excess damages shall be

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316 treated as an amendment to the declaration of all condominiums  
317 operated by the association, and the costs of insurance shall be  
318 stated in the association budget. The amendments shall be  
319 recorded as required by s. 718.110.

320 (h) The association shall obtain and maintain adequate  
321 insurance or fidelity bonding of all persons who control or  
322 disburse funds of the association. The insurance policy or  
323 fidelity bond must cover the maximum funds that will be in the  
324 custody of the association or its management agent at any one  
325 time. As used in this paragraph, the term "persons who control or  
326 disburse funds of the association" includes, but is not limited  
327 to, those individuals authorized to sign checks and the  
328 president, secretary, and treasurer of the association. The  
329 association shall bear the cost of bonding.

330 (i) The association has the authority to amend the  
331 declaration of condominium, without regard to any requirement for  
332 mortgagee approval of amendments affecting insurance  
333 requirements, to conform the declaration of condominium to the  
334 coverage requirements of this subsection.

335 (j) Any portion of the condominium property that the  
336 association is required to insure against casualty loss pursuant  
337 to paragraph (f) and that is damaged by casualty shall be  
338 reconstructed, repaired, or replaced, as necessary, by the  
339 association as a common expense. All hazard insurance  
340 deductibles, uninsured losses, and other damages in excess of  
341 hazard insurance coverage under the hazard insurance policies  
342 maintained by the association shall be a common expense of the  
343 condominium, however:

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344       1. A unit owner shall be responsible for the costs of  
345 repair or replacement of any portion of the condominium property  
346 not paid for by insurance proceeds, when such damage is caused by  
347 intentional conduct, negligence, or failure to comply with the  
348 terms of the declaration or the rules of the association by a  
349 unit owner, the members of his or her family, unit occupants,  
350 tenants, guests, or invitees, and without compromise of the  
351 subrogation rights of any insurer as set forth in paragraph (g).

352       2. The provisions of subparagraph 1. regarding the  
353 financial responsibility of a unit owner for the costs of  
354 repairing or replacing other portions of the condominium property  
355 also applies to the costs of repair or replacement of personal  
356 property of other unit owners or the association, as well as  
357 other property, whether real or personal, that the unit owners  
358 are required to insure under paragraph (g).

359       3. To the extent the cost of repair or reconstruction for  
360 which the unit owner is responsible under this paragraph is  
361 reimbursed to the association by insurance proceeds, and, to the  
362 extent the association has collected the cost of such repair or  
363 reconstruction from the unit owner, the association shall  
364 reimburse the unit owner without the waiver of any rights of  
365 subrogation.

366       4. The association shall not be obligated to pay for repair  
367 or reconstruction or repairs of casualty losses as a common  
368 expense where the casualty losses were known or should have been  
369 known to a unit owner and were not reported to the association  
370 until after the insurance claim of the association for that  
371 casualty has been settled and resolved with finality or is

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372 considered untimely filed by the insurer and denied on that  
373 basis.

374 (k) An association may, upon the approval of a majority of  
375 the total voting interests in the association, opt out of the  
376 provisions in paragraph (j) for the allocation of repair or  
377 reconstruction expenses and allocate repair or reconstruction  
378 expenses in the manner provided in the declaration as originally  
379 recorded or as amended. Such vote may be approved by the voting  
380 interests of the association without regard to any mortgagee  
381 consent requirements.

382 (l) In a multicondominium association that has not  
383 consolidated its financial operations under subsection (6), any  
384 condominium operated by the association may opt out of the  
385 provisions of paragraph (j) with the approval of a majority of  
386 the total voting interests in that condominium. Such vote may be  
387 approved by the voting interests without regard to any mortgagee  
388 consent requirements.

389 (m) Any association or condominium voting to opt out of the  
390 guidelines for repair or reconstruction expenses in paragraph (j)  
391 must record a notice setting forth the date of the opt out vote  
392 and the official records book and page at which the declaration  
393 is recorded. The opt out shall be effective upon the date of  
394 recording of the notice in the public records by the association.  
395 An association that has voted to opt out of paragraph (j) may  
396 reverse that decision by the same vote required under paragraphs  
397 (k) and (l), and notice thereof shall be recorded in the official  
398 records.

399 (n) The association shall not be obligated to pay for any  
400 reconstruction or repair expenses due to casualty loss to any

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401 improvements installed by a current or former owner of the unit  
402 or by the developer where the improvement benefits only the unit  
403 for which it was installed and is not part of the standard  
404 improvements installed by the developer on all units as part of  
405 original construction, whether or not such improvement is located  
406 within the unit, except to the extent of any insurance recovery  
407 specifically for any such improvements. ~~Therefore, the~~  
408 ~~Legislature requires a report to be prepared by the Office of~~  
409 ~~Insurance Regulation of the Department of Financial Services for~~  
410 ~~publication 18 months from the effective date of this act,~~  
411 ~~evaluating premium increases or decreases for associations, unit~~  
412 ~~owner premium increases or decreases, recommended changes to~~  
413 ~~better define common areas, or any other information the Office~~  
414 ~~of Insurance Regulation deems appropriate.~~

415 ~~(a) A unit-owner controlled association operating a~~  
416 ~~residential condominium shall use its best efforts to obtain and~~  
417 ~~maintain adequate insurance to protect the association, the~~  
418 ~~association property, the common elements, and the condominium~~  
419 ~~property required to be insured by the association pursuant to~~  
420 ~~paragraph (b). If the association is developer controlled, the~~  
421 ~~association shall exercise due diligence to obtain and maintain~~  
422 ~~such insurance. Failure to obtain and maintain adequate insurance~~  
423 ~~during any period of developer control shall constitute a breach~~  
424 ~~of fiduciary responsibility by the developer appointed members of~~  
425 ~~the board of directors of the association, unless said members~~  
426 ~~can show that despite such failure, they have exercised due~~  
427 ~~diligence. The declaration of condominium as originally recorded,~~  
428 ~~or amended pursuant to procedures provided therein, may require~~  
429 ~~that condominium property consisting of freestanding buildings~~

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430 ~~where there is no more than one building in or on such unit need~~  
431 ~~not be insured by the association if the declaration requires the~~  
432 ~~unit owner to obtain adequate insurance for the condominium~~  
433 ~~property. An association may also obtain and maintain liability~~  
434 ~~insurance for directors and officers, insurance for the benefit~~  
435 ~~of association employees, and flood insurance for common~~  
436 ~~elements, association property, and units. Adequate insurance,~~  
437 ~~regardless of any requirement in the declaration of condominium~~  
438 ~~for coverage by the association for "full insurable value,"~~  
439 ~~"replacement cost," or the like, may include reasonable~~  
440 ~~deductibles as determined by the board based upon available funds~~  
441 ~~or predetermined assessment authority at the time that the~~  
442 ~~insurance is obtained.~~

443 ~~1. Windstorm insurance coverage for a group of no fewer~~  
444 ~~than three communities created and operating under this chapter,~~  
445 ~~chapter 719, chapter 720, or chapter 721 may be obtained and~~  
446 ~~maintained for the communities if the insurance coverage is~~  
447 ~~sufficient to cover an amount equal to the probable maximum loss~~  
448 ~~for the communities for a 250-year windstorm event. Such probable~~  
449 ~~maximum loss must be determined through the use of a competent~~  
450 ~~model that has been accepted by the Florida Commission on~~  
451 ~~Hurricane Loss Projection Methodology. Such insurance coverage is~~  
452 ~~deemed adequate windstorm insurance for the purposes of this~~  
453 ~~section.~~

454 ~~2. An association or group of associations may self-insure~~  
455 ~~against claims against the association, the association property,~~  
456 ~~and the condominium property required to be insured by an~~  
457 ~~association, upon compliance with the applicable provisions of~~  
458 ~~ss. 624.460-624.488, which shall be considered adequate insurance~~



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459 ~~for the purposes of this section. A copy of each policy of~~  
460 ~~insurance in effect shall be made available for inspection by~~  
461 ~~unit owners at reasonable times.~~

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

465 ~~1. All portions of the condominium property located outside~~  
466 ~~the units;~~

467 ~~2. The condominium property located inside the units as~~  
468 ~~such property was initially installed, or replacements thereof of~~  
469 ~~like kind and quality and in accordance with the original plans~~  
470 ~~and specifications or, if the original plans and specifications~~  
471 ~~are not available, as they existed at the time the unit was~~  
472 ~~initially conveyed; and~~

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

475  
476 ~~Anything to the contrary notwithstanding, the terms "condominium~~  
477 ~~property," "building," "improvements," "insurable improvements,"~~  
478 ~~"common elements," "association property," or any other term~~  
479 ~~found in the declaration of condominium which defines the scope~~  
480 ~~of property or casualty insurance that a condominium association~~  
481 ~~must obtain shall exclude all floor, wall, and ceiling coverings,~~  
482 ~~electrical fixtures, appliances, air conditioner or heating~~  
483 ~~equipment, water heaters, water filters, built-in cabinets and~~  
484 ~~countertops, and window treatments, including curtains, drapes,~~  
485 ~~blinds, hardware, and similar window treatment components, or~~  
486 ~~replacements of any of the foregoing which are located within the~~  
487 ~~boundaries of a unit and serve only one unit and all air~~

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488 ~~conditioning compressors that service only an individual unit,~~  
489 ~~whether or not located within the unit boundaries. The foregoing~~  
490 ~~is intended to establish the property or casualty insuring~~  
491 ~~responsibilities of the association and those of the individual~~  
492 ~~unit owner and do not serve to broaden or extend the perils of~~  
493 ~~coverage afforded by any insurance contract provided to the~~  
494 ~~individual unit owner. Beginning January 1, 2004, the association~~  
495 ~~shall have the authority to amend the declaration of condominium,~~  
496 ~~without regard to any requirement for mortgagee approval of~~  
497 ~~amendments affecting insurance requirements, to conform the~~  
498 ~~declaration of condominium to the coverage requirements of this~~  
499 ~~section.~~

500 ~~(c) Every hazard insurance policy issued or renewed on or~~  
501 ~~after January 1, 2004, to an individual unit owner shall provide~~  
502 ~~that the coverage afforded by such policy is excess over the~~  
503 ~~amount recoverable under any other policy covering the same~~  
504 ~~property. Each insurance policy issued to an individual unit~~  
505 ~~owner providing such coverage shall be without rights of~~  
506 ~~subrogation against the condominium association that operates the~~  
507 ~~condominium in which such unit owner's unit is located. All real~~  
508 ~~or personal property located within the boundaries of the unit~~  
509 ~~owner's unit which is excluded from the coverage to be provided~~  
510 ~~by the association as set forth in paragraph (b) shall be insured~~  
511 ~~by the individual unit owner.~~

512 ~~(d) The association shall obtain and maintain adequate~~  
513 ~~insurance or fidelity bonding of all persons who control or~~  
514 ~~disburse funds of the association. The insurance policy or~~  
515 ~~fidelity bond must cover the maximum funds that will be in the~~  
516 ~~custody of the association or its management agent at any one~~

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517 ~~time. As used in this paragraph, the term "persons who control or~~  
518 ~~disburse funds of the association" includes, but is not limited~~  
519 ~~to, those individuals authorized to sign checks and the~~  
520 ~~president, secretary, and treasurer of the association. The~~  
521 ~~association shall bear the cost of bonding.~~

522 (12) OFFICIAL RECORDS.--

523 (b)1. The official records of the association shall be  
524 maintained within the state.

525 2. Subject to paragraph (c), a unit owner may request in  
526 writing that the records of the association identified in the  
527 request be made available to him or her. The board, or its  
528 designee, shall acknowledge the request, in writing, within 5  
529 days of receipt of the request. The acknowledgement will include  
530 the date, time, and place at which the records will be made  
531 available. That date shall not be more than 10 working days after  
532 receipt of the request.

533 3. For purposes of this paragraph, "available" means having  
534 the originals or a copy of the official records of the  
535 association available for inspection or copying at a location  
536 within 30 miles driving distance from the condominium property.  
537 ~~The records of the association shall be made available to a unit~~  
538 ~~owner within 5 working days after receipt of written request by~~  
539 ~~the board or its designee. This paragraph may be complied with by~~  
540 ~~having a copy of the official records of the association~~  
541 ~~available for inspection or copying on the condominium property~~  
542 ~~or association property.~~

543 (c) The official records of the association are open to  
544 inspection by any association member or the authorized  
545 representative of such member at all reasonable times. The right

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546 to inspect the records includes the right to make or obtain  
547 copies, at the reasonable expense, if any, of the association  
548 member. The association may adopt reasonable rules regarding the  
549 frequency, time, location, notice, and manner of record  
550 inspections and copying. The failure of an association to provide  
551 the records within 10 working days after receipt of a written  
552 request shall create a rebuttable presumption that the  
553 association willfully failed to comply with this paragraph. A  
554 unit owner who is denied access to official records is entitled  
555 to the actual damages or minimum damages for the association's  
556 willful failure to comply with this paragraph. The minimum  
557 damages shall be \$50 per calendar day up to 10 days, the  
558 calculation to begin on the 11th working day after receipt of the  
559 written request. The failure to permit inspection of the  
560 association records as provided herein entitles any person  
561 prevailing in an enforcement action to recover reasonable  
562 attorney's fees from the person in control of the records who,  
563 directly or indirectly, knowingly denied access to the records  
564 for inspection. The association shall maintain an adequate number  
565 of copies of the declaration, articles of incorporation, bylaws,  
566 and rules, and all amendments to each of the foregoing, as well  
567 as the question and answer sheet provided for in s. 718.504 and  
568 year-end financial information required in this section on the  
569 condominium property to ensure their availability to unit owners  
570 and prospective purchasers, and may charge its actual costs for  
571 preparing and furnishing these documents to those requesting the  
572 same. Notwithstanding the provisions of this paragraph, the  
573 following records shall not be accessible to unit owners:

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574 1. Any record protected by the lawyer-client privilege as  
575 described in s. 90.502; and any record protected by the work-  
576 product privilege, including any record prepared by an  
577 association attorney or prepared at the attorney's express  
578 direction; which reflects a mental impression, conclusion,  
579 litigation strategy, or legal theory of the attorney or the  
580 association, and which was prepared exclusively for civil or  
581 criminal litigation or for adversarial administrative  
582 proceedings, or which was prepared in anticipation of imminent  
583 civil or criminal litigation or imminent adversarial  
584 administrative proceedings until the conclusion of the litigation  
585 or adversarial administrative proceedings.

586 2. Information obtained by an association in connection  
587 with the approval of the lease, sale, or other transfer of a  
588 unit.

589 3. Medical records of unit owners.

590 4. The dates of birth, social security numbers, drivers'  
591 license numbers, financial account numbers, and credit account  
592 numbers of unit owners and any persons residing in the units.

593 (13) FINANCIAL REPORTING.--Within 90 days after the end of  
594 the fiscal year, or annually on a date provided in the bylaws,  
595 the association shall prepare and complete, or contract for the  
596 preparation and completion of, a financial report for the  
597 preceding fiscal year. Within 21 days after the final financial  
598 report is completed by the association or received from the third  
599 party, but not later than 120 days after the end of the fiscal  
600 year or other date as provided in the bylaws, the association  
601 shall mail to each unit owner at the address last furnished to  
602 the association by the unit owner, or hand deliver to each unit

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603 owner, a copy of the financial report or a notice that a copy of  
604 the financial report will be mailed or hand delivered to the unit  
605 owner, without charge, upon receipt of a written request from the  
606 unit owner. The division shall adopt rules setting forth uniform  
607 accounting principles and standards to be used by all  
608 associations and shall adopt rules addressing financial reporting  
609 requirements for multicondominium associations. In adopting such  
610 rules, the division shall consider the number of members and  
611 annual revenues of an association. Financial reports shall be  
612 prepared as follows:

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

618 1. An association with total annual revenues of \$150,000  
619 ~~\$100,000~~ or more, but less than \$300,000 ~~\$200,000~~, shall prepare  
620 compiled financial statements.

621 2. An association with total annual revenues of at least  
622 \$300,000 ~~\$200,000~~, but less than \$600,000 ~~\$400,000~~, shall  
623 prepare reviewed financial statements.

624 3. An association with total annual revenues of \$600,000  
625 ~~\$400,000~~ or more shall prepare audited financial statements.

626 (b)1. An association with total annual revenues of less  
627 than \$150,000 ~~\$100,000~~ shall prepare a report of cash receipts  
628 and expenditures.

629 2. An association which operates less than 50 units,  
630 regardless of the association's annual revenues, shall prepare a

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631 | report of cash receipts and expenditures in lieu of financial  
632 | statements required by paragraph (a).

633 |         3. A report of cash receipts and disbursements must  
634 | disclose the amount of receipts by accounts and receipt  
635 | classifications and the amount of expenses by accounts and  
636 | expense classifications, including, but not limited to, the  
637 | following, as applicable: costs for security, professional and  
638 | management fees and expenses, taxes, costs for recreation  
639 | facilities, expenses for refuse collection and utility services,  
640 | expenses for lawn care, costs for building maintenance and  
641 | repair, insurance costs, administration and salary expenses, and  
642 | reserves accumulated and expended for capital expenditures,  
643 | deferred maintenance, and any other category for which the  
644 | association maintains reserves.

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

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

650 |             2. Reviewed or audited financial statements, if the  
651 | association is required to prepare compiled financial statements;  
652 | or

653 |             3. Audited financial statements if the association is  
654 | required to prepare reviewed financial statements.

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

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

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660           2. A report of cash receipts and expenditures or a compiled  
661 financial statement in lieu of a reviewed or audited financial  
662 statement; or

663           3. A report of cash receipts and expenditures, a compiled  
664 financial statement, or a reviewed financial statement in lieu of  
665 an audited financial statement.

666  
667 Such meeting and approval must occur prior to the end of the  
668 fiscal year and is effective only for the fiscal year in which  
669 the vote is taken. This paragraph shall not apply to fiscal year  
670 financial statements of an association subject to paragraph (a)  
671 if financial statements at a level lower than required by  
672 paragraph (a) were prepared for each of the prior 3 consecutive  
673 fiscal years. With respect to an association to which the  
674 developer has not turned over control of the association, all  
675 unit owners, including the developer, may vote on issues related  
676 to the preparation of financial reports for the first 2 fiscal  
677 years of the association's operation, beginning with the fiscal  
678 year in which the declaration is recorded. Thereafter, all unit  
679 owners except the developer may vote on such issues until control  
680 is turned over to the association by the developer.

681           Section 5. Paragraphs (c), (d), and (f) of subsection (2)  
682 of section 718.112, Florida Statutes, are amended to read:

683           718.112 Bylaws.--

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

687           (c) Board of administration meetings.--



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688           1. Meetings of the board of administration at which a  
689 quorum of the members is present shall be open to all unit  
690 owners. Meetings shall be conducted using generally accepted  
691 parliamentary rules of order. Any unit owner may tape record or  
692 videotape meetings of the board of administration. The right to  
693 attend such meetings includes the right to speak at such meetings  
694 with reference to all designated agenda items. The division shall  
695 adopt reasonable rules governing the tape recording and  
696 videotaping of the meeting. The association may adopt written  
697 reasonable rules governing the frequency, duration, and manner of  
698 unit owner statements. Adequate notice of all meetings, which  
699 notice shall specifically incorporate an identification of agenda  
700 items, shall be posted conspicuously on the condominium property  
701 at least 48 continuous hours preceding the meeting except in an  
702 emergency. Any item not included on the notice may be taken up on  
703 an emergency basis by at least a majority plus one of the members  
704 of the board. Such emergency action shall be noticed and ratified  
705 at the next regular meeting of the board. However, written notice  
706 of any meeting at which nonemergency special assessments, or at  
707 which amendment to rules regarding unit use, will be considered  
708 shall be mailed, delivered, or electronically transmitted to the  
709 unit owners and posted conspicuously on the condominium property  
710 not less than 14 days prior to the meeting. Evidence of  
711 compliance with this 14-day notice shall be made by an affidavit  
712 executed by the person providing the notice and filed among the  
713 official records of the association. Upon notice to the unit  
714 owners, the board shall by duly adopted rule designate a specific  
715 location on the condominium property or association property upon  
716 which all notices of board meetings shall be posted. If there is

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717 no condominium property or association property upon which  
718 notices can be posted, notices of board meetings shall be mailed,  
719 delivered, or electronically transmitted at least 14 days before  
720 the meeting to the owner of each unit. In lieu of or in addition  
721 to the physical posting of notice of any meeting of the board of  
722 administration on the condominium property, the association may,  
723 by reasonable rule, adopt a procedure for conspicuously posting  
724 and repeatedly broadcasting the notice and the agenda on a  
725 closed-circuit cable television system serving the condominium  
726 association. However, if broadcast notice is used in lieu of a  
727 notice posted physically on the condominium property, the notice  
728 and agenda must be broadcast at least four times every broadcast  
729 hour of each day that a posted notice is otherwise required under  
730 this section. When broadcast notice is provided, the notice and  
731 agenda must be broadcast in a manner and for a sufficient  
732 continuous length of time so as to allow an average reader to  
733 observe the notice and read and comprehend the entire content of  
734 the notice and the agenda. Notice of any meeting in which regular  
735 assessments against unit owners are to be considered for any  
736 reason shall specifically contain a statement that assessments  
737 will be considered and the nature of any such assessments.  
738 Meetings of a committee to take final action on behalf of the  
739 board or make recommendations to the board regarding the  
740 association budget are subject to the provisions of this  
741 paragraph. Meetings of a committee that does not take final  
742 action on behalf of the board or make recommendations to the  
743 board regarding the association budget are subject to the  
744 provisions of this section, unless those meetings are exempted  
745 from this section by the bylaws of the association.

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746 Notwithstanding any other law, the requirement that board  
747 meetings and committee meetings be open to the unit owners is  
748 inapplicable to meetings between the board or a committee and the  
749 association's attorney, with respect to proposed or pending  
750 litigation, when the meeting is held for the purpose of seeking  
751 or rendering legal advice.

752 2. If 20 percent of the total voting interests petition the  
753 board to address an item of business, the board shall at its next  
754 regular board meeting or at a special meeting of the board, but  
755 not later than 60 days after the receipt of the petition, take  
756 the petitioned item up on an agenda. The board shall give all  
757 members notice of the meeting at which the petitioned item shall  
758 be addressed in accordance with subparagraph 1. Each member shall  
759 have the right to speak for at least 3 minutes on each matter  
760 placed on the agenda by petition, provided that the member signs  
761 the sign-up sheet, if one is provided, or submits a written  
762 request to speak prior to the meeting. Other than addressing the  
763 petitioned item at the meeting, the board is not obligated to  
764 take any other action requested by the petition.

765 (d) Unit owner meetings.--

766 1. There shall be an annual meeting of the unit owners. All  
767 meetings of the unit owners, including the annual meeting, shall  
768 be held at the place and time provided in the association's  
769 bylaws or, if the bylaws are silent, at a time and place  
770 specified by the board that is within the state and within 20  
771 miles of the condominium property. Unless the bylaws provide  
772 otherwise, a vacancy on the board caused by the expiration of a  
773 director's term shall be filled by electing a new board member,  
774 and the election shall be by secret ballot; however, if the

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775 number of vacancies equals or exceeds the number of candidates,  
776 no election is required. If there is no provision in the bylaws  
777 for terms of the members of the board, the terms of all members  
778 of the board shall expire upon the election of their successors  
779 at the annual meeting. Any unit owner desiring to be a candidate  
780 for board membership shall comply with subparagraph 3. A person  
781 who has been convicted of any felony by any court of record in  
782 the United States and who has not had his or her right to vote  
783 restored pursuant to law in the jurisdiction of his or her  
784 residence is not eligible for board membership. The validity of  
785 an action by the board is not affected if it is later determined  
786 that a member of the board is ineligible for board membership due  
787 to having been convicted of a felony.

788 2. The bylaws shall provide the method of calling meetings  
789 of unit owners, including annual meetings. Written notice, which  
790 notice must include an agenda, shall be mailed, hand delivered,  
791 or electronically transmitted to each unit owner at least 14 days  
792 prior to the annual meeting and shall be posted in a conspicuous  
793 place on the condominium property at least 14 continuous days  
794 preceding the annual meeting. Upon notice to the unit owners, the  
795 board shall by duly adopted rule designate a specific location on  
796 the condominium property or association property upon which all  
797 notices of unit owner meetings shall be posted; however, if there  
798 is no condominium property or association property upon which  
799 notices can be posted, this requirement does not apply. In lieu  
800 of or in addition to the physical posting of notice of any  
801 meeting of the unit owners on the condominium property, the  
802 association may, by reasonable rule, adopt a procedure for  
803 conspicuously posting and repeatedly broadcasting the notice and

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804 the agenda on a closed-circuit cable television system serving  
805 the condominium association. However, if broadcast notice is used  
806 in lieu of a notice posted physically on the condominium  
807 property, the notice and agenda must be broadcast at least four  
808 times every broadcast hour of each day that a posted notice is  
809 otherwise required under this section. When broadcast notice is  
810 provided, the notice and agenda must be broadcast in a manner and  
811 for a sufficient continuous length of time so as to allow an  
812 average reader to observe the notice and read and comprehend the  
813 entire content of the notice and the agenda. Unless a unit owner  
814 waives in writing the right to receive notice of the annual  
815 meeting, such notice shall be hand delivered, mailed, or  
816 electronically transmitted to each unit owner. Notice for  
817 meetings and notice for all other purposes shall be mailed to  
818 each unit owner at the address last furnished to the association  
819 by the unit owner, or hand delivered to each unit owner. However,  
820 if a unit is owned by more than one person, the association shall  
821 provide notice, for meetings and all other purposes, to that one  
822 address which the developer initially identifies for that purpose  
823 and thereafter as one or more of the owners of the unit shall so  
824 advise the association in writing, or if no address is given or  
825 the owners of the unit do not agree, to the address provided on  
826 the deed of record. An officer of the association, or the manager  
827 or other person providing notice of the association meeting,  
828 shall provide an affidavit or United States Postal Service  
829 certificate of mailing, to be included in the official records of  
830 the association affirming that the notice was mailed or hand  
831 delivered, in accordance with this provision.

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832           3. The members of the board shall be elected by written  
833 ballot or voting machine. Proxies shall in no event be used in  
834 electing the board, either in general elections or elections to  
835 fill vacancies caused by recall, resignation, or otherwise,  
836 unless otherwise provided in this chapter. Not less than 60 days  
837 before a scheduled election, the association shall mail, deliver,  
838 or electronically transmit, whether by separate association  
839 mailing or included in another association mailing, delivery, or  
840 transmission, including regularly published newsletters, to each  
841 unit owner entitled to a vote, a first notice of the date of the  
842 election. Any unit owner or other eligible person desiring to be  
843 a candidate for the board must give written notice to the  
844 association not less than 40 days before a scheduled election.  
845 Together with the written notice and agenda as set forth in  
846 subparagraph 2., the association shall mail, deliver, or  
847 electronically transmit a second notice of the election to all  
848 unit owners entitled to vote therein, together with a ballot  
849 which shall list all candidates. Upon request of a candidate, the  
850 association shall include an information sheet, no larger than  
851 8 1/2 inches by 11 inches, which must be furnished by the  
852 candidate not less than 35 days before the election, to be  
853 included with the mailing, delivery, or transmission of the  
854 ballot, with the costs of mailing, delivery, or electronic  
855 transmission and copying to be borne by the association. The  
856 association is not liable for the contents of the information  
857 sheets prepared by the candidates. In order to reduce costs, the  
858 association may print or duplicate the information sheets on both  
859 sides of the paper. The division shall by rule establish voting  
860 procedures consistent with the provisions contained herein,

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861 including rules establishing procedures for giving notice by  
862 electronic transmission and rules providing for the secrecy of  
863 ballots. Elections shall be decided by a plurality of those  
864 ballots cast. There shall be no quorum requirement; however, at  
865 least 20 percent of the eligible voters must cast a ballot in  
866 order to have a valid election of members of the board. No unit  
867 owner shall permit any other person to vote his or her ballot,  
868 and any such ballots improperly cast shall be deemed invalid,  
869 provided any unit owner who violates this provision may be fined  
870 by the association in accordance with s. 718.303. A unit owner  
871 who needs assistance in casting the ballot for the reasons stated  
872 in s. 101.051 may obtain assistance in casting the ballot. The  
873 regular election shall occur on the date of the annual meeting.  
874 The provisions of this subparagraph shall not apply to timeshare  
875 condominium associations. Notwithstanding the provisions of this  
876 subparagraph, an election is not required unless more candidates  
877 file notices of intent to run or are nominated than board  
878 vacancies exist.

879       4. Any approval by unit owners called for by this chapter  
880 or the applicable declaration or bylaws, including, but not  
881 limited to, the approval requirement in s. 718.111(8), shall be  
882 made at a duly noticed meeting of unit owners and shall be  
883 subject to all requirements of this chapter or the applicable  
884 condominium documents relating to unit owner decisionmaking,  
885 except that unit owners may take action by written agreement,  
886 without meetings, on matters for which action by written  
887 agreement without meetings is expressly allowed by the applicable  
888 bylaws or declaration or any statute that provides for such  
889 action.

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890           5. Unit owners may waive notice of specific meetings if  
891 allowed by the applicable bylaws or declaration or any statute.  
892 If authorized by the bylaws, notice of meetings of the board of  
893 administration, unit owner meetings, except unit owner meetings  
894 called to recall board members under paragraph (j), and committee  
895 meetings may be given by electronic transmission to unit owners  
896 who consent to receive notice by electronic transmission.

897           6. Unit owners shall have the right to participate in  
898 meetings of unit owners with reference to all designated agenda  
899 items. However, the association may adopt reasonable rules  
900 governing the frequency, duration, and manner of unit owner  
901 participation.

902           7. Any unit owner may tape record or videotape a meeting of  
903 the unit owners subject to reasonable rules adopted by the  
904 division.

905           8. Unless otherwise provided in the bylaws, any vacancy  
906 occurring on the board before the expiration of a term may be  
907 filled by the affirmative vote of the majority of the remaining  
908 directors, even if the remaining directors constitute less than a  
909 quorum, or by the sole remaining director. In the alternative, a  
910 board may hold an election to fill the vacancy, in which case the  
911 election procedures must conform to the requirements of  
912 subparagraph 3. unless the association has opted out of the  
913 statutory election process, in which case the bylaws of the  
914 association control. Unless otherwise provided in the bylaws, a  
915 board member appointed or elected under this section shall fill  
916 the vacancy for the unexpired term of the seat being filled.  
917 Filling vacancies created by recall is governed by paragraph (j)  
918 and rules adopted by the division.



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919  
920 Notwithstanding subparagraphs (b)2. and (d)3., an association  
921 may, by the affirmative vote of a majority of the total voting  
922 interests, provide for different voting and election procedures  
923 in its bylaws, which vote may be by a proxy specifically  
924 delineating the different voting and election procedures. The  
925 different voting and election procedures may provide for  
926 elections to be conducted by limited or general proxy.

927 (f) Annual budget.--

928 1. The proposed annual budget of common expenses shall be  
929 detailed and shall show the amounts budgeted by accounts and  
930 expense classifications, including, if applicable, but not  
931 limited to, those expenses listed in s. 718.504(21). A  
932 multicondominium association shall adopt a separate budget of  
933 common expenses for each condominium the association operates and  
934 shall adopt a separate budget of common expenses for the  
935 association. In addition, if the association maintains limited  
936 common elements with the cost to be shared only by those entitled  
937 to use the limited common elements as provided for in s.  
938 718.113(1), the budget or a schedule attached thereto shall show  
939 amounts budgeted therefor. If, after turnover of control of the  
940 association to the unit owners, any of the expenses listed in s.  
941 718.504(21) are not applicable, they need not be listed.

942 2. In addition to annual operating expenses, the budget  
943 shall include reserve accounts for those items of capital  
944 expenditures and deferred maintenance that occur less frequently  
945 than annually. These accounts shall include, but are not limited  
946 to, roof replacement, building painting, and pavement  
947 resurfacing, regardless of the amount of deferred maintenance

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948 expense or replacement cost, and for any other item for which the  
949 deferred maintenance expense or replacement cost exceeds the  
950 greater of \$10,000 or \$300 multiplied by the number of units. The  
951 amount to be reserved shall be computed by means of a formula  
952 which is based upon estimated remaining useful life and estimated  
953 replacement cost or deferred maintenance expense of each reserve  
954 item. The association may adjust replacement reserve assessments  
955 annually to take into account any changes in estimates or  
956 extension of the useful life of a reserve item caused by deferred  
957 maintenance. This subsection does not apply to an adopted budget  
958 in which the members of an association have determined, by a  
959 majority vote at a duly called meeting of the association, to  
960 provide no reserves or less reserves than required by this  
961 subsection. However, prior to turnover of control of an  
962 association by a developer to unit owners other than a developer  
963 pursuant to s. 718.301, the developer may vote to waive the  
964 reserves or reduce the funding of reserves for the first 2 fiscal  
965 years of the association's operation, beginning with the fiscal  
966 year in which the initial declaration is recorded, after which  
967 time reserves may be waived or reduced only upon the vote of a  
968 majority of all nondeveloper voting interests voting in person or  
969 by limited proxy at a duly called meeting of the association. If  
970 a meeting of the unit owners has been called to determine whether  
971 to waive or reduce the funding of reserves, and no such result is  
972 achieved or a quorum is not attained, the reserves as included in  
973 the budget shall go into effect. After the turnover, the  
974 developer may vote its voting interest to waive or reduce the  
975 funding of reserves.

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976           3. Reserve funds and any interest accruing thereon shall  
977 remain in the reserve account or accounts, and shall be used only  
978 for authorized reserve expenditures unless their use for other  
979 purposes is approved in advance by a majority vote at a duly  
980 called meeting of the association. Prior to turnover of control  
981 of an association by a developer to unit owners other than the  
982 developer pursuant to s. 718.301, the developer-controlled  
983 association shall not vote to use reserves for purposes other  
984 than that for which they were intended without the approval of a  
985 majority of all nondeveloper voting interests, voting in person  
986 or by limited proxy at a duly called meeting of the association.

987           4. The only voting interests which are eligible to vote on  
988 questions that involve waiving or reducing the funding of  
989 reserves, or using existing reserve funds for purposes other than  
990 purposes for which the reserves were intended, are the voting  
991 interests of the units subject to assessment to fund the reserves  
992 in question.

993           Section 6. Paragraph (a) of subsection (1) of section  
994 718.115, Florida Statutes, is amended to read:

995           718.115 Common expenses and common surplus.--

996           (1) (a) Common expenses include the expenses of the  
997 operation, maintenance, repair, replacement, or protection of the  
998 common elements and association property, costs of carrying out  
999 the powers and duties of the association, and any other expense,  
1000 whether or not included in the foregoing, designated as common  
1001 expense by this chapter, the declaration, the documents creating  
1002 the association, or the bylaws. Common expenses also include  
1003 reasonable transportation services, insurance for directors and  
1004 officers, road maintenance and operation expenses, in-house

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1005 | communications, and security services, which are reasonably  
1006 | related to the general benefit of the unit owners even if such  
1007 | expenses do not attach to the common elements or property of the  
1008 | condominium. However, such common expenses must either have been  
1009 | services or items provided on or after the date control of the  
1010 | association is transferred from the developer to the unit owners  
1011 | or must be services or items provided for in the condominium  
1012 | documents or bylaws. The expenses of items or services required  
1013 | by federal, state, or local government to be installed,  
1014 | maintained, or supplied to the condominium property by the  
1015 | association, including, but not limited to, fire safety  
1016 | equipment, or water and sewer service where a master meter serves  
1017 | the condominium, shall be common expenses whether or not these  
1018 | items or services are specifically identified as common expenses  
1019 | in the declaration, articles, or bylaws of the association.

1020 |       Section 7. Paragraph (c) of subsection (5) of section  
1021 | 718.116, Florida Statutes, is redesignated as paragraph (d), a  
1022 | new paragraph (c) is added to that subsection, and subsection  
1023 | (10) of that section is amended, to read:

1024 |       718.116 Assessments; liability; lien and priority;  
1025 | interest; collection.--

1026 |       (5)

1027 |       (c) Any claim of lien filed on or after January 1, 2009,  
1028 | shall not be valid unless it includes a statement from the  
1029 | executing officer or authorized agent attesting that on a stated  
1030 | date, which shall be no later than 30 days prior to the date of  
1031 | filing, the record owner was given written notice of the amount  
1032 | due and of the association's intention to file a claim of lien if  
1033 | the amount due has not been fully paid within 30 days following

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1034 the date of mailing or delivery of the notice. The statement  
1035 shall also attest that the notice described was given by personal  
1036 delivery to the unit owner or by mailing a copy thereof by  
1037 certified or registered mail, return receipt, addressed to the  
1038 unit owner at his or her last known address.

1039 (d)~~(e)~~ By recording a notice in substantially the following  
1040 form, a unit owner or the unit owner's agent or attorney may  
1041 require the association to enforce a recorded claim of lien  
1042 against his or her condominium parcel:

1043

1044 NOTICE OF CONTEST OF LIEN

1045

1046 TO: (Name and address of association) You are notified  
1047 that the undersigned contests the claim of lien filed by you on  
1048 \_\_\_\_\_, (year) , and recorded in Official Records Book \_\_\_\_\_ at  
1049 Page \_\_\_\_\_, of the public records of \_\_\_\_\_ County, Florida, and  
1050 that the time within which you may file suit to enforce your lien  
1051 is limited to 90 days from the date of service of this notice.  
1052 Executed this \_\_\_\_\_ day of \_\_\_\_\_, (year) .

1053

1054 Signed: (Owner or Attorney)

1055

1056 After notice of contest of lien has been recorded, the clerk of  
1057 the circuit court shall mail a copy of the recorded notice to the  
1058 association by certified mail, return receipt requested, at the  
1059 address shown in the claim of lien or most recent amendment to it  
1060 and shall certify to the service on the face of the notice.  
1061 Service is complete upon mailing. After service, the association  
1062 has 90 days in which to file an action to enforce the lien; and,

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1063 if the action is not filed within the 90-day period, the lien is  
1064 void. However, the 90-day period shall be extended for any length  
1065 of time that the association is prevented from filing its action  
1066 because of an automatic stay resulting from the filing of a  
1067 bankruptcy petition by the unit owner or by any other person  
1068 claiming an interest in the parcel.

1069 (10) The specific purpose or purposes of any special  
1070 assessment, including any contingent special assessment levied in  
1071 conjunction with the purchase of an insurance policy authorized  
1072 by s. 718.111(11), approved in accordance with the condominium  
1073 documents shall be set forth in a written notice of such  
1074 assessment sent or delivered to each unit owner. Unit owners  
1075 shall be afforded no less than 60 days' advance notice to pay  
1076 estimated nonemergency special assessments. The funds collected  
1077 pursuant to a special assessment shall be used only for the  
1078 specific purpose or purposes set forth in such notice. However,  
1079 upon completion of such specific purpose or purposes, any excess  
1080 funds will be considered common surplus, and may, at the  
1081 discretion of the board, either be returned to the unit owners or  
1082 applied as a credit toward future assessments.

1083 Section 8. Section 718.1265, Florida Statutes, is created  
1084 to read:

1085 718.1265 Association emergency powers.--

1086 (1) To the extent allowed by law and unless specifically  
1087 prohibited by the declaration, articles, or bylaws of an  
1088 association, and consistent with the provisions of s. 617.0830,  
1089 the board of administration, in response to damage caused by an  
1090 event for which a state of emergency is declared pursuant to s.

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1091 252.36 in the locale in which the condominium is located, may,  
1092 but is not required to, exercise the following powers:

1093 (a) Conduct board meetings and membership meetings with  
1094 notice given as is practicable. Such notice may be given in any  
1095 practicable manner, including publication, radio, United States  
1096 mail, the Internet, public service announcements, and conspicuous  
1097 posting on the condominium property or any other means the board  
1098 deems reasonable under the circumstances. Notice of board  
1099 decisions may be communicated as provided in this paragraph.

1100 (b) Cancel and reschedule any association meeting.

1101 (c) Name as assistant officers persons who are not  
1102 directors, which assistant officers shall have the same authority  
1103 as the executive officers to whom they are assistants during the  
1104 state of emergency to accommodate the incapacity or  
1105 unavailability of any officer of the association.

1106 (d) Relocate the association's principal office or  
1107 designate alternative principal offices.

1108 (e) Enter into agreements with local counties and  
1109 municipalities to assist counties and municipalities with debris  
1110 removal.

1111 (f) Implement a disaster plan before or immediately  
1112 following the event for which a state of emergency is declared  
1113 that may include, but is not limited to, shutting down or off  
1114 elevators; electricity; water, sewer, or security systems; or air  
1115 conditioners.

1116 (g) Declare any portion of the condominium property  
1117 unavailable for entry or occupancy by unit owners, family  
1118 members, tenants, guests, agents, or invitees to protect the  
1119 health, safety, or welfare of such persons.

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1120       (h) Require the evacuation of the condominium property in  
1121 the event of a mandatory evacuation order in the locale in which  
1122 the condominium is located. Should any unit owner or other  
1123 occupant of a condominium fail or refuse to evacuate the  
1124 condominium property where the board has required evacuation, the  
1125 association shall be immune from liability for injury to persons  
1126 or property arising from such failure or refusal.

1127       (i) Determine whether the condominium property can be  
1128 safely inhabited or occupied. However, such determination is not  
1129 conclusive as to any determination of habitability pursuant to  
1130 the declaration made by county or municipal officials in the  
1131 locale in which the condominium is located.

1132       (j) Mitigate further damage, including taking action to  
1133 contract for the removal of debris, making roofing or other  
1134 repairs to prevent intrusion by the elements, and shoring walls;  
1135 and prevent or mitigate the spread of fungus, including, but not  
1136 limited to, mold or mildew, by removing and disposing of wet  
1137 drywall, insulation, carpet, cabinetry, or other fixtures, on or  
1138 within the condominium property, even if the unit owner is  
1139 obligated by the declaration or law to insure or replace those  
1140 fixtures and to remove personal property from a unit.

1141       (k) Contract, on behalf of any unit owner or owners, for  
1142 items or services for which the owner or owners are otherwise  
1143 individually responsible, but which are necessary to prevent  
1144 further damage to the condominium property. In such event, the  
1145 unit owner or owners on whose behalf the board has contracted are  
1146 responsible for reimbursing the association for the actual costs  
1147 of the items or services, and the association may use its lien  
1148 authority provided by s. 718.116 to enforce collection of the



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1149 charges. Without limitation, such items or services may include  
1150 the drying of units, the boarding of broken windows or doors, and  
1151 the replacement of damaged air conditioners or air handlers to  
1152 provide climate control in the units or other portions of the  
1153 property.

1154 (1) Levy special assessments without a vote of the owners,  
1155 regardless of any provision to the contrary in the declaration,  
1156 articles, or bylaws of an association and regardless of the fact  
1157 that such authority does not specifically appear in such  
1158 documents.

1159 (m) Use reserve funds and borrow money and pledge  
1160 association assets as collateral to fund emergency repairs and  
1161 carry out the duties of the association when operating funds are  
1162 insufficient, without unit owner approval. This paragraph does  
1163 not limit the general authority of the association to borrow  
1164 money, subject to such restrictions as are contained in the  
1165 declaration, articles, or bylaws.

1166 (2) The special powers authorized under subsection (1)  
1167 shall be limited to that time reasonably necessary to protect the  
1168 health, safety, and welfare of the association, the unit owners,  
1169 their family members, tenants, guests, agents, or invitees and  
1170 shall be reasonably necessary to mitigate further damage and make  
1171 emergency repairs.

1172 Section 9. Paragraphs (d) and (e) of subsection (1) of  
1173 section 718.3025, Florida Statutes, are amended, and subsection  
1174 (5) is added to that section, to read:

1175 718.3025 Agreements for operation, maintenance, or  
1176 management of condominiums; specific requirements.--

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1177 (1) No written contract between a party contracting to  
1178 provide maintenance or management services and an association  
1179 which contract provides for operation, maintenance, or management  
1180 of a condominium association or property serving the unit owners  
1181 of a condominium shall be valid or enforceable unless the  
1182 contract:

1183 ~~(d) Specifies a minimum number of personnel to be employed~~  
1184 ~~by the party contracting to provide maintenance or management~~  
1185 ~~services for the purpose of providing service to the association.~~

1186 ~~(e)~~ Discloses any financial or ownership interest which the  
1187 developer, if the developer is in control of the association,  
1188 holds with regard to the party contracting to provide maintenance  
1189 or management services.

1190 (5) No clause in a contract subject to this section  
1191 executed on or after January 1, 2009, shall be enforceable to the  
1192 extent that it provides for the automatic renewal or the  
1193 automatic extension of the contract.

1194 Section 10. Section 718.3026, Florida Statutes, is amended  
1195 to read:

1196 718.3026 Contracts for products and services; in writing;  
1197 bids; exceptions.--Associations with less than 100 units may opt  
1198 out of the provisions of this section if two-thirds of the unit  
1199 owners vote to do so, which opt-out may be accomplished by a  
1200 proxy specifically setting forth the exception from this section.  
1201 Such an opt out expires 3 years following the date of the opt-out  
1202 vote.

1203 (1) All contracts as further described herein or any  
1204 contract that is not to be fully performed within 1 year after  
1205 the making thereof, for the purchase, lease, or renting of

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1206 materials or equipment to be used by the association in  
1207 accomplishing its purposes under this chapter, and all contracts  
1208 for the provision of services, shall be in writing. If a contract  
1209 for the purchase, lease, or renting of materials or equipment, or  
1210 for the provision of services, requires payment by the  
1211 association on behalf of any condominium operated by the  
1212 association in the aggregate that exceeds 5 percent of the total  
1213 annual budget of the association, including reserves, the  
1214 association shall obtain competitive bids for the materials,  
1215 equipment, or services. Nothing contained herein shall be  
1216 construed to require the association to accept the lowest bid.

1217 (2) (a) 1. Notwithstanding the foregoing, contracts with  
1218 employees of the association, and contracts for attorney,  
1219 accountant, architect, community association manager, timeshare  
1220 management firm, engineering, and landscape architect services  
1221 are not subject to the provisions of this section.

1222 2. A contract executed before January 1, 1992, and any  
1223 renewal thereof, is not subject to the competitive bid  
1224 requirements of this section. If a contract was awarded under the  
1225 competitive bid procedures of this section, any renewal of that  
1226 contract is not subject to such competitive bid requirements if  
1227 the contract contains a provision that allows the board to cancel  
1228 the contract on 30 days' notice. Materials, equipment, or  
1229 services provided to a condominium under a local government  
1230 franchise agreement by a franchise holder are not subject to the  
1231 competitive bid requirements of this section. A contract with a  
1232 manager, if made by a competitive bid, may be made for up to 3  
1233 years. A condominium whose declaration or bylaws provides for  
1234 competitive bidding for services may operate under the provisions

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1235 of that declaration or bylaws in lieu of this section if those  
1236 provisions are not less stringent than the requirements of this  
1237 section.

1238 (b) Nothing contained herein is intended to limit the  
1239 ability of an association to obtain needed products and services  
1240 in an emergency.

1241 (c) This section shall not apply if the business entity  
1242 with which the association desires to enter into a contract is  
1243 the only source of supply within the county serving the  
1244 association.

1245 (d) Nothing contained herein shall excuse a party  
1246 contracting to provide maintenance or management services from  
1247 compliance with s. 718.3025.

1248 Section 11. Subsection (3) of section 718.303, Florida  
1249 Statutes, is amended to read:

1250 718.303 Obligations of owners; waiver; levy of fine against  
1251 unit by association.--

1252 (3) If the declaration or bylaws so provide, the  
1253 association may levy reasonable fines against a unit for the  
1254 failure of the owner of the unit, or its occupant, licensee, or  
1255 invitee, to comply with any provision of the declaration, the  
1256 association bylaws, or reasonable rules of the association. No  
1257 fine will become a lien against a unit. No fine may exceed \$100  
1258 per violation. However, a fine may be levied on the basis of each  
1259 day of a continuing violation, with a single notice and  
1260 opportunity for hearing, provided that no such fine shall in the  
1261 aggregate exceed \$1,000. No fine may be levied except after  
1262 giving reasonable notice and opportunity for a hearing to the  
1263 unit owner and, if applicable, its licensee or invitee. The

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1264 hearing must be held before a committee of other unit owners who  
1265 are neither board members nor persons residing in a board  
1266 member's household. If the committee does not agree with the  
1267 fine, the fine may not be levied. The provisions of this  
1268 subsection do not apply to unoccupied units.

1269 Section 12. Subsection (4) of section 718.5012, Florida  
1270 Statutes, is amended to read:

1271 718.5012 Ombudsman; powers and duties.--The ombudsman shall  
1272 have the powers that are necessary to carry out the duties of his  
1273 or her office, including the following specific powers:

1274 (4) To act as liaison between the division, unit owners,  
1275 boards of directors, board members, community association  
1276 managers, and other affected parties. The ombudsman shall ~~develop~~  
1277 ~~policies and procedures to~~ assist unit owners, boards of  
1278 directors, board members, community association managers, and  
1279 other affected parties to understand their rights and  
1280 responsibilities as set forth in this chapter and the condominium  
1281 documents governing their respective association. The ombudsman  
1282 shall coordinate and assist in the preparation and adoption of  
1283 educational and reference material, and shall endeavor to  
1284 coordinate with private or volunteer providers of these services,  
1285 so that the availability of these resources is made known to the  
1286 largest possible audience.

1287 Section 13. Paragraph (a) of subsection (2) of section  
1288 718.503, Florida Statutes, is amended to read:

1289 718.503 Developer disclosure prior to sale; nondeveloper  
1290 unit owner disclosure prior to sale; voidability.--

1291 (2) NONDEVELOPER DISCLOSURE.--

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1292 (a) Each unit owner who is not a developer as defined by  
1293 this chapter shall comply with the provisions of this subsection  
1294 prior to the sale of his or her unit. Each prospective purchaser  
1295 who has entered into a contract for the purchase of a condominium  
1296 unit is entitled, at the seller's expense, to a current copy of  
1297 the declaration of condominium, articles of incorporation of the  
1298 association, bylaws and rules of the association, financial  
1299 information required by s. 718.111, and the document entitled  
1300 "Frequently Asked Questions and Answers" required by s. 718.504.  
1301 On and after January 1, 2009, the prospective purchaser shall  
1302 also be entitled to receive from the seller a copy of a  
1303 governance form. Such form shall be provided by the division  
1304 summarizing governance of condominium associations. In addition  
1305 to such other information as the division considers helpful to a  
1306 prospective purchaser in understanding association governance,  
1307 the governance form shall address the following subjects:

- 1308 1. The role of the board in conducting the day-to-day  
1309 affairs of the association on behalf of, and in the best  
1310 interests of, the owners.
- 1311 2. The board's responsibility to provide advance notice of  
1312 board and membership meetings.
- 1313 3. The rights of owners to attend and speak at board and  
1314 membership meetings.
- 1315 4. The responsibility of the board and of owners with  
1316 respect to maintenance of the condominium property.
- 1317 5. The responsibility of the board and owners to abide by  
1318 the condominium documents, this chapter, rules promulgated by the  
1319 division, and reasonable rules promulgated by the board.

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1320       6. Owners' rights to inspect and copy association records  
1321 and the limitations on such rights.

1322       7. Remedies available to owners with respect to actions by  
1323 the board which may be abusive or beyond the board's power and  
1324 authority.

1325       8. The right of the board to hire a property management  
1326 firm, subject to its own primary responsibility for such  
1327 management.

1328       9. The responsibility of owners with regard to payment of  
1329 regular or special assessments necessary for the operation of the  
1330 property and the potential consequences of failure to pay such  
1331 assessments.

1332       10. The voting rights of owners.

1333       11. Rights and obligations of the board in enforcement of  
1334 rules in the condominium documents and rules adopted by the  
1335 board.

1336  
1337 The governance form shall also include the following statement in  
1338 conspicuous type: "This publication is intended as an informal  
1339 educational overview of condominium governance. In the event of a  
1340 conflict the provisions of chapter 718, Florida Statutes; rules  
1341 promulgated by the Division of Florida Land Sales, Condominiums,  
1342 and Mobile Homes of the Department of Business and Professional  
1343 Regulation; the provisions of the condominium documents; and  
1344 reasonable rules promulgated by the condominium association's  
1345 board of administration prevail over the contents of this  
1346 publication."

1347       Section 14. Paragraphs (b) and (c) of subsection (2),  
1348 paragraphs (a) and (c) of subsection (5), paragraphs (b), (c),

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1349 (d), (f), and (g) of subsection (6), and paragraphs (a), (b), and  
1350 (c) of subsection (7) of section 720.303, Florida Statutes, are  
1351 amended, and subsection (12) is added to that section, to read:

1352 720.303 Association powers and duties; meetings of board;  
1353 official records; budgets; financial reporting; association  
1354 funds; recalls.--

1355 (2) BOARD MEETINGS.--

1356 (b) Members have the right to attend all meetings of the  
1357 board and to speak ~~on any matter placed on the agenda by petition~~  
1358 ~~of the voting interests~~ for at least 3 minutes on any matter  
1359 placed on the agenda. Members may also address the meeting on  
1360 nonagenda issues following the completion of the regular agenda  
1361 during a new business heading. The association may adopt written  
1362 reasonable rules expanding the right of members to speak and  
1363 governing the frequency, duration, and other manner of member  
1364 statements, which rules must be consistent with this paragraph  
1365 and may include a sign-up sheet for members wishing to speak.  
1366 Notwithstanding any other law, the requirement that board  
1367 meetings and committee meetings be open to the members is  
1368 inapplicable to meetings between the board or a committee to  
1369 discuss proposed or pending litigation with ~~and~~ the association's  
1370 attorney, with respect to meetings of the board held for the  
1371 purpose of discussing personnel matters.

1372 (c) The bylaws shall provide for giving notice to parcel  
1373 owners and members of all board meetings and, if they do not do  
1374 so, shall be deemed to provide the following:

1375 1. Notices of all regular board meetings must be posted in  
1376 a conspicuous place in the community at least 48 hours in advance  
1377 of a meeting, except in an emergency. Notice of special board



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1378 meetings may be made with less than 48 hours' notice in cases of  
1379 sudden, unforeseen happenings that require action to protect  
1380 lives or property of the association's members. In the  
1381 alternative, if notice is not posted in a conspicuous place in  
1382 the community, notice of each board meeting must be mailed or  
1383 delivered to each member at least 7 days before the meeting,  
1384 except in an emergency. Notwithstanding this general notice  
1385 requirement, for communities with more than 100 members, the  
1386 bylaws may provide for a reasonable alternative to posting or  
1387 mailing of notice for each board meeting, including publication  
1388 of notice, provision of a schedule of board meetings, or the  
1389 conspicuous posting and repeated broadcasting of the notice on a  
1390 closed-circuit cable television system serving the homeowners'  
1391 association. However, if broadcast notice is used in lieu of a  
1392 notice posted physically in the community, the notice must be  
1393 broadcast at least four times every broadcast hour of each day  
1394 that a posted notice is otherwise required. When broadcast notice  
1395 is provided, the notice and agenda must be broadcast in a manner  
1396 and for a sufficient continuous length of time so as to allow an  
1397 average reader to observe the notice and read and comprehend the  
1398 entire content of the notice and the agenda. The bylaws or  
1399 amended bylaws may provide for giving notice by electronic  
1400 transmission in a manner authorized by law for meetings of the  
1401 board of directors, committee meetings requiring notice under  
1402 this section, and annual and special meetings of the members;  
1403 however, a member must consent in writing to receiving notice by  
1404 electronic transmission.

1405       2. An assessment may not be levied at a board meeting  
1406 unless the notice of the meeting includes a statement that

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1407 assessments will be considered and the nature of the assessments.  
1408 Written notice of any meeting at which special assessments will  
1409 be considered or at which amendments to rules regarding parcel  
1410 use will be considered must be mailed, delivered, or  
1411 electronically transmitted to the members and parcel owners and  
1412 posted conspicuously on the property or broadcast on closed-  
1413 circuit cable television not less than 14 days before the  
1414 meeting, except in cases of sudden, unforeseen happenings that  
1415 require action to protect lives or property of the association's  
1416 members.

1417 3. Directors may not vote by proxy or by secret ballot at  
1418 board meetings, except that secret ballots may be used in the  
1419 election of officers. This subsection also applies to the  
1420 meetings of any committee or other similar body, when a final  
1421 decision will be made regarding the expenditure of association  
1422 funds, and to any body vested with the power to approve or  
1423 disapprove architectural decisions with respect to a specific  
1424 parcel of residential property owned by a member of the  
1425 community.

1426 (5) INSPECTION AND COPYING OF RECORDS.--The official  
1427 records shall be maintained within the state and must be open to  
1428 inspection and available for photocopying by members or their  
1429 authorized agents at reasonable times and places within 10  
1430 business days after receipt of a written request for access. This  
1431 subsection may be complied with by having a copy of the official  
1432 records available for inspection or copying in the community. If  
1433 the association has a photocopy machine available where the  
1434 records are maintained, it must provide parcel owners with copies

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1435 on request during the inspection if the entire request is limited  
1436 to no more than 25 pages.

1437 (a) The failure of an association to provide access to the  
1438 records within 10 business days after receipt of a written  
1439 request submitted by certified mail, return receipt requested,  
1440 creates a rebuttable presumption that the association willfully  
1441 failed to comply with this subsection.

1442 (c) The association may adopt reasonable written rules  
1443 governing the frequency, time, location, notice, records to be  
1444 inspected, and manner of inspections, but may not impose a  
1445 requirement that a parcel owner demonstrate any proper purpose  
1446 for the inspection, state any reason for the inspection, or limit  
1447 a parcel owner's right to inspect records to less than one 8-hour  
1448 business day per month. The association may impose fees to cover  
1449 the costs of providing copies of the official records, including,  
1450 without limitation, the costs of copying. The association may  
1451 charge up to 50 cents per page for copies made on the  
1452 association's photocopier. If the association does not have a  
1453 photocopy machine available where the records are kept, or if the  
1454 records requested to be copied exceed 25 pages in length, the  
1455 association may have copies made by an outside vendor or  
1456 association management company personnel and may charge the  
1457 actual cost of copying, including any reasonable costs involving  
1458 personnel fees and charges at an hourly rate for employee time to  
1459 cover administrative costs to the association. The association  
1460 shall maintain an adequate number of copies of the recorded  
1461 governing documents, to ensure their availability to members and  
1462 prospective members. Notwithstanding the provisions of this

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1463 paragraph, the following records shall not be accessible to  
1464 members or parcel owners:

1465 1. Any record protected by the lawyer-client privilege as  
1466 described in s. 90.502 and any record protected by the work-  
1467 product privilege, including, but not limited to, any record  
1468 prepared by an association attorney or prepared at the attorney's  
1469 express direction which reflects a mental impression, conclusion,  
1470 litigation strategy, or legal theory of the attorney or the  
1471 association and was prepared exclusively for civil or criminal  
1472 litigation or for adversarial administrative proceedings or which  
1473 was prepared in anticipation of imminent civil or criminal  
1474 litigation or imminent adversarial administrative proceedings  
1475 until the conclusion of the litigation or adversarial  
1476 administrative proceedings.

1477 2. Information obtained by an association in connection  
1478 with the approval of the lease, sale, or other transfer of a  
1479 parcel.

1480 3. Disciplinary, health, insurance, and personnel records  
1481 of the association's employees.

1482 4. Medical records of parcel owners or community residents.

1483 (6) BUDGETS.--

1484 (b) In addition to annual operating expenses, the budget  
1485 may include reserve accounts for capital expenditures and  
1486 deferred maintenance for which the association is responsible. To  
1487 the extent that such reserve accounts are not created or  
1488 established pursuant to paragraph (d), funding of such reserves  
1489 shall be limited to the extent that the governing documents ~~do~~  
1490 ~~not~~ limit increases in assessments, including reserves. If the  
1491 budget of the association includes reserve accounts created or

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1492 established pursuant to paragraph (d), such reserves shall be  
1493 determined, maintained, and waived in the manner provided in this  
1494 subsection. Once an association provides for reserve accounts  
1495 created or established pursuant to paragraph (d) in the budget,  
1496 the association shall thereafter determine, maintain, and waive  
1497 reserves in compliance with this subsection. Nothing in this  
1498 section precludes termination of a reserve account established  
1499 pursuant to this paragraph upon approval of a majority of the  
1500 voting interests of the association. Upon such approval, the  
1501 terminating reserve account shall be removed from the budget.

1502 (c)1. If the budget of the association does not provide for  
1503 reserve accounts created or established pursuant to paragraph (d)  
1504 ~~governed by this subsection~~ and the association is responsible  
1505 for the repair and maintenance of capital improvements that may  
1506 result in a special assessment if reserves are not provided, each  
1507 financial report for the preceding fiscal year required by  
1508 subsection (7) shall contain the following statement in  
1509 conspicuous type: THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE  
1510 FOR RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED  
1511 MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS. OWNERS MAY  
1512 ELECT TO PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO THE PROVISIONS  
1513 OF SECTION 720.303(6), FLORIDA STATUTES, UPON THE APPROVAL OF NOT  
1514 LESS THAN A MAJORITY OF THE TOTAL VOTING INTERESTS OF THE  
1515 ASSOCIATION ATTAINED BY VOTE OF THE MEMBERS AT A MEETING OR BY  
1516 WRITTEN CONSENT EXECUTED BY A MAJORITY OF THE VOTING INTERESTS.

1517 2. If the budget of the association does provide for  
1518 funding of accounts for deferred expenditures, including, but not  
1519 limited to, funds for capital expenditures and deferred  
1520 maintenance, but such accounts are not created or established

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1521 pursuant to paragraph (d), each financial report for the  
1522 preceding fiscal year required by subsection (7) shall also  
1523 contain the following statement in conspicuous type: THE BUDGET  
1524 OF THE ASSOCIATION DOES PROVIDE FOR LIMITED VOLUNTARY DEFERRED  
1525 EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES AND DEFERRED  
1526 MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED IN OUR  
1527 GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED TO  
1528 PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO THE PROVISIONS OF  
1529 SECTION 720.303(6), FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT  
1530 TO THE RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN THAT  
1531 STATUTE, NOR ARE RESERVES CALCULATED IN ACCORDANCE WITH THAT  
1532 STATUTE.

1533 (d) An association shall be deemed to have provided for  
1534 reserve accounts when reserve accounts have been initially  
1535 established by the developer or when the membership of the  
1536 association affirmatively elects to provide for reserves. If  
1537 reserve accounts are not initially provided for by the developer,  
1538 the membership of the association may elect to do so upon the  
1539 affirmative approval of not less than a majority of the total  
1540 voting interests of the association. Such approval may be  
1541 attained by vote of the members at a duly called meeting of the  
1542 membership or upon a written consent executed by not less than a  
1543 majority of the total voting interests in the community. The  
1544 approval action of the membership shall state that reserve  
1545 accounts shall be provided for in the budget and shall designate  
1546 the components for which the reserve accounts are to be  
1547 established. Upon approval by the membership, the board of  
1548 directors shall provide for the required reserve accounts for  
1549 inclusion in the budget in the next fiscal year following the

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1550 approval and in each year thereafter. Once established as  
1551 provided in this subsection, the reserve accounts shall be funded  
1552 or maintained or shall have their funding waived in the manner  
1553 provided in paragraph (f).

1554 (f) After one or more ~~Once a reserve account or reserve~~  
1555 accounts are established, the membership of the association, upon  
1556 a majority vote at a meeting at which a quorum is present, may  
1557 provide for no reserves or less reserves than required by this  
1558 section. If a meeting of the unit owners has been called to  
1559 determine whether to waive or reduce the funding of reserves and  
1560 no such result is achieved or a quorum is not present, the  
1561 reserves as included in the budget shall go into effect. After  
1562 the turnover, the developer may vote its voting interest to waive  
1563 or reduce the funding of reserves. Any vote taken pursuant to  
1564 this subsection to waive or reduce reserves shall be applicable  
1565 only to one budget year.

1566 (g) Funding formulas for reserves authorized by this  
1567 section shall be based on either a separate analysis of each of  
1568 the required assets or a pooled analysis of two or more of the  
1569 required assets.

1570 1. If the association maintains separate reserve accounts  
1571 for each of the required assets, the amount of the contribution  
1572 to each reserve account shall be the sum of the following two  
1573 calculations:

1574 a. The total amount necessary, if any, to bring a negative  
1575 component balance to zero.

1576 b. The total estimated deferred maintenance expense or  
1577 estimated replacement cost of the reserve component less the  
1578 estimated balance of the reserve component as of the beginning of

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1579 | the period for which the budget will be in effect. The remainder,  
1580 | if greater than zero, shall be divided by the estimated remaining  
1581 | useful life of the component.

1582 |  
1583 | The formula may be adjusted each year for changes in estimates  
1584 | and deferred maintenance performed during the year and may  
1585 | include factors such as inflation and earnings on invested funds.

1586 |       2. If the association maintains a pooled account of two or  
1587 | more of the required reserve assets, the amount of the  
1588 | contribution to the pooled reserve account as disclosed on the  
1589 | proposed budget shall not be less than that required to ensure  
1590 | that the balance on hand at the beginning of the period for which  
1591 | the budget will go into effect plus the projected annual cash  
1592 | inflows over the remaining estimated useful life of all of the  
1593 | assets that make up the reserve pool are equal to or greater than  
1594 | the projected annual cash outflows over the remaining estimated  
1595 | useful lives of all of the assets that make up the reserve pool,  
1596 | based on the current reserve analysis. The projected annual cash  
1597 | inflows may include estimated earnings from investment of  
1598 | principal and accounts receivable minus the allowance for  
1599 | doubtful accounts. The reserve funding formula shall not include  
1600 | any type of balloon payments.

1601 |       (7) FINANCIAL REPORTING.--Within 90 days after the end of  
1602 | the fiscal year, or annually on the date provided in the bylaws,  
1603 | the association shall prepare and complete, or contract with a  
1604 | third party for the preparation and completion of, a financial  
1605 | report for the preceding fiscal year. Within 21 days after the  
1606 | final financial report is completed by the association or  
1607 | received from the third party, but not later than 120 days after



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1608 the end of the fiscal year or other date as provided in the  
1609 bylaws, the association shall, within the time limits set forth  
1610 in subsection (5), provide each member with a copy of the annual  
1611 financial report or a written notice that a copy of the financial  
1612 report is available upon request at no charge to the member.  
1613 Financial reports shall be prepared as follows:

1614 (a) An association that meets the criteria of this  
1615 paragraph shall prepare or cause to be prepared a complete set of  
1616 financial statements in accordance with generally accepted  
1617 accounting principles as adopted by the Board of Accountancy. The  
1618 financial statements shall be based upon the association's total  
1619 annual revenues, as follows:

1620 1. An association with total annual revenues of \$150,000  
1621 ~~\$100,000~~ or more, but less than \$300,000 ~~\$200,000~~, shall prepare  
1622 compiled financial statements.

1623 2. An association with total annual revenues of at least  
1624 \$300,000 ~~\$200,000~~, but less than \$600,000 ~~\$400,000~~, shall prepare  
1625 reviewed financial statements.

1626 3. An association with total annual revenues of \$600,000  
1627 ~~\$400,000~~ or more shall prepare audited financial statements.

1628 (b)1. An association with total annual revenues of less  
1629 than \$150,000 ~~\$100,000~~ shall prepare a report of cash receipts  
1630 and expenditures.

1631 2. An association in a community of fewer than 50 parcels,  
1632 regardless of the association's annual revenues, may prepare a  
1633 report of cash receipts and expenditures in lieu of financial  
1634 statements required by paragraph (a) unless the governing  
1635 documents provide otherwise.

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1636           3. A report of cash receipts and disbursement must disclose  
1637 the amount of receipts by accounts and receipt classifications  
1638 and the amount of expenses by accounts and expense  
1639 classifications, including, but not limited to, the following, as  
1640 applicable: costs for security, professional, and management fees  
1641 and expenses; taxes; costs for recreation facilities; expenses  
1642 for refuse collection and utility services; expenses for lawn  
1643 care; costs for building maintenance and repair; insurance costs;  
1644 administration and salary expenses; and reserves if maintained by  
1645 the association.

1646           (c) If 20 percent of the parcel owners petition the board  
1647 for a level of financial reporting higher than that required by  
1648 this section, the association shall duly notice and hold a  
1649 meeting of members within 30 days of receipt of the petition for  
1650 the purpose of voting on raising the level of reporting for that  
1651 fiscal year. Upon approval of a majority of the total voting  
1652 interests of the parcel owners, the association shall prepare or  
1653 cause to be prepared, shall amend the budget or adopt a special  
1654 assessment to pay for the financial report regardless of any  
1655 provision to the contrary in the governing documents, and shall  
1656 provide within 120 ~~90~~ days of the meeting or the end of the  
1657 fiscal year, whichever occurs later:

1658           1. Compiled, reviewed, or audited financial statements, if  
1659 the association is otherwise required to prepare a report of cash  
1660 receipts and expenditures;

1661           2. Reviewed or audited financial statements, if the  
1662 association is otherwise required to prepare compiled financial  
1663 statements; or

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1664 3. Audited financial statements if the association is  
1665 otherwise required to prepare reviewed financial statements.

1666 (12) COMPENSATION PROHIBITED.--A director, officer, or  
1667 committee member of the association may not receive directly or  
1668 indirectly any salary or compensation from the association for  
1669 performance of duties as a director, officer, or committee member  
1670 and such person may not in any other way benefit financially from  
1671 service to the association. This subsection shall not be  
1672 construed to preclude:

1673 (a) Participation by such person in a financial benefit  
1674 accruing to all or a significant number of members as a result of  
1675 actions lawfully taken by the board or a committee of which he or  
1676 she is a member, including, but not limited to, routine  
1677 maintenance, repair, or replacement of community assets;

1678 (b) Reimbursement for out-of-pocket expenses incurred by  
1679 such person on behalf of the association, subject to approval of  
1680 such reimbursement in accordance with procedures established by  
1681 the association's governing documents or, in the absence of such  
1682 procedures, in accordance with an approval process established by  
1683 the board; or

1684 (c) Any recovery of insurance proceeds derived from a  
1685 policy of insurance maintained by the association for the benefit  
1686 of its members.

1687 Section 15. Subsections (1), (2), and (3) of section  
1688 720.305, Florida Statutes, are amended to read:

1689 720.305 Obligations of members; remedies at law or in  
1690 equity; levy of fines and suspension of use rights; failure to  
1691 fill sufficient number of vacancies on board of directors to

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1692 constitute a quorum; appointment of receiver upon petition of any  
1693 member.--

1694 (1) Each member and the member's tenants, guests, and  
1695 invitees, and each association, are governed by, and must comply  
1696 with, this chapter, the governing documents of the community, and  
1697 the rules of the association. Actions at law or in equity, or  
1698 both, to redress alleged failure or refusal to comply with these  
1699 provisions may be brought by the association or by any member  
1700 against:

1701 (a) The association;

1702 (b) A member;

1703 (c) Any director or officer of an association who willfully  
1704 and knowingly fails to comply with these provisions; and

1705 (d) Any tenants, guests, or invitees occupying a parcel or  
1706 using the common areas.

1707

1708 The prevailing party in any such litigation is entitled to  
1709 recover reasonable attorney's fees and costs. A member prevailing  
1710 in an action between the association and the member under this  
1711 section, in addition to recovering his or her reasonable  
1712 attorney's fees, may recover additional amounts as determined by  
1713 the court to be necessary to reimburse the member for his or her  
1714 share of assessments levied by the association to fund its  
1715 expenses of the litigation. The prevailing party in any such  
1716 litigation is entitled to recover reasonable attorney's fees and  
1717 costs, including reasonable postjudgment attorney's fees and  
1718 costs, provided the court retains jurisdiction to enforce the  
1719 judgment. This relief does not exclude other remedies provided by

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1720 law. This section does not deprive any person of any other  
1721 available right or remedy.

1722 (2) If the governing documents so provide, an association  
1723 may suspend, for a reasonable period of time, the rights of a  
1724 member or a member's tenants, guests, or invitees, or both, to  
1725 use common areas and facilities and may levy reasonable fines,  
1726 not to exceed \$100 per violation, against any member or any  
1727 tenant, guest, or invitee. A fine may be levied on the basis of  
1728 each day of a continuing violation, with a single notice and  
1729 opportunity for hearing, except that no such fine shall exceed  
1730 \$1,000 in the aggregate unless otherwise provided in the  
1731 governing documents. A fine of less than \$1,000 shall not become  
1732 a lien against a parcel. In any action to recover a fine, the  
1733 prevailing party is entitled to collect its reasonable attorney's  
1734 fees and costs from the nonprevailing party as determined by the  
1735 court.

1736 (a) A fine or suspension may not be imposed without notice  
1737 of at least 14 days to the person sought to be fined or suspended  
1738 and an opportunity for a hearing before a committee of at least  
1739 three members appointed by the board who are not officers,  
1740 directors, or employees of the association, or the spouse,  
1741 parent, child, brother, or sister of an officer, director, or  
1742 employee. If the committee, by majority vote, does not approve a  
1743 proposed fine or suspension, it may not be imposed.

1744 (b) The requirements of this subsection do not apply to the  
1745 imposition of suspensions or fines upon any member because of the  
1746 failure of the member to pay assessments or other charges when  
1747 due if such action is authorized by the governing documents.

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1748 (c) Suspension of common-area-use rights shall not impair  
1749 the right of an owner or tenant of a parcel to have vehicular and  
1750 pedestrian ingress to and egress from the parcel, including, but  
1751 not limited to, the right to park.

1752 (3) Unless ~~If~~ the governing documents ~~so~~ provide otherwise,  
1753 an association may suspend the voting rights of a member for the  
1754 nonpayment of regular annual assessments that are delinquent in  
1755 excess of 90 days.

1756 Section 16. Subsections (3), (5), (8), and (9) of section  
1757 720.306, Florida Statutes, are amended to read:

1758 720.306 Meetings of members; voting and election  
1759 procedures; amendments.--

1760 (3) SPECIAL MEETINGS.--Special meetings must be held when  
1761 called by the board of directors or, unless a different  
1762 percentage is stated in the governing documents, by at least 10  
1763 percent of the total voting interests of the association or when  
1764 sudden, unforeseen happenings occur that require action to  
1765 protect lives or property of the association's members. Business  
1766 conducted at a special meeting is limited to the purposes  
1767 described in the notice of the meeting.

1768 (5) NOTICE OF MEETINGS.--The bylaws shall provide for  
1769 giving notice to members of all member meetings, and if they do  
1770 not do so shall be deemed to provide the following: The  
1771 association shall give all parcel owners and members actual  
1772 notice of all membership meetings, which shall be mailed,  
1773 delivered, or electronically transmitted to the members not less  
1774 than 14 days prior to the meeting. Evidence of compliance with  
1775 this 14-day notice shall be made by an affidavit executed by the  
1776 person providing the notice and filed upon execution among the

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1777 official records of the association. Notice of a special meeting  
1778 shall be made at least 48 hours in advance or less than that in  
1779 case of any sudden, unforeseen happening that requires action to  
1780 protect lives or property of the association's members. In  
1781 addition to mailing, delivering, or electronically transmitting  
1782 the notice of any meeting, the association may, by reasonable  
1783 rule, adopt a procedure for conspicuously posting and repeatedly  
1784 broadcasting the notice and the agenda on a closed-circuit cable  
1785 television system serving the association. When broadcast notice  
1786 is provided, the notice and agenda must be broadcast in a manner  
1787 and for a sufficient continuous length of time so as to allow an  
1788 average reader to observe the notice and read and comprehend the  
1789 entire content of the notice and the agenda.

1790 (8) PROXY VOTING.--The members have the right, unless  
1791 otherwise provided in this subsection or in the governing  
1792 documents, to vote in person or by proxy.

1793 (a) To be valid, a proxy must be dated, must state the  
1794 date, time, and place of the meeting for which it was given, and  
1795 must be signed by the authorized person who executed the proxy. A  
1796 proxy is effective only for the specific meeting for which it was  
1797 originally given, as the meeting may lawfully be adjourned and  
1798 reconvened from time to time, and automatically expires 90 days  
1799 after the date of the meeting for which it was originally given.  
1800 A proxy is revocable at any time at the pleasure of the person  
1801 who executes it. If the proxy form expressly so provides, any  
1802 proxy holder may appoint, in writing, a substitute to act in his  
1803 or her place.

1804 (b) If the governing documents require a secret ballot, the  
1805 absentee ballot must be enclosed in a blank envelope that shall

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1806 be placed inside another envelope bearing the required  
1807 information and signature. After the owner's eligibility to vote  
1808 has been verified and before the ballots are counted, the blank  
1809 envelope shall be removed from the envelope bearing the  
1810 information and signature and added to the ballots of the members  
1811 voting in person or by proxy. Absentee ballots must be mailed or  
1812 hand delivered to the place specified in the notice of the  
1813 meeting at which the election will be held, not later than the  
1814 date specified in such notice.

1815 (9) ELECTIONS; BOARD MEMBER CERTIFICATION.--

1816 (a) Elections of directors must be conducted in accordance  
1817 with the procedures set forth in the governing documents of the  
1818 association. All members of the association shall be eligible to  
1819 serve on the board of directors, and a member may nominate  
1820 himself or herself as a candidate for the board at a meeting  
1821 where the election is to be held or, in the case of an election  
1822 process that allows voting by absentee ballot, in advance of the  
1823 balloting. Except as otherwise provided in the governing  
1824 documents, boards of directors must be elected by a plurality of  
1825 the votes cast by eligible voters. Any election dispute between a  
1826 member and an association must be submitted to mandatory binding  
1827 arbitration with the division. Such proceedings shall be  
1828 conducted in the manner provided by s. 718.1255 and the  
1829 procedural rules adopted by the division.

1830 (b) Within 30 days after being elected to the board of  
1831 directors, a new director shall certify in writing to the  
1832 secretary of the association that he or she has read the  
1833 association's declarations of covenants and restrictions,  
1834 articles of incorporation, bylaws, and current written policies



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1835 and that he or she will work to uphold each to the best of his or  
1836 her ability and will faithfully discharge his or her fiduciary  
1837 responsibility to the association's members. Failure to timely  
1838 file such statement shall automatically disqualify the director  
1839 from service on the association's board of directors. The  
1840 secretary shall cause the association to retain a director's  
1841 certification for inspection by the membership of the association  
1842 for a period of 5 years after a director's election. Failure to  
1843 have such certification on file shall not affect the validity of  
1844 any appropriate action.

1845 (c) Any director who has unexcused absences from three  
1846 consecutive board meetings shall be deemed to have submitted his  
1847 or her resignation from the board.

1848 Section 17. Subsection (5) is added to section 720.307,  
1849 Florida Statutes, to read:

1850 720.307 Transition of association control in a  
1851 community.--With respect to homeowners' associations:

1852 (5) Except where precluded by the association's governing  
1853 documents, the board of directors of the association may levy  
1854 assessments on an unimproved parcel in the same amounts as  
1855 assessments on improved parcels if that parcel is not improved  
1856 within 5 years after the date the parcel was sold by the  
1857 developer.

1858 Section 18. Paragraph (d) is added to subsection (1) of  
1859 section 720.3075, Florida Statutes, to read:

1860 720.3075 Prohibited clauses in association documents.--

1861 (1) It is declared that the public policy of this state  
1862 prohibits the inclusion or enforcement of certain types of  
1863 clauses in homeowners' association documents, including

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1864 | declaration of covenants, articles of incorporation, bylaws, or  
1865 | any other document of the association which binds members of the  
1866 | association, which either have the effect of or provide that:

1867 |       (d) The builder or developers are not liable for defects in  
1868 | the construction of common areas or parcels and improvements on  
1869 | common areas, or that the developer or builders do not warranty  
1870 | that the common areas and parcels, and any improvements  
1871 | constructed on common areas, are free from defects for any period  
1872 | less than 10 years after completion of such areas, parcels, or  
1873 | improvements.

1874

1875 | Such clauses are declared null and void as against the public  
1876 | policy of this state.

1877 |       Section 19. Paragraph (a) of subsection (4) of section  
1878 | 720.308, Florida Statutes, is amended to read:

1879 |       720.308 Assessments and charges.--

1880 |       (4) CASH FUNDING REQUIREMENTS DURING GUARANTEE.--The cash  
1881 | payments required from the guarantor during the guarantee period  
1882 | shall be determined as follows:

1883 |       (a) If at any time during the guarantee period the funds  
1884 | collected from member assessments at the guaranteed level and  
1885 | other revenues collected by the association are not sufficient to  
1886 | provide payment, on a timely basis, of all accounts payable of  
1887 | the association ~~assessments~~, including the full funding of the  
1888 | reserves unless properly waived, the guarantor shall advance  
1889 | sufficient cash to the association at the time such payments are  
1890 | due.

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1891 Section 20. Paragraph (b) of subsection (4) and paragraph  
1892 (c) of subsection (6) of section 720.3085, Florida Statutes, are  
1893 amended to read:

1894 720.3085 Payment for assessments; lien claims.--

1895 (4) A homeowners' association may not file a claim of lien  
1896 against a parcel for unpaid assessments unless a written notice  
1897 or demand for past due assessments as well as any other amounts  
1898 owed to the association pursuant to its governing documents has  
1899 been made by the association. The written notice or demand must:

1900 (b) Be sent by registered or certified mail, return receipt  
1901 requested, and by first-class United States mail to the parcel  
1902 owner at his or her last address as reflected in the records of  
1903 the association, if the address is within the United States, and  
1904 by first-class United States mail to the parcel owner subject to  
1905 the demand at the address of the parcel if the owner's address as  
1906 reflected in the records of the association is not the parcel  
1907 address. If the address reflected in the records is outside the  
1908 United States, then sending the notice to that address and to the  
1909 parcel address by first-class United States mail is sufficient.

1910 (6) If after service of a summons on a complaint to  
1911 foreclose a lien the parcel is not the subject of a mortgage  
1912 foreclosure or a notice of tax certificate sale, or the parcel  
1913 owner is not a debtor in bankruptcy proceedings, the parcel owner  
1914 may serve and file with the court a qualifying offer at any time  
1915 before the entry of a foreclosure judgment. For purposes of this  
1916 subsection, the term "qualifying offer" means a written offer to  
1917 pay all amounts secured by the lien of the association plus  
1918 interest accruing during the pendency of the offer at the rate of

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1919 interest provided in this section. The parcel owner may make only  
1920 one qualifying offer during the pendency of a foreclosure action.

1921 (c) The qualifying offer of the parcel owner must be in  
1922 writing;; be signed by the owner of the parcel and the spouse of  
1923 the owner if the spouse holds a homestead interest in the  
1924 parcel;; be acknowledged by a notary public;; state the total  
1925 amount due the association, including attorney's fees and costs  
1926 incurred by the association in the foreclosure action that are  
1927 required to be paid by the parcel owner; state that the total  
1928 amount due the association is secured by the lien of the  
1929 association;; state that the association is entitled to foreclose  
1930 the lien and obtain a foreclosure judgment for the total amount  
1931 due if the parcel owner breaches the qualifying offer;; state  
1932 that the parcel owner will not endanger the priority of the lien  
1933 of the association or the amounts secured by the lien;; and state  
1934 the actual date or dates the association will receive the total  
1935 amount due from the parcel owner. If the parcel owner makes a  
1936 qualifying offer under this subsection, the association may not  
1937 add the cost of any legal fees incurred by the association within  
1938 the period of the stay other than costs acquired in defense of a  
1939 mortgage foreclosure action concerning the parcel, a bankruptcy  
1940 proceeding in which the parcel owner is a debtor, or in response  
1941 to filings by a party other than the association in the lien  
1942 foreclosure action of the association.

1943 Section 21. Paragraph (a) of subsection (1) of section  
1944 720.401, Florida Statutes, is amended to read:

1945 720.401 Prospective purchasers subject to association  
1946 membership requirement; disclosure required; covenants;  
1947 assessments; contract cancellation.--

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1948 (1) (a) A prospective parcel owner in a community must be  
1949 presented a disclosure summary before executing the contract for  
1950 sale. The disclosure summary must be in a form substantially  
1951 similar to the following form:

1952  
1953 DISCLOSURE SUMMARY  
1954 FOR  
1955 (NAME OF COMMUNITY)  
1956

1957 1. AS A PURCHASER OF PROPERTY IN THIS COMMUNITY, YOU WILL  
1958 BE OBLIGATED TO BE A MEMBER OF A HOMEOWNERS' ASSOCIATION.

1959 2. THERE HAVE BEEN OR WILL BE RECORDED RESTRICTIVE  
1960 COVENANTS GOVERNING THE USE AND OCCUPANCY OF PROPERTIES IN THIS  
1961 COMMUNITY.

1962 3. YOU WILL BE OBLIGATED TO PAY ASSESSMENTS TO THE  
1963 ASSOCIATION. ASSESSMENTS MAY BE SUBJECT TO PERIODIC CHANGE. IF  
1964 APPLICABLE, THE CURRENT AMOUNT IS \$\_\_\_\_\_ PER \_\_\_\_\_. YOU WILL ALSO  
1965 BE OBLIGATED TO PAY ANY SPECIAL ASSESSMENTS IMPOSED BY THE  
1966 ASSOCIATION. SUCH SPECIAL ASSESSMENTS MAY BE SUBJECT TO CHANGE.  
1967 IF APPLICABLE, THE CURRENT AMOUNT IS \$\_\_\_\_\_ PER \_\_\_\_\_.

1968 4. YOU MAY BE OBLIGATED TO PAY SPECIAL ASSESSMENTS TO THE  
1969 RESPECTIVE MUNICIPALITY, COUNTY, OR SPECIAL DISTRICT. ALL  
1970 ASSESSMENTS ARE SUBJECT TO PERIODIC CHANGE.

1971 5. YOUR FAILURE TO PAY SPECIAL ASSESSMENTS OR ASSESSMENTS  
1972 LEVIED BY A MANDATORY HOMEOWNERS' ASSOCIATION COULD RESULT IN A  
1973 LIEN ON YOUR PROPERTY.

1974 6. THERE MAY BE AN OBLIGATION TO PAY RENT OR LAND USE FEES  
1975 FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES AS AN

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1976 OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS' ASSOCIATION. IF  
 1977 APPLICABLE, THE CURRENT AMOUNT IS \$\_\_\_\_\_ PER \_\_\_\_\_.

1978 7. IF THE ASSOCIATION IS STILL UNDER THE CONTROL OF THE  
 1979 DEVELOPER, THE DEVELOPER MAY HAVE THE RIGHT TO AMEND THE  
 1980 RESTRICTIVE COVENANTS WITHOUT THE APPROVAL OF THE ASSOCIATION  
 1981 MEMBERSHIP OR THE APPROVAL OF THE PARCEL OWNERS.

1982 8. THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM ARE  
 1983 ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER, YOU  
 1984 SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION GOVERNING  
 1985 DOCUMENTS BEFORE PURCHASING PROPERTY.

1986 9. THESE DOCUMENTS ARE EITHER MATTERS OF PUBLIC RECORD AND  
 1987 CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE THE  
 1988 PROPERTY IS LOCATED, OR ARE NOT RECORDED AND CAN BE OBTAINED FROM  
 1989 THE DEVELOPER.

1990 10. THERE MAY BE AN OBLIGATION TO PAY ASSESSMENTS (TAXES  
 1991 AND/OR FEES) TO A RESIDENTIAL COMMUNITY DEVELOPMENT DISTRICT FOR  
 1992 THE PURPOSE OF RETIRING BOND OBLIGATIONS USED TO CONSTRUCT  
 1993 INFRASTRUCTURE AND/OR OTHER IMPROVEMENTS.

1994 11. YOU ARE JOINTLY AND SEVERALLY LIABLE WITH THE PREVIOUS  
 1995 OWNER OF YOUR PROPERTY FOR ALL UNPAID ASSESSMENTS THAT CAME DUE  
 1996 UP TO THE TIME OF TRANSFER OF TITLE.

1998 DATE: PURCHASER:

1999 PURCHASER:

2000 The disclosure must be supplied by the developer, or by the  
 2001 parcel owner if the sale is by an owner that is not the  
 2002 developer. Any contract or agreement for sale shall refer to and  
 2003 incorporate the disclosure summary and shall include, in  
 2004 prominent language, a statement that the potential buyer should

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2005 | not execute the contract or agreement until they have received  
2006 | and read the disclosure summary required by this section.  
2007 |       Section 22. This act shall take effect July 1, 2008.