

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  
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.  
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  
 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  
 94 to 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  
 104 which does not serve any type of cooperative housing or joint  
 105 tenancy 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  
 110 thereto, used by consent of the owner or owners and held out to  
 111 the public by any person or public body, irrespective of whether  
 112 a fee is charged for the use thereof. The bathing water areas of

113 public bathing places include, but are not limited to, lakes,  
 114 ponds, rivers, streams, artificial impoundments, and waters  
 115 along the coastal and intracoastal beaches and shores of the  
 116 state.

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

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

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

138 (2) (a) Pools serving no more than 32 homeowners'  
 139 association, condominium, or cooperative units which are not

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140 operated as a public lodging establishment shall be exempt from  
141 supervision under this chapter, except for water quality.

142 (b) Pools serving homeowners', condominium, or cooperative  
143 associations of more than 32 units and whose recorded documents  
144 prohibit the rental or sublease of the units for periods of less  
145 than 60 days are exempt from supervision under this chapter,  
146 except that the homeowners' association or condominium or  
147 cooperative owner or association must file applications with the  
148 department and obtain construction plans approval and receive an  
149 initial operating permit. The department shall inspect the  
150 swimming pools at such places annually, at the fee set forth in  
151 s. 514.033(3), or upon request by a unit owner, to determine  
152 compliance with department rules relating to water quality and  
153 lifesaving equipment. The department may not require compliance  
154 with rules relating to swimming pool lifeguard standards.

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

157 515.25 Definitions.--As used in this chapter, the term:

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

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

166 718.111 The association.--

167 (11) INSURANCE.--In order to protect the safety, health,  
 168 and welfare of the people of the State of Florida and to ensure  
 169 consistency in the provision of insurance coverage to  
 170 condominiums and their unit owners, this subsection shall be  
 171 ~~paragraphs (a), (b), and (c)~~ are deemed to apply to every  
 172 residential condominium in the state, regardless of the date of  
 173 its declaration of condominium. It is the intent of the  
 174 Legislature to encourage lower or stable insurance premiums for  
 175 associations described in this section.

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

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

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

195 competent model that has been accepted by the Florida Commission  
 196 on Hurricane Loss Projection Methodology.

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

200 (b) If the association is developer controlled, the  
 201 association shall exercise best efforts to obtain and maintain  
 202 such insurance. Failure to obtain and maintain adequate hazard  
 203 insurance during any period of developer control shall  
 204 constitute a breach of fiduciary responsibility by the  
 205 developer-appointed members of the board of directors of the  
 206 association, unless such members can show that despite such  
 207 failure, they have made their best efforts.

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

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

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

217 3. The board shall establish the level of deductibles  
 218 based upon the level of available funds and predetermined  
 219 assessment authority at a meeting of the board which shall be  
 220 open to all unit owners in the manner set forth in s.  
 221 718.112(2)(e). The notice of such meeting shall state the  
 222 proposed deductible and the available funds and the assessment



223 authority relied upon by the board and shall estimate any  
224 potential assessment amount against each unit, if any. The  
225 meeting described in this subparagraph may be held in  
226 conjunction with a meeting to consider the proposed budget or an  
227 amendment thereto.

228 (d) A unit-owner-controlled association operating a  
229 residential condominium shall use its best efforts to obtain and  
230 maintain adequate insurance to protect the association, the  
231 association property, the common elements, and the condominium  
232 property required to be insured by the association pursuant to  
233 this subsection.

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

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

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

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

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

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

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

275           1. All improvements or additions to the condominium  
 276 property that benefit less than all unit owners shall be insured  
 277 by the unit owner or owners having the use thereof, or may be

278 insured by the association at the cost and expense of the unit  
279 owners having the use thereof.

280 2. The association shall require each owner to provide  
281 evidence of a currently effective policy of hazard and liability  
282 insurance upon request, but not more frequently than annually.  
283 Upon the failure of an owner to provide a certificate of  
284 insurance issued by an insurer approved to write such insurance  
285 in the state within 30 days of a written request, the  
286 association shall be entitled but shall not be obligated to  
287 purchase a policy of insurance on behalf of an owner, and the  
288 cost thereof, together with reconstruction costs undertaken by  
289 the association, which are the responsibility of the unit owner  
290 may be collected in the manner provided for collection of  
291 assessments in s. 718.116.

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

301 4. Unit owners shall be responsible for the cost of  
302 reconstruction of any portions of the condominium property for  
303 which the unit owner is required to carry casualty insurance,  
304 and any such reconstruction work undertaken by the association  
305 shall be chargeable to the unit and enforceable as an assessment

306 pursuant to s. 718.116. The association is hereby designated as  
307 an additional named insured and loss payee on all casualty  
308 insurance policies issued to unit owners in the condominium  
309 operated by the association.

310 5. A multicondominium association may elect, by a majority  
311 vote of the collective members of the condominiums operated by  
312 the association, to operate such condominiums as a single  
313 condominium for purposes of insurance matters, including, but  
314 not limited to, the purchase of the hazard insurance required by  
315 this section and the apportionment of deductibles and damages in  
316 excess of coverage. The election to aggregate the treatment of  
317 insurance premiums, deductibles, and excess damages shall be  
318 treated as an amendment to the declaration of all condominiums  
319 operated by the association, and the costs of insurance shall be  
320 stated in the association budget. The amendments shall be  
321 recorded as required by s. 718.110.

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

332 (i) The association has the authority to amend the  
333 declaration of condominium, without regard to any requirement

334 for mortgagee approval of amendments affecting insurance  
335 requirements, to conform the declaration of condominium to the  
336 coverage requirements of this subsection.

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

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

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

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

368       4. The association shall not be obligated to pay for  
369 repair or reconstruction or repairs of casualty losses as a  
370 common expense where the casualty losses were known or should  
371 have been known to a unit owner and were not reported to the  
372 association until after the insurance claim of the association  
373 for that casualty has been settled and resolved with finality or  
374 is considered untimely filed by the insurer and denied on that  
375 basis.

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

384       (l) In a multicondominium association that has not  
385 consolidated its financial operations under subsection (6), any  
386 condominium operated by the association may opt out of the  
387 provisions of paragraph (j) with the approval of a majority of  
388 the total voting interests in that condominium. Such vote may be

389 approved by the voting interests without regard to any mortgagee  
390 consent requirements.

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

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

417       ~~(a) A unit owner controlled association operating a~~  
418 ~~residential condominium shall use its best efforts to obtain and~~  
419 ~~maintain adequate insurance to protect the association, the~~  
420 ~~association property, the common elements, and the condominium~~  
421 ~~property required to be insured by the association pursuant to~~  
422 ~~paragraph (b). If the association is developer controlled, the~~  
423 ~~association shall exercise due diligence to obtain and maintain~~  
424 ~~such insurance. Failure to obtain and maintain adequate~~  
425 ~~insurance during any period of developer control shall~~  
426 ~~constitute a breach of fiduciary responsibility by the~~  
427 ~~developer appointed members of the board of directors of the~~  
428 ~~association, unless said members can show that despite such~~  
429 ~~failure, they have exercised due diligence. The declaration of~~  
430 ~~condominium as originally recorded, or amended pursuant to~~  
431 ~~procedures provided therein, may require that condominium~~  
432 ~~property consisting of freestanding buildings where there is no~~  
433 ~~more than one building in or on such unit need not be insured by~~  
434 ~~the association if the declaration requires the unit owner to~~  
435 ~~obtain adequate insurance for the condominium property. An~~  
436 ~~association may also obtain and maintain liability insurance for~~  
437 ~~directors and officers, insurance for the benefit of association~~  
438 ~~employees, and flood insurance for common elements, association~~  
439 ~~property, and units. Adequate insurance, regardless of any~~  
440 ~~requirement in the declaration of condominium for coverage by~~  
441 ~~the association for "full insurable value," "replacement cost,"~~  
442 ~~or the like, may include reasonable deductibles as determined by~~  
443 ~~the board based upon available funds or predetermined assessment~~  
444 ~~authority at the time that the insurance is obtained.~~



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

456           2. ~~An association or group of associations may self insure~~  
457 ~~against claims against the association, the association~~  
458 ~~property, and the condominium property required to be insured by~~  
459 ~~an association, upon compliance with the applicable provisions~~  
460 ~~of ss. 624.460-624.488, which shall be considered adequate~~  
461 ~~insurance for the purposes of this section. A copy of each~~  
462 ~~policy of insurance in effect shall be made available for~~  
463 ~~inspection by unit owners at reasonable times.~~

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

467           1. ~~All portions of the condominium property located~~  
468 ~~outside the units,~~

469           2. ~~The condominium property located inside the units as~~  
470 ~~such property was initially installed, or replacements thereof~~  
471 ~~of like kind and quality and in accordance with the original~~  
472 ~~plans and specifications or, if the original plans and~~

473 ~~specifications are not available, as they existed at the time~~  
474 ~~the unit was initially conveyed; and~~

475 ~~3. All portions of the condominium property for which the~~  
476 ~~declaration of condominium requires coverage by the association.~~  
477

478 ~~Anything to the contrary notwithstanding, the terms "condominium~~  
479 ~~property," "building," "improvements," "insurable improvements,"~~  
480 ~~"common elements," "association property," or any other term~~  
481 ~~found in the declaration of condominium which defines the scope~~  
482 ~~of property or casualty insurance that a condominium association~~  
483 ~~must obtain shall exclude all floor, wall, and ceiling~~  
484 ~~coverings, electrical fixtures, appliances, air conditioner or~~  
485 ~~heating equipment, water heaters, water filters, built-in~~  
486 ~~cabinets and countertops, and window treatments, including~~  
487 ~~curtains, drapes, blinds, hardware, and similar window treatment~~  
488 ~~components, or replacements of any of the foregoing which are~~  
489 ~~located within the boundaries of a unit and serve only one unit~~  
490 ~~and all air conditioning compressors that service only an~~  
491 ~~individual unit, whether or not located within the unit~~  
492 ~~boundaries. The foregoing is intended to establish the property~~  
493 ~~or casualty insuring responsibilities of the association and~~  
494 ~~those of the individual unit owner and do not serve to broaden~~  
495 ~~or extend the perils of coverage afforded by any insurance~~  
496 ~~contract provided to the individual unit owner. Beginning~~  
497 ~~January 1, 2004, the association shall have the authority to~~  
498 ~~amend the declaration of condominium, without regard to any~~  
499 ~~requirement for mortgagee approval of amendments affecting~~

500 ~~insurance requirements, to conform the declaration of~~  
 501 ~~condominium to the coverage requirements of this section.~~

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

514 ~~(d) The association shall obtain and maintain adequate~~  
 515 ~~insurance or fidelity bonding of all persons who control or~~  
 516 ~~disburse funds of the association. The insurance policy or~~  
 517 ~~fidelity bond must cover the maximum funds that will be in the~~  
 518 ~~custody of the association or its management agent at any one~~  
 519 ~~time. As used in this paragraph, the term "persons who control~~  
 520 ~~or disburse funds of the association" includes, but is not~~  
 521 ~~limited to, those individuals authorized to sign checks and the~~  
 522 ~~president, secretary, and treasurer of the association. The~~  
 523 ~~association shall bear the cost of bonding.~~

524 (12) OFFICIAL RECORDS.--

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

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

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

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

555 association willfully failed to comply with this paragraph. A  
556 unit owner who is denied access to official records is entitled  
557 to the actual damages or minimum damages for the association's  
558 willful failure to comply with this paragraph. The minimum  
559 damages shall be \$50 per calendar day up to 10 days, the  
560 calculation to begin on the 11th working day after receipt of  
561 the written request. The failure to permit inspection of the  
562 association records as provided herein entitles any person  
563 prevailing in an enforcement action to recover reasonable  
564 attorney's fees from the person in control of the records who,  
565 directly or indirectly, knowingly denied access to the records  
566 for inspection. The association shall maintain an adequate  
567 number of copies of the declaration, articles of incorporation,  
568 bylaws, and rules, and all amendments to each of the foregoing,  
569 as well as the question and answer sheet provided for in s.  
570 718.504 and year-end financial information required in this  
571 section on the condominium property to ensure their availability  
572 to unit owners and prospective purchasers, and may charge its  
573 actual costs for preparing and furnishing these documents to  
574 those requesting the same. Notwithstanding the provisions of  
575 this paragraph, the following records shall not be accessible to  
576 unit owners:

577 1. Any record protected by the lawyer-client privilege as  
578 described in s. 90.502; and any record protected by the work-  
579 product privilege, including any record prepared by an  
580 association attorney or prepared at the attorney's express  
581 direction; which reflects a mental impression, conclusion,  
582 litigation strategy, or legal theory of the attorney or the

583 association, and which was prepared exclusively for civil or  
 584 criminal litigation or for adversarial administrative  
 585 proceedings, or which was prepared in anticipation of imminent  
 586 civil or criminal litigation or imminent adversarial  
 587 administrative proceedings until the conclusion of the  
 588 litigation or adversarial administrative proceedings.

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

592 3. Medical records of unit owners.

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

596 (13) FINANCIAL REPORTING.--Within 90 days after the end of  
 597 the fiscal year, or annually on a date provided in the bylaws,  
 598 the association shall prepare and complete, or contract for the  
 599 preparation and completion of, a financial report for the  
 600 preceding fiscal year. Within 21 days after the final financial  
 601 report is completed by the association or received from the  
 602 third party, but not later than 120 days after the end of the  
 603 fiscal year or other date as provided in the bylaws, the  
 604 association shall mail to each unit owner at the address last  
 605 furnished to the association by the unit owner, or hand deliver  
 606 to each unit owner, a copy of the financial report or a notice  
 607 that a copy of the financial report will be mailed or hand  
 608 delivered to the unit owner, without charge, upon receipt of a  
 609 written request from the unit owner. The division shall adopt  
 610 rules setting forth uniform accounting principles and standards

611 to be used by all associations and shall adopt rules addressing  
 612 financial reporting requirements for multicondominium  
 613 associations. In adopting such rules, the division shall  
 614 consider the number of members and annual revenues of an  
 615 association. Financial reports shall be prepared as follows:

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

621 1. An association with total annual revenues of \$150,000  
 622 ~~\$100,000~~ or more, but less than \$300,000 ~~\$200,000~~, shall prepare  
 623 compiled financial statements.

624 2. An association with total annual revenues of at least  
 625 \$300,000 ~~\$200,000~~, but less than \$600,000 ~~\$400,000~~, shall  
 626 prepare reviewed financial statements.

627 3. An association with total annual revenues of \$600,000  
 628 ~~\$400,000~~ or more shall prepare audited financial statements.

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

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

636 3. A report of cash receipts and disbursements must  
 637 disclose the amount of receipts by accounts and receipt  
 638 classifications and the amount of expenses by accounts and

639 expense classifications, including, but not limited to, the  
 640 following, as applicable: costs for security, professional and  
 641 management fees and expenses, taxes, costs for recreation  
 642 facilities, expenses for refuse collection and utility services,  
 643 expenses for lawn care, costs for building maintenance and  
 644 repair, insurance costs, administration and salary expenses, and  
 645 reserves accumulated and expended for capital expenditures,  
 646 deferred maintenance, and any other category for which the  
 647 association maintains reserves.

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

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

653 2. Reviewed or audited financial statements, if the  
 654 association is required to prepare compiled financial  
 655 statements; or

656 3. Audited financial statements if the association is  
 657 required to prepare reviewed financial statements.

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

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

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



666 3. A report of cash receipts and expenditures, a compiled  
667 financial statement, or a reviewed financial statement in lieu  
668 of an audited financial statement.

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

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

686 718.112 Bylaws.--

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

690 (c) Board of administration meetings.--

691 1. Meetings of the board of administration at which a  
692 quorum of the members is present shall be open to all unit  
693 owners. Meetings shall be conducted using generally accepted

694 parliamentary rules of order. Any unit owner may tape record or  
695 videotape meetings of the board of administration. The right to  
696 attend such meetings includes the right to speak at such  
697 meetings with reference to all designated agenda items. The  
698 division shall adopt reasonable rules governing the tape  
699 recording and videotaping of the meeting. The association may  
700 adopt written reasonable rules governing the frequency,  
701 duration, and manner of unit owner statements. Adequate notice  
702 of all meetings, which notice shall specifically incorporate an  
703 identification of agenda items, shall be posted conspicuously on  
704 the condominium property at least 48 continuous hours preceding  
705 the meeting except in an emergency. Any item not included on the  
706 notice may be taken up on an emergency basis by at least a  
707 majority plus one of the members of the board. Such emergency  
708 action shall be noticed and ratified at the next regular meeting  
709 of the board. However, written notice of any meeting at which  
710 nonemergency special assessments, or at which amendment to rules  
711 regarding unit use, will be considered shall be mailed,  
712 delivered, or electronically transmitted to the unit owners and  
713 posted conspicuously on the condominium property not less than  
714 14 days prior to the meeting. Evidence of compliance with this  
715 14-day notice shall be made by an affidavit executed by the  
716 person providing the notice and filed among the official records  
717 of the association. Upon notice to the unit owners, the board  
718 shall by duly adopted rule designate a specific location on the  
719 condominium property or association property upon which all  
720 notices of board meetings shall be posted. If there is no  
721 condominium property or association property upon which notices

722 can be posted, notices of board meetings shall be mailed,  
723 delivered, or electronically transmitted at least 14 days before  
724 the meeting to the owner of each unit. In lieu of or in addition  
725 to the physical posting of notice of any meeting of the board of  
726 administration on the condominium property, the association may,  
727 by reasonable rule, adopt a procedure for conspicuously posting  
728 and repeatedly broadcasting the notice and the agenda on a  
729 closed-circuit cable television system serving the condominium  
730 association. However, if broadcast notice is used in lieu of a  
731 notice posted physically on the condominium property, the notice  
732 and agenda must be broadcast at least four times every broadcast  
733 hour of each day that a posted notice is otherwise required  
734 under this section. When broadcast notice is provided, the  
735 notice and agenda must be broadcast in a manner and for a  
736 sufficient continuous length of time so as to allow an average  
737 reader to observe the notice and read and comprehend the entire  
738 content of the notice and the agenda. Notice of any meeting in  
739 which regular assessments against unit owners are to be  
740 considered for any reason shall specifically contain a statement  
741 that assessments will be considered and the nature of any such  
742 assessments. Meetings of a committee to take final action on  
743 behalf of the board or make recommendations to the board  
744 regarding the association budget are subject to the provisions  
745 of this paragraph. Meetings of a committee that does not take  
746 final action on behalf of the board or make recommendations to  
747 the board regarding the association budget are subject to the  
748 provisions of this section, unless those meetings are exempted  
749 from this section by the bylaws of the association.

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

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

769 (d) Unit owner meetings.--

770 1. There shall be an annual meeting of the unit owners.  
771 All meetings of the unit owners, including the annual meeting,  
772 shall be held at the place and time provided in the  
773 association's bylaws or, if the bylaws are silent, at a time and  
774 place specified by the board that is within the state and within  
775 20 miles of the condominium property. Unless the bylaws provide  
776 otherwise, a vacancy on the board caused by the expiration of a  
777 director's term shall be filled by electing a new board member,

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

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

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

834 of mailing, to be included in the official records of the  
835 association affirming that the notice was mailed or hand  
836 delivered, in accordance with this provision.

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

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

885 4. Any approval by unit owners called for by this chapter  
886 or the applicable declaration or bylaws, including, but not  
887 limited to, the approval requirement in s. 718.111(8), shall be  
888 made at a duly noticed meeting of unit owners and shall be  
889 subject to all requirements of this chapter or the applicable



890 condominium documents relating to unit owner decisionmaking,  
891 except that unit owners may take action by written agreement,  
892 without meetings, on matters for which action by written  
893 agreement without meetings is expressly allowed by the  
894 applicable bylaws or declaration or any statute that provides  
895 for such action.

896 5. Unit owners may waive notice of specific meetings if  
897 allowed by the applicable bylaws or declaration or any statute.  
898 If authorized by the bylaws, notice of meetings of the board of  
899 administration, unit owner meetings, except unit owner meetings  
900 called to recall board members under paragraph (j), and  
901 committee meetings may be given by electronic transmission to  
902 unit owners who consent to receive notice by electronic  
903 transmission.

904 6. Unit owners shall have the right to participate in  
905 meetings of unit owners with reference to all designated agenda  
906 items. However, the association may adopt reasonable rules  
907 governing the frequency, duration, and manner of unit owner  
908 participation.

909 7. Any unit owner may tape record or videotape a meeting  
910 of the unit owners subject to reasonable rules adopted by the  
911 division.

912 8. Unless otherwise provided in the bylaws, any vacancy  
913 occurring on the board before the expiration of a term may be  
914 filled by the affirmative vote of the majority of the remaining  
915 directors, even if the remaining directors constitute less than  
916 a quorum, or by the sole remaining director. In the alternative,  
917 a board may hold an election to fill the vacancy, in which case

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918 the election procedures must conform to the requirements of  
919 subparagraph 3. unless the association has opted out of the  
920 statutory election process, in which case the bylaws of the  
921 association control. Unless otherwise provided in the bylaws, a  
922 board member appointed or elected under this section shall fill  
923 the vacancy for the unexpired term of the seat being filled.  
924 Filling vacancies created by recall is governed by paragraph (j)  
925 and rules adopted by the division.

926  
927 Notwithstanding subparagraphs (b)2. and (d)3., an association  
928 may, by the affirmative vote of a majority of the total voting  
929 interests, provide for different voting and election procedures  
930 in its bylaws, which vote may be by a proxy specifically  
931 delineating the different voting and election procedures. The  
932 different voting and election procedures may provide for  
933 elections to be conducted by limited or general proxy.

934 (f) Annual budget.--

935 1. The proposed annual budget of common expenses shall be  
936 detailed and shall show the amounts budgeted by accounts and  
937 expense classifications, including, if applicable, but not  
938 limited to, those expenses listed in s. 718.504(21). A  
939 multicondominium association shall adopt a separate budget of  
940 common expenses for each condominium the association operates  
941 and shall adopt a separate budget of common expenses for the  
942 association. In addition, if the association maintains limited  
943 common elements with the cost to be shared only by those  
944 entitled to use the limited common elements as provided for in  
945 s. 718.113(1), the budget or a schedule attached thereto shall

946 show amounts budgeted therefor. If, after turnover of control of  
 947 the association to the unit owners, any of the expenses listed  
 948 in s. 718.504(21) are not applicable, they need not be listed.

949 2. In addition to annual operating expenses, the budget  
 950 shall include reserve accounts for those items of capital  
 951 expenditures and deferred maintenance that occur less frequently  
 952 than annually. These accounts shall include, but are not limited  
 953 to, roof replacement, building painting, and pavement  
 954 resurfacing, regardless of the amount of deferred maintenance  
 955 expense or replacement cost, and for any other item for which  
 956 the deferred maintenance expense or replacement cost exceeds the  
 957 greater of \$10,000 or \$300 multiplied by the number of units.

958 The amount to be reserved shall be computed by means of a  
 959 formula which is based upon estimated remaining useful life and  
 960 estimated replacement cost or deferred maintenance expense of  
 961 each reserve item. The association may adjust replacement  
 962 reserve assessments annually to take into account any changes in  
 963 estimates or extension of the useful life of a reserve item  
 964 caused by deferred maintenance. This subsection does not apply  
 965 to an adopted budget in which the members of an association have  
 966 determined, by a majority vote at a duly called meeting of the  
 967 association, to provide no reserves or less reserves than  
 968 required by this subsection. However, prior to turnover of  
 969 control of an association by a developer to unit owners other  
 970 than a developer pursuant to s. 718.301, the developer may vote  
 971 to waive the reserves or reduce the funding of reserves for the  
 972 first 2 fiscal years of the association's operation, beginning  
 973 with the fiscal year in which the initial declaration is

974 recorded, after which time reserves may be waived or reduced  
975 only upon the vote of a majority of all nondeveloper voting  
976 interests voting in person or by limited proxy at a duly called  
977 meeting of the association. If a meeting of the unit owners has  
978 been called to determine whether to waive or reduce the funding  
979 of reserves, and no such result is achieved or a quorum is not  
980 attained, the reserves as included in the budget shall go into  
981 effect. After the turnover, the developer may vote its voting  
982 interest to waive or reduce the funding of reserves.

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

995         4. The only voting interests which are eligible to vote on  
996 questions that involve waiving or reducing the funding of  
997 reserves, or using existing reserve funds for purposes other  
998 than purposes for which the reserves were intended, are the  
999 voting interests of the units subject to assessment to fund the  
1000 reserves in question.

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1001 Section 6. Paragraph (a) of subsection (1) of section  
1002 718.115, Florida Statutes, is amended to read:  
1003 718.115 Common expenses and common surplus.--  
1004 (1)(a) Common expenses include the expenses of the  
1005 operation, maintenance, repair, replacement, or protection of  
1006 the common elements and association property, costs of carrying  
1007 out the powers and duties of the association, and any other  
1008 expense, whether or not included in the foregoing, designated as  
1009 common expense by this chapter, the declaration, the documents  
1010 creating the association, or the bylaws. Common expenses also  
1011 include reasonable transportation services, insurance for  
1012 directors and officers, road maintenance and operation expenses,  
1013 in-house communications, and security services, which are  
1014 reasonably related to the general benefit of the unit owners  
1015 even if such expenses do not attach to the common elements or  
1016 property of the condominium. However, such common expenses must  
1017 either have been services or items provided on or after the date  
1018 control of the association is transferred from the developer to  
1019 the unit owners or must be services or items provided for in the  
1020 condominium documents or bylaws. The expenses of items or  
1021 services required by federal, state, or local government to be  
1022 installed, maintained, or supplied to the condominium property  
1023 by the association, including, but not limited to, fire safety  
1024 equipment, or water and sewer service where a master meter  
1025 serves the condominium, shall be common expenses whether or not  
1026 these items or services are specifically identified as common  
1027 expenses in the declaration, articles, or bylaws of the  
1028 association.

1029 Section 7. Paragraph (c) of subsection (5) of section  
 1030 718.116, Florida Statutes, is redesignated as paragraph (d), a  
 1031 new paragraph (c) is added to that subsection, and subsection  
 1032 (10) of that section is amended, to read:

1033 718.116 Assessments; liability; lien and priority;  
 1034 interest; collection.--

1035 (5)

1036 (c) Any claim of lien filed on or after January 1, 2009,  
 1037 shall not be valid unless it includes a statement from the  
 1038 executing officer or authorized agent attesting that on a stated  
 1039 date, which shall be no later than 30 days prior to the date of  
 1040 filing, the record owner was given written notice of the amount  
 1041 due and of the association's intention to file a claim of lien  
 1042 if the amount due has not been fully paid within 30 days  
 1043 following the date of mailing or delivery of the notice. The  
 1044 statement shall also attest that the notice described was given  
 1045 by personal delivery to the unit owner or by mailing a copy  
 1046 thereof by certified or registered mail, return receipt,  
 1047 addressed to the unit owner at his or her last known address.

1048 ~~(d)(e)~~ By recording a notice in substantially the  
 1049 following form, a unit owner or the unit owner's agent or  
 1050 attorney may require the association to enforce a recorded claim  
 1051 of lien against his or her condominium parcel:

1052  
 1053 NOTICE OF CONTEST OF LIEN

1054  
 1055 TO: (Name and address of association) You are notified  
 1056 that the undersigned contests the claim of lien filed by you on

1057 \_\_\_\_\_, (year) , and recorded in Official Records Book \_\_\_\_\_  
 1058 at Page \_\_\_\_\_, of the public records of \_\_\_\_\_ County, Florida,  
 1059 and that the time within which you may file suit to enforce your  
 1060 lien is limited to 90 days from the date of service of this  
 1061 notice. Executed this \_\_\_\_\_ day of \_\_\_\_\_, (year) .

1062  
 1063 Signed: (Owner or Attorney)

1064  
 1065 After notice of contest of lien has been recorded, the clerk of  
 1066 the circuit court shall mail a copy of the recorded notice to  
 1067 the association by certified mail, return receipt requested, at  
 1068 the address shown in the claim of lien or most recent amendment  
 1069 to it and shall certify to the service on the face of the  
 1070 notice. Service is complete upon mailing. After service, the  
 1071 association has 90 days in which to file an action to enforce  
 1072 the lien; and, if the action is not filed within the 90-day  
 1073 period, the lien is void. However, the 90-day period shall be  
 1074 extended for any length of time that the association is  
 1075 prevented from filing its action because of an automatic stay  
 1076 resulting from the filing of a bankruptcy petition by the unit  
 1077 owner or by any other person claiming an interest in the parcel.

1078 (10) The specific purpose or purposes of any special  
 1079 assessment, including any contingent special assessment levied  
 1080 in conjunction with the purchase of an insurance policy  
 1081 authorized by s. 718.111(11), approved in accordance with the  
 1082 condominium documents shall be set forth in a written notice of  
 1083 such assessment sent or delivered to each unit owner. Unit  
 1084 owners shall be afforded no less than 60 days' advance notice to

1085 pay estimated nonemergency special assessments. The funds  
1086 collected pursuant to a special assessment shall be used only  
1087 for the specific purpose or purposes set forth in such notice.  
1088 However, upon completion of such specific purpose or purposes,  
1089 any excess funds will be considered common surplus, and may, at  
1090 the discretion of the board, either be returned to the unit  
1091 owners or applied as a credit toward future assessments.

1092 Section 8. Section 718.1265, Florida Statutes, is created  
1093 to read:

1094 718.1265 Association emergency powers.--

1095 (1) To the extent allowed by law and unless specifically  
1096 prohibited by the declaration, articles, or bylaws of an  
1097 association, and consistent with the provisions of s. 617.0830,  
1098 the board of administration, in response to damage caused by an  
1099 event for which a state of emergency is declared pursuant to s.  
1100 252.36 in the locale in which the condominium is located, may,  
1101 but is not required to, exercise the following powers:

1102 (a) Conduct board meetings and membership meetings with  
1103 notice given as is practicable. Such notice may be given in any  
1104 practicable manner, including publication, radio, United States  
1105 mail, the Internet, public service announcements, and  
1106 conspicuous posting on the condominium property or any other  
1107 means the board deems reasonable under the circumstances. Notice  
1108 of board decisions may be communicated as provided in this  
1109 paragraph.

1110 (b) Cancel and reschedule any association meeting.

1111 (c) Name as assistant officers persons who are not  
1112 directors, which assistant officers shall have the same



1113 authority as the executive officers to whom they are assistants  
 1114 during the state of emergency to accommodate the incapacity or  
 1115 unavailability of any officer of the association.

1116 (d) Relocate the association's principal office or  
 1117 designate alternative principal offices.

1118 (e) Enter into agreements with local counties and  
 1119 municipalities to assist counties and municipalities with debris  
 1120 removal.

1121 (f) Implement a disaster plan before or immediately  
 1122 following the event for which a state of emergency is declared  
 1123 that may include, but is not limited to, shutting down or off  
 1124 elevators; electricity; water, sewer, or security systems; or  
 1125 air conditioners.

1126 (g) Declare any portion of the condominium property  
 1127 unavailable for entry or occupancy by unit owners, family  
 1128 members, tenants, guests, agents, or invitees to protect the  
 1129 health, safety, or welfare of such persons.

1130 (h) Require the evacuation of the condominium property in  
 1131 the event of a mandatory evacuation order in the locale in which  
 1132 the condominium is located. Should any unit owner or other  
 1133 occupant of a condominium fail or refuse to evacuate the  
 1134 condominium property where the board has required evacuation,  
 1135 the association shall be immune from liability for injury to  
 1136 persons or property arising from such failure or refusal.

1137 (i) Determine whether the condominium property can be  
 1138 safely inhabited or occupied. However, such determination is not  
 1139 conclusive as to any determination of habitability pursuant to

1140 the declaration made by county or municipal officials in the  
 1141 locale in which the condominium is located.

1142 (j) Mitigate further damage, including taking action to  
 1143 contract for the removal of debris, making roofing or other  
 1144 repairs to prevent intrusion by the elements, and shoring walls;  
 1145 and prevent or mitigate the spread of fungus, including, but not  
 1146 limited to, mold or mildew, by removing and disposing of wet  
 1147 drywall, insulation, carpet, cabinetry, or other fixtures, on or  
 1148 within the condominium property, even if the unit owner is  
 1149 obligated by the declaration or law to insure or replace those  
 1150 fixtures and to remove personal property from a unit.

1151 (k) Contract, on behalf of any unit owner or owners, for  
 1152 items or services for which the owner or owners are otherwise  
 1153 individually responsible for, but which are necessary to prevent  
 1154 further damage to the condominium property. In such event, the  
 1155 unit owner or owners on whose behalf the board has contracted  
 1156 are responsible for reimbursing the association for the actual  
 1157 costs of the items or services, and the association may use its  
 1158 lien authority provided by s. 718.116 to enforce collection of  
 1159 the charges. Without limitation, such items or services may  
 1160 include the drying of units, the boarding of broken windows or  
 1161 doors, and the replacement of damaged air conditioners or air  
 1162 handlers to provide climate control in the units or other  
 1163 portions of the property.

1164 (l) Levy special assessments without a vote of the owners,  
 1165 regardless of any provision to the contrary in the declaration,  
 1166 articles, or bylaws of an association and regardless of the fact

1167 that such authority does not specifically appear in such  
 1168 documents.

1169 (m) Use reserve funds and borrow money and pledge  
 1170 association assets as collateral to fund emergency repairs and  
 1171 carry out the duties of the association when operating funds are  
 1172 insufficient, without unit owner approval. This paragraph does  
 1173 not limit the general authority of the association to borrow  
 1174 money, subject to such restrictions as are contained in the  
 1175 declaration, articles, or bylaws.

1176 (2) The special powers authorized under subsection (1)  
 1177 shall be limited to that time reasonably necessary to protect  
 1178 the health, safety, and welfare of the association, the unit  
 1179 owners, their family members, tenants, guests, agents, or  
 1180 invitees and shall be reasonably necessary to mitigate further  
 1181 damage and make emergency repairs.

1182 Section 9. Paragraphs (d) and (e) of subsection (1) of  
 1183 section 718.3025, Florida Statutes, are amended, and subsection  
 1184 (5) is added to that section, to read:

1185 718.3025 Agreements for operation, maintenance, or  
 1186 management of condominiums; specific requirements.--

1187 (1) No written contract between a party contracting to  
 1188 provide maintenance or management services and an association  
 1189 which contract provides for operation, maintenance, or  
 1190 management of a condominium association or property serving the  
 1191 unit owners of a condominium shall be valid or enforceable  
 1192 unless the contract:

1193 ~~(d) Specifies a minimum number of personnel to be employed~~  
 1194 ~~by the party contracting to provide maintenance or management~~

1195 ~~services for the purpose of providing service to the~~  
 1196 ~~association.~~

1197 ~~(e)~~ Discloses any financial or ownership interest which  
 1198 the developer, if the developer is in control of the  
 1199 association, holds with regard to the party contracting to  
 1200 provide maintenance or management services.

1201 (5) No clause in a contract subject to this section  
 1202 executed on or after January 1, 2009, shall be enforceable to  
 1203 the extent that it provides for the automatic renewal or the  
 1204 automatic extension of the contract.

1205 Section 10. Section 718.3026, Florida Statutes, is amended  
 1206 to read:

1207 718.3026 Contracts for products and services; in writing;  
 1208 bids; exceptions.--Associations with less than 100 units may opt  
 1209 out of the provisions of this section if two-thirds of the unit  
 1210 owners vote to do so, which opt-out may be accomplished by a  
 1211 proxy specifically setting forth the exception from this  
 1212 section. Such an opt out expires 3 years following the date of  
 1213 the opt-out vote.

1214 (1) All contracts as further described herein or any  
 1215 contract that is not to be fully performed within 1 year after  
 1216 the making thereof, for the purchase, lease, or renting of  
 1217 materials or equipment to be used by the association in  
 1218 accomplishing its purposes under this chapter, and all contracts  
 1219 for the provision of services, shall be in writing. If a  
 1220 contract for the purchase, lease, or renting of materials or  
 1221 equipment, or for the provision of services, requires payment by  
 1222 the association on behalf of any condominium operated by the

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1223 association in the aggregate that exceeds 5 percent of the total  
1224 annual budget of the association, including reserves, the  
1225 association shall obtain competitive bids for the materials,  
1226 equipment, or services. Nothing contained herein shall be  
1227 construed to require the association to accept the lowest bid.

1228 (2) (a) 1. Notwithstanding the foregoing, contracts with  
1229 employees of the association, and contracts for attorney,  
1230 accountant, architect, community association manager, timeshare  
1231 management firm, engineering, and landscape architect services  
1232 are not subject to the provisions of this section.

1233 2. A contract executed before January 1, 1992, and any  
1234 renewal thereof, is not subject to the competitive bid  
1235 requirements of this section. If a contract was awarded under  
1236 the competitive bid procedures of this section, any renewal of  
1237 that contract is not subject to such competitive bid  
1238 requirements if the contract contains a provision that allows  
1239 the board to cancel the contract on 30 days' notice. Materials,  
1240 equipment, or services provided to a condominium under a local  
1241 government franchise agreement by a franchise holder are not  
1242 subject to the competitive bid requirements of this section. A  
1243 contract with a manager, if made by a competitive bid, may be  
1244 made for up to 3 years. A condominium whose declaration or  
1245 bylaws provides for competitive bidding for services may operate  
1246 under the provisions of that declaration or bylaws in lieu of  
1247 this section if those provisions are not less stringent than the  
1248 requirements of this section.

1249 (b) Nothing contained herein is intended to limit the  
 1250 ability of an association to obtain needed products and services  
 1251 in an emergency.

1252 (c) This section shall not apply if the business entity  
 1253 with which the association desires to enter into a contract is  
 1254 the only source of supply within the county serving the  
 1255 association.

1256 (d) Nothing contained herein shall excuse a party  
 1257 contracting to provide maintenance or management services from  
 1258 compliance with s. 718.3025.

1259 Section 11. Subsection (3) of section 718.303, Florida  
 1260 Statutes, is amended to read:

1261 718.303 Obligations of owners; waiver; levy of fine  
 1262 against unit by association.--

1263 (3) If the declaration or bylaws so provide, the  
 1264 association may levy reasonable fines against a unit for the  
 1265 failure of the owner of the unit, or its occupant, licensee, or  
 1266 invitee, to comply with any provision of the declaration, the  
 1267 association bylaws, or reasonable rules of the association. No  
 1268 fine will become a lien against a unit. No fine may exceed \$100  
 1269 per violation. However, a fine may be levied on the basis of  
 1270 each day of a continuing violation, with a single notice and  
 1271 opportunity for hearing, provided that no such fine shall in the  
 1272 aggregate exceed \$1,000. No fine may be levied except after  
 1273 giving reasonable notice and opportunity for a hearing to the  
 1274 unit owner and, if applicable, its licensee or invitee. The  
 1275 hearing must be held before a committee of other unit owners who  
 1276 are neither board members nor persons residing in a board

1277 member's household. If the committee does not agree with the  
 1278 fine, the fine may not be levied. The provisions of this  
 1279 subsection do not apply to unoccupied units.

1280 Section 12. Subsection (4) of section 718.5012, Florida  
 1281 Statutes, is amended to read:

1282 718.5012 Ombudsman; powers and duties.--The ombudsman  
 1283 shall have the powers that are necessary to carry out the duties  
 1284 of his or her office, including the following specific powers:

1285 (4) To act as liaison between the division, unit owners,  
 1286 boards of directors, board members, community association  
 1287 managers, and other affected parties. The ombudsman shall  
 1288 ~~develop policies and procedures to~~ assist unit owners, boards of  
 1289 directors, board members, community association managers, and  
 1290 other affected parties to understand their rights and  
 1291 responsibilities as set forth in this chapter and the  
 1292 condominium documents governing their respective association.  
 1293 The ombudsman shall coordinate and assist in the preparation and  
 1294 adoption of educational and reference material, and shall  
 1295 endeavor to coordinate with private or volunteer providers of  
 1296 these services, so that the availability of these resources is  
 1297 made known to the largest possible audience.

1298 Section 13. Paragraph (a) of subsection (2) of section  
 1299 718.503, Florida Statutes, is amended to read:

1300 718.503 Developer disclosure prior to sale; nondeveloper  
 1301 unit owner disclosure prior to sale; voidability.--

1302 (2) NONDEVELOPER DISCLOSURE.--

1303 (a) Each unit owner who is not a developer as defined by  
 1304 this chapter shall comply with the provisions of this subsection

1305 prior to the sale of his or her unit. Each prospective purchaser  
1306 who has entered into a contract for the purchase of a  
1307 condominium unit is entitled, at the seller's expense, to a  
1308 current copy of the declaration of condominium, articles of  
1309 incorporation of the association, bylaws and rules of the  
1310 association, financial information required by s. 718.111, and  
1311 the document entitled "Frequently Asked Questions and Answers"  
1312 required by s. 718.504. On and after January 1, 2009, the  
1313 prospective purchaser shall also be entitled to receive from the  
1314 seller a copy of a governance form. Such form shall be provided  
1315 by the division summarizing governance of condominium  
1316 associations. In addition to such other information as the  
1317 division considers helpful to a prospective purchaser in  
1318 understanding association governance, the governance form shall  
1319 address the following subjects:

1320 1. The role of the board in conducting the day-to-day  
1321 affairs of the association on behalf of, and in the best  
1322 interests of, the owners.

1323 2. The board's responsibility to provide advance notice of  
1324 board and membership meetings.

1325 3. The rights of owners to attend and speak at board and  
1326 membership meetings.

1327 4. The responsibility of the board and of owners with  
1328 respect to maintenance of the condominium property.

1329 5. The responsibility of the board and owners to abide by  
1330 the condominium documents, this chapter, rules promulgated by  
1331 the division, and reasonable rules promulgated by the board.



1332           6. Owners' rights to inspect and copy association records  
 1333 and the limitations on such rights.

1334           7. Remedies available to owners with respect to actions by  
 1335 the board which may be abusive or beyond the board's power and  
 1336 authority.

1337           8. The right of the board to hire a property management  
 1338 firm, subject to its own primary responsibility for such  
 1339 management.

1340           9. The responsibility of owners with regard to payment of  
 1341 regular or special assessments necessary for the operation of  
 1342 the property and the potential consequences of failure to pay  
 1343 such assessments.

1344           10. The voting rights of owners.

1345           11. Rights and obligations of the board in enforcement of  
 1346 rules in the condominium documents and rules adopted by the  
 1347 board.

1348  
 1349 The governance form shall also include the following statement  
 1350 in conspicuous type: "This publication is intended as an  
 1351 informal educational overview of condominium governance. In the  
 1352 event of a conflict the provisions of chapter 718, Florida  
 1353 Statutes; rules promulgated by the Division of Florida Land  
 1354 Sales, Condominiums, and Mobile Homes of the Department of  
 1355 Business and Professional Regulation; the provisions of the  
 1356 condominium documents; and reasonable rules promulgated by the  
 1357 condominium association's board of administration prevail over  
 1358 the contents of this publication."

1359           Section 14. Paragraphs (b) and (c) of subsection (2),  
 1360 paragraphs (a) and (c) of subsection (5), paragraphs (b), (c),  
 1361 (d), (f), and (g) of subsection (6), and paragraphs (a), (b),  
 1362 and (c) of subsection (7) of section 720.303, Florida Statutes,  
 1363 are amended, and subsection (12) is added to that section, to  
 1364 read:

1365           720.303 Association powers and duties; meetings of board;  
 1366 official records; budgets; financial reporting; association  
 1367 funds; recalls.--

1368           (2) BOARD MEETINGS.--

1369           (b) Members have the right to attend all meetings of the  
 1370 board and to speak ~~on any matter placed on the agenda by~~  
 1371 ~~petition of the voting interests~~ for at least 3 minutes on any  
 1372 matter placed on the agenda. Members may also address the  
 1373 meeting on nonagenda issues following the completion of the  
 1374 regular agenda during a new business heading. The association  
 1375 may adopt written reasonable rules expanding the right of  
 1376 members to speak and governing the frequency, duration, and  
 1377 other manner of member statements, which rules must be  
 1378 consistent with this paragraph and may include a sign-up sheet  
 1379 for members wishing to speak. Notwithstanding any other law, the  
 1380 requirement that board meetings and committee meetings be open  
 1381 to the members is inapplicable to meetings between the board or  
 1382 a committee to discuss proposed or pending litigation with ~~and~~  
 1383 the association's attorney, with respect to meetings of the  
 1384 board held for the purpose of discussing personnel matters.

1385 (c) The bylaws shall provide for giving notice to parcel  
1386 owners and members of all board meetings and, if they do not do  
1387 so, shall be deemed to provide the following:

1388 1. Notices of all regular board meetings must be posted in  
1389 a conspicuous place in the community at least 48 hours in  
1390 advance of a meeting, except in an emergency. Notice of special  
1391 board meetings may be made with less than 48 hours' notice in  
1392 cases of sudden, unforeseen happenings that require action to  
1393 protect lives or property of the association's members. In the  
1394 alternative, if notice is not posted in a conspicuous place in  
1395 the community, notice of each board meeting must be mailed or  
1396 delivered to each member at least 7 days before the meeting,  
1397 except in an emergency. Notwithstanding this general notice  
1398 requirement, for communities with more than 100 members, the  
1399 bylaws may provide for a reasonable alternative to posting or  
1400 mailing of notice for each board meeting, including publication  
1401 of notice, provision of a schedule of board meetings, or the  
1402 conspicuous posting and repeated broadcasting of the notice on a  
1403 closed-circuit cable television system serving the homeowners'  
1404 association. However, if broadcast notice is used in lieu of a  
1405 notice posted physically in the community, the notice must be  
1406 broadcast at least four times every broadcast hour of each day  
1407 that a posted notice is otherwise required. When broadcast  
1408 notice is provided, the notice and agenda must be broadcast in a  
1409 manner and for a sufficient continuous length of time so as to  
1410 allow an average reader to observe the notice and read and  
1411 comprehend the entire content of the notice and the agenda. The  
1412 bylaws or amended bylaws may provide for giving notice by

1413 | electronic transmission in a manner authorized by law for  
 1414 | meetings of the board of directors, committee meetings requiring  
 1415 | notice under this section, and annual and special meetings of  
 1416 | the members; however, a member must consent in writing to  
 1417 | receiving notice by electronic transmission.

1418 |         2. An assessment may not be levied at a board meeting  
 1419 | unless the notice of the meeting includes a statement that  
 1420 | assessments will be considered and the nature of the  
 1421 | assessments. Written notice of any meeting at which special  
 1422 | assessments will be considered or at which amendments to rules  
 1423 | regarding parcel use will be considered must be mailed,  
 1424 | delivered, or electronically transmitted to the members and  
 1425 | parcel owners and posted conspicuously on the property or  
 1426 | broadcast on closed-circuit cable television not less than 14  
 1427 | days before the meeting, except in cases of sudden, unforeseen  
 1428 | happenings that require action to protect lives or property of  
 1429 | the association's members.

1430 |         3. Directors may not vote by proxy or by secret ballot at  
 1431 | board meetings, except that secret ballots may be used in the  
 1432 | election of officers. This subsection also applies to the  
 1433 | meetings of any committee or other similar body, when a final  
 1434 | decision will be made regarding the expenditure of association  
 1435 | funds, and to any body vested with the power to approve or  
 1436 | disapprove architectural decisions with respect to a specific  
 1437 | parcel of residential property owned by a member of the  
 1438 | community.

1439 |         (5) INSPECTION AND COPYING OF RECORDS.--The official  
 1440 | records shall be maintained within the state and must be open to

1441 inspection and available for photocopying by members or their  
1442 authorized agents at reasonable times and places within 10  
1443 business days after receipt of a written request for access.  
1444 This subsection may be complied with by having a copy of the  
1445 official records available for inspection or copying in the  
1446 community. If the association has a photocopy machine available  
1447 where the records are maintained, it must provide parcel owners  
1448 with copies on request during the inspection if the entire  
1449 request is limited to no more than 25 pages.

1450 (a) The failure of an association to provide access to the  
1451 records within 10 business days after receipt of a written  
1452 request submitted by certified mail, return receipt requested,  
1453 creates a rebuttable presumption that the association willfully  
1454 failed to comply with this subsection.

1455 (c) The association may adopt reasonable written rules  
1456 governing the frequency, time, location, notice, records to be  
1457 inspected, and manner of inspections, but may not impose a  
1458 requirement that a parcel owner demonstrate any proper purpose  
1459 for the inspection, state any reason for the inspection, or  
1460 limit a parcel owner's right to inspect records to less than one  
1461 8-hour business day per month. The association may impose fees  
1462 to cover the costs of providing copies of the official records,  
1463 including, without limitation, the costs of copying. The  
1464 association may charge up to 50 cents per page for copies made  
1465 on the association's photocopier. If the association does not  
1466 have a photocopy machine available where the records are kept,  
1467 or if the records requested to be copied exceed 25 pages in  
1468 length, the association may have copies made by an outside

1469 vendor or association management company personnel and may  
 1470 charge the actual cost of copying, including any reasonable  
 1471 costs involving personnel fees and charges at an hourly rate for  
 1472 employee time to cover administrative costs to the association.

1473 The association shall maintain an adequate number of copies of  
 1474 the recorded governing documents, to ensure their availability  
 1475 to members and prospective members. Notwithstanding the  
 1476 provisions of this paragraph, the following records shall not be  
 1477 accessible to members or parcel owners:

1478         1. Any record protected by the lawyer-client privilege as  
 1479 described in s. 90.502 and any record protected by the work-  
 1480 product privilege, including, but not limited to, any record  
 1481 prepared by an association attorney or prepared at the  
 1482 attorney's express direction which reflects a mental impression,  
 1483 conclusion, litigation strategy, or legal theory of the attorney  
 1484 or the association and was prepared exclusively for civil or  
 1485 criminal litigation or for adversarial administrative  
 1486 proceedings or which was prepared in anticipation of imminent  
 1487 civil or criminal litigation or imminent adversarial  
 1488 administrative proceedings until the conclusion of the  
 1489 litigation or adversarial administrative proceedings.

1490         2. Information obtained by an association in connection  
 1491 with the approval of the lease, sale, or other transfer of a  
 1492 parcel.

1493         3. Disciplinary, health, insurance, and personnel records  
 1494 of the association's employees.

1495         4. Medical records of parcel owners or community  
 1496 residents.

1497 (6) BUDGETS.--  
 1498 (b) In addition to annual operating expenses, the budget  
 1499 may include reserve accounts for capital expenditures and  
 1500 deferred maintenance for which the association is responsible.  
 1501 To the extent that such reserve accounts are not created or  
 1502 established pursuant to paragraph (d), funding of such reserves  
 1503 shall be limited to the extent that the governing documents ~~do~~  
 1504 ~~not~~ limit increases in assessments, including reserves. If the  
 1505 budget of the association includes reserve accounts created or  
 1506 established pursuant to paragraph (d), such reserves shall be  
 1507 determined, maintained, and waived in the manner provided in  
 1508 this subsection. Once an association provides for reserve  
 1509 accounts created or established pursuant to paragraph (d) in the  
 1510 budget, the association shall thereafter determine, maintain,  
 1511 and waive reserves in compliance with this subsection. Nothing  
 1512 in this section precludes termination of a reserve account  
 1513 established pursuant to this paragraph upon approval of a  
 1514 majority of the voting interests of the association. Upon such  
 1515 approval, the terminating reserve account shall be removed from  
 1516 the budget.

1517 (c) 1. If the budget of the association does not provide  
 1518 for reserve accounts created or established pursuant to  
 1519 paragraph (d) ~~governed by this subsection~~ and the association is  
 1520 responsible for the repair and maintenance of capital  
 1521 improvements that may result in a special assessment if reserves  
 1522 are not provided, each financial report for the preceding fiscal  
 1523 year required by subsection (7) shall contain the following  
 1524 statement in conspicuous type: THE BUDGET OF THE ASSOCIATION

1525 DOES NOT PROVIDE FOR RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES  
 1526 AND DEFERRED MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS.  
 1527 OWNERS MAY ELECT TO PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO THE  
 1528 PROVISIONS OF SECTION 720.303(6), FLORIDA STATUTES, UPON THE  
 1529 APPROVAL OF NOT LESS THAN A MAJORITY OF THE TOTAL VOTING  
 1530 INTERESTS OF THE ASSOCIATION ATTAINED BY VOTE OF THE MEMBERS AT  
 1531 A MEETING OR BY WRITTEN CONSENT EXECUTED BY A MAJORITY OF THE  
 1532 VOTING INTERESTS.

1533 2. If the budget of the association does provide for  
 1534 funding of accounts for deferred expenditures, including, but  
 1535 not limited to, funds for capital expenditures and deferred  
 1536 maintenance, but such accounts are not created or established  
 1537 pursuant to paragraph (d), each financial report for the  
 1538 preceding fiscal year required by subsection (7) shall also  
 1539 contain the following statement in conspicuous type: THE BUDGET  
 1540 OF THE ASSOCIATION DOES PROVIDE FOR LIMITED VOLUNTARY DEFERRED  
 1541 EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES AND  
 1542 DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED IN  
 1543 OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED TO  
 1544 PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO THE PROVISIONS OF  
 1545 SECTION 720.303(6), FLORIDA STATUTES, THESE FUNDS ARE NOT  
 1546 SUBJECT TO THE RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN  
 1547 THAT STATUTE, NOR ARE RESERVES CALCULATED IN ACCORDANCE WITH  
 1548 THAT STATUTE.

1549 (d) An association shall be deemed to have provided for  
 1550 reserve accounts when reserve accounts have been initially  
 1551 established by the developer or when the membership of the  
 1552 association affirmatively elects to provide for reserves. If



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1553 reserve accounts are not initially provided for by the  
1554 developer, the membership of the association may elect to do so  
1555 upon the affirmative approval of not less than a majority of the  
1556 total voting interests of the association. Such approval may be  
1557 attained by vote of the members at a duly called meeting of the  
1558 membership or upon a written consent executed by not less than a  
1559 majority of the total voting interests in the community. The  
1560 approval action of the membership shall state that reserve  
1561 accounts shall be provided for in the budget and shall designate  
1562 the components for which the reserve accounts are to be  
1563 established. Upon approval by the membership, the board of  
1564 directors shall provide for the required reserve accounts for  
1565 inclusion in the budget in the next fiscal year following the  
1566 approval and in each year thereafter. Once established as  
1567 provided in this subsection, the reserve accounts shall be  
1568 funded or maintained or shall have their funding waived in the  
1569 manner provided in paragraph (f).

1570 (f) After one or more ~~Once a reserve account or~~ reserve  
1571 accounts are established, the membership of the association,  
1572 upon a majority vote at a meeting at which a quorum is present,  
1573 may provide for no reserves or less reserves than required by  
1574 this section. If a meeting of the unit owners has been called to  
1575 determine whether to waive or reduce the funding of reserves and  
1576 no such result is achieved or a quorum is not present, the  
1577 reserves as included in the budget shall go into effect. After  
1578 the turnover, the developer may vote its voting interest to  
1579 waive or reduce the funding of reserves. Any vote taken pursuant

1580 to this subsection to waive or reduce reserves shall be  
 1581 applicable only to one budget year.

1582 (g) Funding formulas for reserves authorized by this  
 1583 section shall be based on either a separate analysis of each of  
 1584 the required assets or a pooled analysis of two or more of the  
 1585 required assets.

1586 1. If the association maintains separate reserve accounts  
 1587 for each of the required assets, the amount of the contribution  
 1588 to each reserve account shall be the sum of the following two  
 1589 calculations:

1590 a. The total amount necessary, if any, to bring a negative  
 1591 component balance to zero.

1592 b. The total estimated deferred maintenance expense or  
 1593 estimated replacement cost of the reserve component less the  
 1594 estimated balance of the reserve component as of the beginning  
 1595 of the period for which the budget will be in effect. The  
 1596 remainder, if greater than zero, shall be divided by the  
 1597 estimated remaining useful life of the component.

1598  
 1599 The formula may be adjusted each year for changes in estimates  
 1600 and deferred maintenance performed during the year and may  
 1601 include factors such as inflation and earnings on invested  
 1602 funds.

1603 2. If the association maintains a pooled account of two or  
 1604 more of the required reserve assets, the amount of the  
 1605 contribution to the pooled reserve account as disclosed on the  
 1606 proposed budget shall not be less than that required to ensure  
 1607 that the balance on hand at the beginning of the period for

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1608 which the budget will go into effect plus the projected annual  
1609 cash inflows over the remaining estimated useful life of all of  
1610 the assets that make up the reserve pool are equal to or greater  
1611 than the projected annual cash outflows over the remaining  
1612 estimated useful lives of all of the assets that make up the  
1613 reserve pool, based on the current reserve analysis. The  
1614 projected annual cash inflows may include estimated earnings  
1615 from investment of principal and accounts receivable minus the  
1616 allowance for doubtful accounts. The reserve funding formula  
1617 shall not include any type of balloon payments.

1618 (7) FINANCIAL REPORTING.--Within 90 days after the end of  
1619 the fiscal year, or annually on the date provided in the bylaws,  
1620 the association shall prepare and complete, or contract with a  
1621 third party for the preparation and completion of, a financial  
1622 report for the preceding fiscal year. Within 21 days after the  
1623 final financial report is completed by the association or  
1624 received from the third party, but not later than 120 days after  
1625 the end of the fiscal year or other date as provided in the  
1626 bylaws, the association shall, within the time limits set forth  
1627 in subsection (5), provide each member with a copy of the annual  
1628 financial report or a written notice that a copy of the  
1629 financial report is available upon request at no charge to the  
1630 member. Financial reports shall be prepared as follows:

1631 (a) An association that meets the criteria of this  
1632 paragraph shall prepare or cause to be prepared a complete set  
1633 of financial statements in accordance with generally accepted  
1634 accounting principles as adopted by the Board of Accountancy.

1635 The financial statements shall be based upon the association's  
1636 total annual revenues, as follows:

1637 1. An association with total annual revenues of \$150,000  
1638 ~~\$100,000~~ or more, but less than \$300,000 ~~\$200,000~~, shall prepare  
1639 compiled financial statements.

1640 2. An association with total annual revenues of at least  
1641 \$300,000 ~~\$200,000~~, but less than \$600,000 ~~\$400,000~~, shall  
1642 prepare reviewed financial statements.

1643 3. An association with total annual revenues of \$600,000  
1644 ~~\$400,000~~ or more shall prepare audited financial statements.

1645 (b)1. An association with total annual revenues of less  
1646 than \$150,000 ~~\$100,000~~ shall prepare a report of cash receipts  
1647 and expenditures.

1648 2. An association in a community of fewer than 50 parcels,  
1649 regardless of the association's annual revenues, may prepare a  
1650 report of cash receipts and expenditures in lieu of financial  
1651 statements required by paragraph (a) unless the governing  
1652 documents provide otherwise.

1653 3. A report of cash receipts and disbursement must  
1654 disclose the amount of receipts by accounts and receipt  
1655 classifications and the amount of expenses by accounts and  
1656 expense classifications, including, but not limited to, the  
1657 following, as applicable: costs for security, professional, and  
1658 management fees and expenses; taxes; costs for recreation  
1659 facilities; expenses for refuse collection and utility services;  
1660 expenses for lawn care; costs for building maintenance and  
1661 repair; insurance costs; administration and salary expenses; and  
1662 reserves if maintained by the association.

1663 (c) If 20 percent of the parcel owners petition the board  
 1664 for a level of financial reporting higher than that required by  
 1665 this section, the association shall duly notice and hold a  
 1666 meeting of members within 30 days of receipt of the petition for  
 1667 the purpose of voting on raising the level of reporting for that  
 1668 fiscal year. Upon approval of a majority of the total voting  
 1669 interests of the parcel owners, the association shall prepare or  
 1670 cause to be prepared, shall amend the budget or adopt a special  
 1671 assessment to pay for the financial report regardless of any  
 1672 provision to the contrary in the governing documents, and shall  
 1673 provide within 120 ~~90~~ days of the meeting or the end of the  
 1674 fiscal year, whichever occurs later:

1675 1. Compiled, reviewed, or audited financial statements, if  
 1676 the association is otherwise required to prepare a report of  
 1677 cash receipts and expenditures;

1678 2. Reviewed or audited financial statements, if the  
 1679 association is otherwise required to prepare compiled financial  
 1680 statements; or

1681 3. Audited financial statements if the association is  
 1682 otherwise required to prepare reviewed financial statements.

1683 (12) COMPENSATION PROHIBITED.--A director, officer, or  
 1684 committee member of the association may not receive directly or  
 1685 indirectly any salary or compensation from the association for  
 1686 performance of duties as a director, officer, or committee  
 1687 member and such person may not in any other way benefit  
 1688 financially from service to the association. This subsection  
 1689 shall not be construed to preclude:

1690           (a) Participation by such person in a financial benefit  
 1691 accruing to all or a significant number of members as a result  
 1692 of actions lawfully taken by the board or a committee of which  
 1693 he or she is a member, including, but not limited to, routine  
 1694 maintenance, repair, or replacement of community assets;

1695           (b) Reimbursement for out-of-pocket expenses incurred by  
 1696 such person on behalf of the association, subject to approval of  
 1697 such reimbursement in accordance with procedures established by  
 1698 the association's governing documents or, in the absence of such  
 1699 procedures, in accordance with an approval process established  
 1700 by the board; or

1701           (c) Any recovery of insurance proceeds derived from a  
 1702 policy of insurance maintained by the association for the  
 1703 benefit of its members.

1704           Section 15. Subsections (1), (2), and (3) of section  
 1705 720.305, Florida Statutes, are amended to read:

1706           720.305 Obligations of members; remedies at law or in  
 1707 equity; levy of fines and suspension of use rights; failure to  
 1708 fill sufficient number of vacancies on board of directors to  
 1709 constitute a quorum; appointment of receiver upon petition of  
 1710 any member.--

1711           (1) Each member and the member's tenants, guests, and  
 1712 invitees, and each association, are governed by, and must comply  
 1713 with, this chapter, the governing documents of the community,  
 1714 and the rules of the association. Actions at law or in equity,  
 1715 or both, to redress alleged failure or refusal to comply with  
 1716 these provisions may be brought by the association or by any  
 1717 member against:

- 1718 (a) The association;
- 1719 (b) A member;
- 1720 (c) Any director or officer of an association who
- 1721 willfully and knowingly fails to comply with these provisions;
- 1722 and
- 1723 (d) Any tenants, guests, or invitees occupying a parcel or
- 1724 using the common areas.

1725

1726 The prevailing party in any such litigation is entitled to

1727 recover reasonable attorney's fees and costs. A member

1728 prevailing in an action between the association and the member

1729 under this section, in addition to recovering his or her

1730 reasonable attorney's fees, may recover additional amounts as

1731 determined by the court to be necessary to reimburse the member

1732 for his or her share of assessments levied by the association to

1733 fund its expenses of the litigation. The prevailing party in any

1734 such litigation is entitled to recover reasonable attorney's

1735 fees and costs, including reasonable postjudgment attorney's

1736 fees and costs, provided the court retains jurisdiction to

1737 enforce the judgment. This relief does not exclude other

1738 remedies provided by law. This section does not deprive any

1739 person of any other available right or remedy.

1740 (2) If the governing documents so provide, an association

1741 may suspend, for a reasonable period of time, the rights of a

1742 member or a member's tenants, guests, or invitees, or both, to

1743 use common areas and facilities and may levy reasonable fines,

1744 not to exceed \$100 per violation, against any member or any

1745 tenant, guest, or invitee. A fine may be levied on the basis of

1746 each day of a continuing violation, with a single notice and  
 1747 opportunity for hearing, except that no such fine shall exceed  
 1748 \$1,000 in the aggregate unless otherwise provided in the  
 1749 governing documents. A fine of less than \$1,000 shall not become  
 1750 a lien against a parcel. In any action to recover a fine, the  
 1751 prevailing party is entitled to collect its reasonable  
 1752 attorney's fees and costs from the nonprevailing party as  
 1753 determined by the court.

1754 (a) A fine or suspension may not be imposed without notice  
 1755 of at least 14 days to the person sought to be fined or  
 1756 suspended and an opportunity for a hearing before a committee of  
 1757 at least three members appointed by the board who are not  
 1758 officers, directors, or employees of the association, or the  
 1759 spouse, parent, child, brother, or sister of an officer,  
 1760 director, or employee. If the committee, by majority vote, does  
 1761 not approve a proposed fine or suspension, it may not be  
 1762 imposed.

1763 (b) The requirements of this subsection do not apply to  
 1764 the imposition of suspensions or fines upon any member because  
 1765 of the failure of the member to pay assessments or other charges  
 1766 when due if such action is authorized by the governing  
 1767 documents.

1768 (c) Suspension of common-area-use rights shall not impair  
 1769 the right of an owner or tenant of a parcel to have vehicular  
 1770 and pedestrian ingress to and egress from the parcel, including,  
 1771 but not limited to, the right to park.

1772 (3) Unless ~~If~~ the governing documents ~~se~~ provide  
 1773 otherwise, an association may suspend the voting rights of a



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1774 member for the nonpayment of regular annual assessments that are  
 1775 delinquent in excess of 90 days.

1776 Section 16. Subsections (3), (5), (8), and (9) of section  
 1777 720.306, Florida Statutes, are amended to read:

1778 720.306 Meetings of members; voting and election  
 1779 procedures; amendments.--

1780 (3) SPECIAL MEETINGS.--Special meetings must be held when  
 1781 called by the board of directors or, unless a different  
 1782 percentage is stated in the governing documents, by at least 10  
 1783 percent of the total voting interests of the association or when  
 1784 sudden, unforeseen happenings occur that require action to  
 1785 protect lives or property of the association's members. Business  
 1786 conducted at a special meeting is limited to the purposes  
 1787 described in the notice of the meeting.

1788 (5) NOTICE OF MEETINGS.--The bylaws shall provide for  
 1789 giving notice to members of all member meetings, and if they do  
 1790 not do so shall be deemed to provide the following: The  
 1791 association shall give all parcel owners and members actual  
 1792 notice of all membership meetings, which shall be mailed,  
 1793 delivered, or electronically transmitted to the members not less  
 1794 than 14 days prior to the meeting. Evidence of compliance with  
 1795 this 14-day notice shall be made by an affidavit executed by the  
 1796 person providing the notice and filed upon execution among the  
 1797 official records of the association. Notice of a special meeting  
 1798 shall be made at least 48 hours in advance or less than that in  
 1799 case of any sudden, unforeseen happening that requires action to  
 1800 protect lives or property of the association's members. In  
 1801 addition to mailing, delivering, or electronically transmitting

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1802 the notice of any meeting, the association may, by reasonable  
1803 rule, adopt a procedure for conspicuously posting and repeatedly  
1804 broadcasting the notice and the agenda on a closed-circuit cable  
1805 television system serving the association. When broadcast notice  
1806 is provided, the notice and agenda must be broadcast in a manner  
1807 and for a sufficient continuous length of time so as to allow an  
1808 average reader to observe the notice and read and comprehend the  
1809 entire content of the notice and the agenda.

1810 (8) PROXY VOTING.--The members have the right, unless  
1811 otherwise provided in this subsection or in the governing  
1812 documents, to vote in person or by proxy.

1813 (a) To be valid, a proxy must be dated, must state the  
1814 date, time, and place of the meeting for which it was given, and  
1815 must be signed by the authorized person who executed the proxy.  
1816 A proxy is effective only for the specific meeting for which it  
1817 was originally given, as the meeting may lawfully be adjourned  
1818 and reconvened from time to time, and automatically expires 90  
1819 days after the date of the meeting for which it was originally  
1820 given. A proxy is revocable at any time at the pleasure of the  
1821 person who executes it. If the proxy form expressly so provides,  
1822 any proxy holder may appoint, in writing, a substitute to act in  
1823 his or her place.

1824 (b) If the governing documents require a secret ballot,  
1825 the absentee ballot must be enclosed in a blank envelope that  
1826 shall be placed inside another envelope bearing the required  
1827 information and signature. After the owner's eligibility to vote  
1828 has been verified and before the ballots are counted, the blank  
1829 envelope shall be removed from the envelope bearing the

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1830 information and signature and added to the ballots of the  
1831 members voting in person or by proxy. Absentee ballots must be  
1832 mailed or hand delivered to the place specified in the notice of  
1833 the meeting at which the election will be held, not later than  
1834 the date specified in such notice.

1835 (9) ELECTIONS; BOARD MEMBER CERTIFICATION.--

1836 (a) Elections of directors must be conducted in accordance  
1837 with the procedures set forth in the governing documents of the  
1838 association. All members of the association shall be eligible to  
1839 serve on the board of directors, and a member may nominate  
1840 himself or herself as a candidate for the board at a meeting  
1841 where the election is to be held or, in the case of an election  
1842 process that allows voting by absentee ballot, in advance of the  
1843 balloting. Except as otherwise provided in the governing  
1844 documents, boards of directors must be elected by a plurality of  
1845 the votes cast by eligible voters. Any election dispute between  
1846 a member and an association must be submitted to mandatory  
1847 binding arbitration with the division. Such proceedings shall be  
1848 conducted in the manner provided by s. 718.1255 and the  
1849 procedural rules adopted by the division.

1850 (b) Within 30 days after being elected to the board of  
1851 directors, a new director shall certify in writing to the  
1852 secretary of the association that he or she has read the  
1853 association's declarations of covenants and restrictions,  
1854 articles of incorporation, bylaws, and current written policies  
1855 and that he or she will work to uphold each to the best of his  
1856 or her ability and will faithfully discharge his or her  
1857 fiduciary responsibility to the association's members. Failure

1858 to timely file such statement shall automatically disqualify the  
 1859 director from service on the association's board of directors.  
 1860 The secretary shall cause the association to retain a director's  
 1861 certification for inspection by the membership of the  
 1862 association for a period of 5 years after a director's election.  
 1863 Failure to have such certification on file shall not affect the  
 1864 validity of any appropriate action.

1865 (c) Any director who has unexcused absences from three  
 1866 consecutive board meetings shall be deemed to have submitted his  
 1867 or her resignation from the board.

1868 Section 17. Subsection (5) is added to section 720.307,  
 1869 Florida Statutes, to read:

1870 720.307 Transition of association control in a  
 1871 community.--With respect to homeowners' associations:

1872 (5) Except where precluded by the association's governing  
 1873 documents, the board of directors of the association may levy  
 1874 assessments on an unimproved parcel in the same amounts as  
 1875 assessments on improved parcels if that parcel is not improved  
 1876 within 5 years after the date the parcel was sold by the  
 1877 developer.

1878 Section 18. Paragraph (d) is added to subsection (1) of  
 1879 section 720.3075, Florida Statutes, to read:

1880 720.3075 Prohibited clauses in association documents.--

1881 (1) It is declared that the public policy of this state  
 1882 prohibits the inclusion or enforcement of certain types of  
 1883 clauses in homeowners' association documents, including  
 1884 declaration of covenants, articles of incorporation, bylaws, or

1885 any other document of the association which binds members of the  
 1886 association, which either have the effect of or provide that:

1887 (d) The builder or developers are not liable for defects  
 1888 in the construction of common areas or parcels and improvements  
 1889 on common areas, or that the developer or builders do not  
 1890 warranty that the common areas and parcels, and any improvements  
 1891 constructed on common areas, are free from defects for any  
 1892 period less than 10 years after completion of such areas,  
 1893 parcels, or improvements.

1894  
 1895 Such clauses are declared null and void as against the public  
 1896 policy of this state.

1897 Section 19. Paragraph (a) of subsection (4) of section  
 1898 720.308, Florida Statutes, is amended to read:

1899 720.308 Assessments and charges.--

1900 (4) CASH FUNDING REQUIREMENTS DURING GUARANTEE.--The cash  
 1901 payments required from the guarantor during the guarantee period  
 1902 shall be determined as follows:

1903 (a) If at any time during the guarantee period the funds  
 1904 collected from member assessments at the guaranteed level and  
 1905 other revenues collected by the association are not sufficient  
 1906 to provide payment, on a timely basis, of all accounts payable  
 1907 of the association ~~assessments~~, including the full funding of  
 1908 the reserves unless properly waived, the guarantor shall advance  
 1909 sufficient cash to the association at the time such payments are  
 1910 due.

1911 Section 20. Paragraph (b) of subsection (4) and paragraph  
 1912 (c) of subsection (6) of section 720.3085, Florida Statutes, are  
 1913 amended to read:

1914 720.3085 Payment for assessments; lien claims.--

1915 (4) A homeowners' association may not file a claim of lien  
 1916 against a parcel for unpaid assessments unless a written notice  
 1917 or demand for past due assessments as well as any other amounts  
 1918 owed to the association pursuant to its governing documents has  
 1919 been made by the association. The written notice or demand must:

1920 (b) Be sent by registered or certified mail, return  
 1921 receipt requested, and by first-class United States mail to the  
 1922 parcel owner at his or her last address as reflected in the  
 1923 records of the association, if the address is within the United  
 1924 States, and by first-class United States mail to the parcel  
 1925 owner subject to the demand at the address of the parcel if the  
 1926 owner's address as reflected in the records of the association  
 1927 is not the parcel address. If the address reflected in the  
 1928 records is outside the United States, then sending the notice to  
 1929 that address and to the parcel address by first-class United  
 1930 States mail is sufficient.

1931 (6) If after service of a summons on a complaint to  
 1932 foreclose a lien the parcel is not the subject of a mortgage  
 1933 foreclosure or a notice of tax certificate sale, or the parcel  
 1934 owner is not a debtor in bankruptcy proceedings, the parcel  
 1935 owner may serve and file with the court a qualifying offer at  
 1936 any time before the entry of a foreclosure judgment. For  
 1937 purposes of this subsection, the term "qualifying offer" means a  
 1938 written offer to pay all amounts secured by the lien of the

1939 association plus interest accruing during the pendency of the  
 1940 offer at the rate of interest provided in this section. The  
 1941 parcel owner may make only one qualifying offer during the  
 1942 pendency of a foreclosure action.

1943 (c) The qualifying offer of the parcel owner must be in  
 1944 writing; it be signed by the owner of the parcel and the spouse of  
 1945 the owner if the spouse holds a homestead interest in the  
 1946 parcel; it be acknowledged by a notary public; it state the total  
 1947 amount due the association, including attorney's fees and costs  
 1948 incurred by the association in the foreclosure action that are  
 1949 required to be paid by the parcel owner; state that the total  
 1950 amount due the association is secured by the lien of the  
 1951 association; it state that the association is entitled to  
 1952 foreclose the lien and obtain a foreclosure judgment for the  
 1953 total amount due if the parcel owner breaches the qualifying  
 1954 offer; it state that the parcel owner will not endanger the  
 1955 priority of the lien of the association or the amounts secured  
 1956 by the lien; it and state the actual date or dates the association  
 1957 will receive the total amount due from the parcel owner. If the  
 1958 parcel owner makes a qualifying offer under this subsection, the  
 1959 association may not add the cost of any legal fees incurred by  
 1960 the association within the period of the stay other than costs  
 1961 acquired in defense of a mortgage foreclosure action concerning  
 1962 the parcel, a bankruptcy proceeding in which the parcel owner is  
 1963 a debtor, or in response to filings by a party other than the  
 1964 association in the lien foreclosure action of the association.

1965 Section 21. Paragraph (a) of subsection (1) of section  
 1966 720.401, Florida Statutes, is amended to read:

1967 720.401 Prospective purchasers subject to association  
 1968 membership requirement; disclosure required; covenants;  
 1969 assessments; contract cancellation.--

1970 (1) (a) A prospective parcel owner in a community must be  
 1971 presented a disclosure summary before executing the contract for  
 1972 sale. The disclosure summary must be in a form substantially  
 1973 similar to the following form:

1974  
 1975 DISCLOSURE SUMMARY  
 1976 FOR  
 1977 (NAME OF COMMUNITY)  
 1978

1979 1. AS A PURCHASER OF PROPERTY IN THIS COMMUNITY, YOU WILL  
 1980 BE OBLIGATED TO BE A MEMBER OF A HOMEOWNERS' ASSOCIATION.

1981 2. THERE HAVE BEEN OR WILL BE RECORDED RESTRICTIVE  
 1982 COVENANTS GOVERNING THE USE AND OCCUPANCY OF PROPERTIES IN THIS  
 1983 COMMUNITY.

1984 3. YOU WILL BE OBLIGATED TO PAY ASSESSMENTS TO THE  
 1985 ASSOCIATION. ASSESSMENTS MAY BE SUBJECT TO PERIODIC CHANGE. IF  
 1986 APPLICABLE, THE CURRENT AMOUNT IS \$\_\_\_\_\_ PER \_\_\_\_\_. YOU WILL  
 1987 ALSO BE OBLIGATED TO PAY ANY SPECIAL ASSESSMENTS IMPOSED BY THE  
 1988 ASSOCIATION. SUCH SPECIAL ASSESSMENTS MAY BE SUBJECT TO CHANGE.  
 1989 IF APPLICABLE, THE CURRENT AMOUNT IS \$\_\_\_\_\_ PER \_\_\_\_\_.

1990 4. YOU MAY BE OBLIGATED TO PAY SPECIAL ASSESSMENTS TO THE  
 1991 RESPECTIVE MUNICIPALITY, COUNTY, OR SPECIAL DISTRICT. ALL  
 1992 ASSESSMENTS ARE SUBJECT TO PERIODIC CHANGE.



1993 5. YOUR FAILURE TO PAY SPECIAL ASSESSMENTS OR ASSESSMENTS  
 1994 LEVIED BY A MANDATORY HOMEOWNERS' ASSOCIATION COULD RESULT IN A  
 1995 LIEN ON YOUR PROPERTY.

1996 6. THERE MAY BE AN OBLIGATION TO PAY RENT OR LAND USE FEES  
 1997 FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES AS AN  
 1998 OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS' ASSOCIATION. IF  
 1999 APPLICABLE, THE CURRENT AMOUNT IS \$\_\_\_\_\_ PER \_\_\_\_\_.

2000 7. IF THE ASSOCIATION IS STILL UNDER THE CONTROL OF THE  
 2001 DEVELOPER, THE DEVELOPER MAY HAVE THE RIGHT TO AMEND THE  
 2002 RESTRICTIVE COVENANTS WITHOUT THE APPROVAL OF THE ASSOCIATION  
 2003 MEMBERSHIP OR THE APPROVAL OF THE PARCEL OWNERS.

2004 8. THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM ARE  
 2005 ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER, YOU  
 2006 SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION GOVERNING  
 2007 DOCUMENTS BEFORE PURCHASING PROPERTY.

2008 9. THESE DOCUMENTS ARE EITHER MATTERS OF PUBLIC RECORD AND  
 2009 CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE THE  
 2010 PROPERTY IS LOCATED, OR ARE NOT RECORDED AND CAN BE OBTAINED  
 2011 FROM THE DEVELOPER.

2012 10. THERE MAY BE AN OBLIGATION TO PAY ASSESSMENTS (TAXES  
 2013 AND/OR FEES) TO A RESIDENTIAL COMMUNITY DEVELOPMENT DISTRICT FOR  
 2014 THE PURPOSE OF RETIRING BOND OBLIGATIONS USED TO CONSTRUCT  
 2015 INFRASTRUCTURE AND/OR OTHER IMPROVEMENTS.

2016 11. YOU ARE JOINTLY AND SEVERALLY LIABLE WITH THE PREVIOUS  
 2017 OWNER OF YOUR PROPERTY FOR ALL UNPAID ASSESSMENTS THAT CAME DUE  
 2018 UP TO THE TIME OF TRANSFER OF TITLE.

2019  
 2020 DATE: PURCHASER:

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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2021 PURCHASER:

2022 The disclosure must be supplied by the developer, or by the

2023 parcel owner if the sale is by an owner that is not the

2024 developer. Any contract or agreement for sale shall refer to and

2025 incorporate the disclosure summary and shall include, in

2026 prominent language, a statement that the potential buyer should

2027 not execute the contract or agreement until they have received

2028 and read the disclosure summary required by this section.

2029 Section 22. This act shall take effect July 1, 2008.